



COMMONWEALTH AUTOMOBILE REINSURERS

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RALPH A. IANNACO
PRESIDENT

September 17, 2008

BULLETIN NO. 882

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of September 17, 2008, the Governing Committee voted to amend the following Rules of Operation by deleting and adding the language as indicated on the attached copy. A copy of the Filing Letter, which contains an explanation of these Rule changes, is attached for your information.

The proposed Rules are listed below.

- Rule 11 – Assessments and Participation
- Rule 13 – Servicing Carrier Requirements
- Rule 21 – General Provisions
- Rule 27 – Coverages
- Rule 29 – Assignment Process
- Rule 30 – Assigned Risk Company Requirements

This Bulletin, with a copy of the proposed changes to the MAIP Rules as listed above, is being furnished to every Member Company as required in Article X of the Plan of Operation. Any Member Company may request a public hearing within five days of receipt of this Bulletin and Filing Letter, as provided by Article X of the Plan of Operation.

A proposed Rule shall become effective upon the written approval of the Commissioner or upon the expiration of thirty days after filing, providing the Commissioner has not previously disapproved the Rule in writing.

JOSEPH J. MAHER, JR.
Vice President, General Counsel & Secretary



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RALPH A. IANNACO
PRESIDENT

September 17, 2008

Honorable Nonnie S. Burnes
Commissioner of Insurance
Massachusetts Division of Insurance
One South Station
Boston, MA 02110-2208

Dear Commissioner Burnes:

Rules of Operation

- Rule 11 – Assessments and Participation**
- Rule 13 – Servicing Carrier Requirements**
- Rule 21 – General Provisions**
- Rule 27 - Coverages**
- Rule 29 – Assignment Process**
- Rule 30 – Assigned Risk Company Requirements**

In accordance with the provisions of Article X of the Plan of Operation, I hereby file, at the request of the Governing Committee, the attached amendments to Rules 11, 13, 21, 27, 29 and 30 of CAR's Rules of Operation.

The attached amendments change Rules 11, 13, 21, 27, 29 and 30 by deleting and adding the language as indicated on the attached copy.

The remainder of Rules 11, 13, 21, 27, 29 and 30 is unchanged.

Explanation

The proposed amendment to Rule 11.B.1. extends the exclusion of ceded exposures for risks with SDIP points 9 and above and rate classes 20, 21, 25 and 26 to policy year 2009. The proposed amendment to Rule 11.B.1.a. extends the factoring of relevant motorcycle and miscellaneous class exposures to policy year 2009. The proposed amendment to Rule 11.B.1.b. eliminates the minimum allowable provision for policy year 2009. The proposed amendment to Rule 11.B.1.c. extends the K-factor of 4 to policy year 2009.

The proposed amendment to Rule 13.C.1.c.(2) documents the method for counting of exposures for ERPs receiving voluntary contracts. The proposed amendment to Rule 13.C.2. reflects that the ERP subscription relief provision sunsets after March 31, 2009.

The proposed amendment to Rule 21.C.3. clarifies that constraints on the placement of Clean-in-Three risks in MAIP during the transition period inure to the successor Servicing Carrier in the event of reassignment resulting from ERP subscription relief.

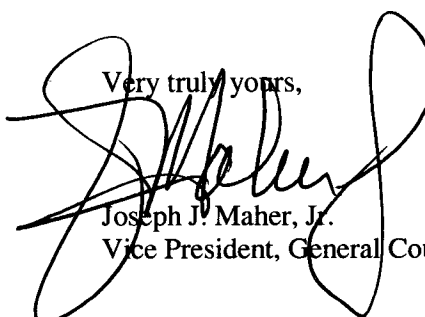
The proposed amendment to Rule 27 establishes limits of coverage that must be offered, at the request of the applicant, to risks in the MAIP.

The proposed amendment to Rule 29.B.1.a. provides that Clean-in-Three exposures written through ERPs pursuant to Rule 21.C. are excluded from the determination of voluntary market share for quote share calculations. The proposed amendment to Rule 29.G. provides that Assigned Risk Carriers may accrue excess credit premium. The proposed amendment to Rule 29.G.2. indicates that CAR will determine the volume of excess credit to be transferred on a monthly basis, in conjunction with the update of statistical base data. The proposed amendment to Rule 29.G.3. identifies the procedure Assigned Risk Carriers will employ to notify CAR of its intent to transfer excess MAIP credit premium.

The proposed amendments to Rule 30.D. determines a carrier's obligation to the producer relative to ownership of Clean-in-Three business effective on or after April 9, 2009.

A copy of the proposed amendments to Rules 11, 13, 21, 27, 29 and 30 is attached hereto, and is being furnished to every Member Company, the two associations of insurance producers, and the Public Protection Division of the Office of the Attorney General, as required by Article X of the Plan of Operation.

Very truly yours,



Joseph J. Maher, Jr.
Vice President, General Counsel & Secretary

JJM:kat

Attachments: Rule 11 – Assessments and Participation
Rule 13 – Servicing Carrier Requirements
Rule 21 – General Provisions
Rule 27 – Coverages
Rule 29 – Assignment Process
Rule 30 – Assigned Risk Company Requirements

cc: Exclusive Representative Producers of Massachusetts, Inc.
Massachusetts Association of Insurance Agents
Public Protection Division – Office of the Attorney General

CAR expenses, and the profits and losses on CAR policies, shall be allocated among the Members of CAR in the manner provided under this Rule.

Assessments to pay for CAR expenses, and losses on CAR policies, shall be levied on a quarterly basis or as frequently as the Governing Committee deems necessary. Such assessments shall be allocated among the Members in accordance with the following principles:

A. Participation – Expenses

Expenses, including all costs of operating CAR and all costs, charges, expenses and liabilities and all income, property and other assets which the Governing Committee determine not to be properly chargeable to the profit or loss of risks ceded to CAR by Servicing Carriers, shall be shared by the Members. Sharing is based upon the proportion that each Member's Massachusetts direct written motor vehicle insurance premiums which are reported on its Annual Statement for the most recent calendar year bear to the total of such premiums for all Members.

Note that commercial ceded written premium (CAR Identification Codes 4 and 5) with policy effective dates of January 1, 2006 and subsequent is excluded from this calculation. Additionally, all premium from those classifications and/or coverages that are not statistically reportable to CAR (those classes or coverages not specified in the Massachusetts Statistical Plans) and all premium from Antique Vehicle classification codes 0483 and 9620 is excluded from this calculation.

B. Participation – Underwriting Results

For purposes of establishing a basis for allocation of Servicing Carrier premiums, losses and expense allowances, each company licensed to write motor vehicle insurance in Massachusetts shall report statistical information required by the Rules of Operation to CAR or permit its statistical agencies, designated by the company or appointed by the Commissioner, to report all required statistical information to CAR. If the company does not exceed CAR's established statistical reporting thresholds and therefore is not required to report statistical data to CAR, CAR will utilize the company's Massachusetts Annual Statement data as a basis for determining underwriting results.

In recognition of the need to provide stability in the Massachusetts motor vehicle insurance marketplace, Member participation shall be calculated in accordance with the following principles and procedures:

1. Private Passenger Motor Vehicles Participation for Policy Years 1993 and Subsequent.

For policy year 1993 and subsequent, private passenger participation ratios are calculated using a utilization formula based on the Member Company's voluntary and ceded exposures.

Exposures from ceded risks meeting the following criteria shall be excluded from the calculation of the utilization ratio, where noted in subsequent paragraphs:

Policy Year	Exclusion Criteria
2006- 2008 2009	Ceded exposures for risks at SDIP Points 9 and greater and ceded exposures for Inexperienced Operators (0-3 years) – Rate Classes 20, 21, 25, and 26.

Additionally, voluntary and ceded exposures for Antique Vehicles with policy effective dates of November, 1998 and subsequent shall be excluded from the calculation of the utilization ratio.

The formula for determining the utilization ratio shall be as follows:

- a. For each company, separately for liability and physical damage, determine the company's voluntary written exposures from voluntary agents or direct written (CAR ID Code 0), voluntary written exposures from Exclusive Representative Producers (CAR ID Code 1), voluntary-ceded written exposures (CAR ID Code 4), and ceded exposures written through Representative Producers with whom the company has no voluntary relationship, (CAR ID Code 5), for the calendar year corresponding to the policy year whose participation ratios are being calculated.

Note that if a company has bought out of its Servicing Carrier responsibilities, the exposures serviced on this company's behalf by another entity will be counted as if they were written by the buying-out company. Note also that voluntary-ceded and Exclusive Representative Producer (ERP) ceded exposures meeting the exclusion criteria in paragraph B.1. above should be separately identified, to enable their exclusion where specified in subsequent paragraphs.

For the following Miscellaneous Rated as Private Passenger classifications, the exposures used in the calculation of a company's private passenger liability participation ratio, including Rule 12 credit calculations, will be adjusted by the following factor for the indicated policy year:

Policy Year 2006- 2008 <u>2009</u>	Classification	Adjustment Factor
0400	Electric Cars	.33
0426	Snowmobiles	.33
0483*	Antique Vehicles	.33
0408-0431	Motorcycles	.33
0508-0531		
0608-0631		
0608-0631		

*Adjustment for Antique Vehicles is only applicable to policies effective prior to November, 1998.

The liability voluntary-ceded and ceded ERP exposures with the specified classifications noted above which meet the exclusion criteria in paragraph B.1. above should be separately identified, to enable their exclusion where specified in subsequent paragraphs.

For policy years 2006 through ~~2008~~2009 note that all other Miscellaneous Rated as Private Passenger classifications are included in the liability participation ratio calculations without adjustment.

For policy years 2006 through ~~2008-2009~~ all Miscellaneous Rated as Private Passenger classifications are included in the physical damage participation ratio calculations without adjustment. However, voluntary and ceded exposures for Antique Vehicles with policy effective dates of November, 1998 and subsequent are not included in either the liability or physical damage participation ratio calculations.

- b. For each company, separately for liability and physical damage, determine the company's minimum allowable written exposures as:

Policy Years	Minimum Allowable Exposures
1992	85.0% of 1989 voluntary and voluntary- ceded exposures
1993 through 2008 and later	The greater of: 80.0% of the previous calendar year voluntary and ceded exposures from voluntary agents or written directly, or 80.0% of the previous year's minimum allowable exposures.

For any company which was not a Servicing Carrier for private passenger business during the entire period from January 1, 1989 through December 31, 1989, the number of 1989 voluntary-ceded exposures used in the determination of its 1992 minimum allowable written exposures shall equal that company's 1989 voluntary exposures multiplied by 88%.

For a company newly emerging in 1990, the number of 1989 voluntary exposures used in this calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from all sources in calendar year 1990. For a company newly emerging in 1991 through 1992, the number of 1989 voluntary exposures used in this calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from voluntary agents or written direct, in the corresponding calendar year. For the second and third year of writing of a company newly emerging in 1990-1992, the number of 1989 voluntary exposures used in this calculation shall equal the greatest number of voluntary exposures which the company has actually written in any calendar year up to and including the current calendar year.

Voluntary exposures written through ERPs will be counted in the calendar year 1990 total, but not in the totals for subsequent calendar years. The number of 1989 voluntary-ceded exposures shall equal the 1989 voluntary exposures determined above, multiplied by a factor equal to the total industry's voluntary-ceded exposures including those meeting the exclusion criteria, divided by the total industry's voluntary exposures for the corresponding calendar year, including ERP voluntary exposures for calendar year 1990, but excluding them for subsequent calendar years, then further multiplied by 20% in the first year, 40% in the second year and 60% in the third year.

For a company newly writing in 1990, the number of 1989 voluntary exposures used in this calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from all sources in calendar year 1990. For a company newly writing in 1991 through 1992, the number of 1989 voluntary exposures used in the calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from voluntary agents or written direct, in the corresponding calendar year. For the second and third year of writing, of a company newly writing in 1990-1992, the number of 1989 voluntary exposures used in this calculation shall equal the greatest number of voluntary exposures which the company has actually written in any calendar year up to and including the current calendar year.

Voluntary exposures written through ERPs will be counted in the calendar year 1990 total, but not in the totals for subsequent calendar years. The number of 1989 voluntary-ceded exposures shall equal the 1989 voluntary exposures determined above, multiplied by a factor equal to the total industry's voluntary-ceded exposures including those meeting the exclusion criteria, divided by the total industry's voluntary exposures for the corresponding calendar year, including ERP voluntary exposures for calendar year 1990 but excluding them for subsequent calendar years.

For the purposes of this calculation, a company shall be considered to be newly writing in any year in which its written exposures, both voluntary and ceded, from voluntary agents or direct written, exceed 250% of its 1989 written exposures, provided that its 1989 written exposures comprise less than 1% of all exposures written in 1989 and providing that the company has not been defined as newly emerging in 1987 through 1992.

For policy years 2007 and prior, if the company's minimum allowable exposures are greater than the total of the voluntary and voluntary-ceded exposures including those meeting the exclusion criteria as determined in a. above, including voluntary exposures from ERPs for calendar year 1990, but excluding them for subsequent calendar years, then the difference will be added to the voluntary-ceded exposures excluding those meeting the exclusion criteria determined in a. above.

For policy year 2008, if the company's minimum allowable exposures are greater than the total of its voluntary written exposures from voluntary agents or written directly by the company (CAR ID Code 0), voluntary-ceded written exposures (CAR ID Code 4), and MAIP eligible business retained as voluntary (CAR ID Code 8), including those meeting the exclusion criteria as determined in a. above, then the difference will be added to the voluntary-ceded exposures excluding those meeting the exclusion criteria as determined in a. above.

If the company's minimum allowable exposures are less than or equal to this total, then the company's voluntary-ceded exposures excluding those meeting the exclusion criteria as determined in a. will be used.

[Minimum allowable exposures criteria will not be used in calculating a company's participation for policy years 2009.](#)

- c. For each company and for the industry, determine the following:
- Voluntary retained exposures from all sources, from a. above
 - Ceded exposures from all sources, from a. and b.

Determine each company's pre-credit utilization ratio as:

$$\frac{(\text{Company Voluntary Retained Exposures}) + (\text{Company Ceded Exposures} \times K)}{(\text{Industry Voluntary Retained Exposures}) + (\text{Industry Ceded Exposures} \times K)}$$

In the above formula, for policy years 1993 through ~~2008~~2009, the value of the K factor will be 4.0.

For subsequent policy years, the value of the K factor will be reexamined based upon existing market conditions.

- d. For each company, determine each company's participation credits based on voluntary business from all sources.
- e. Determine for each company, "adjusted total voluntary written exposures" by multiplying the total industry voluntary written exposures from all sources from a. above by the company's pre-credit utilization ratio as determined in c. above. Determine, then, each company's final utilization ratio by dividing the company's "adjusted total voluntary exposures" minus the company's participation credits from d. above, by the total industry voluntary written exposures from a. above minus the total industry participation credits from d. above.
- f. To the extent that inclusion of any of the final utilization ratios calculated above causes the sum of the final utilization ratios to differ from unity, an off-balance factor shall be applied to each ratio such that the sum becomes unity.

2. Commercial Motor Vehicles

a. Commercial Participation Ratio Formula

(1) Policy Years 2006 and Subsequent

For policy years 2006 and subsequent, a company's commercial participation ratios shall be determined as a function of the company's retained market share. Ceded business shall not be included in the commercial participation formula.

The formula for determining commercial participation ratios shall be as follows:

(a) Determine Premium to be Used in Participation Ratio Calculation

- (i) For each company, separately for liability and physical damage, determine the company's retained written premium to be used in the calculation of commercial participation ratios. Premiums shall be separately summarized for the following CAR Identification Codes:

CAR Identification Code	Description
0	Voluntary written premium from voluntary producers or written directly by the company
1	Voluntary written premium from producers with whom the company has no voluntary contract

If the sum of a company's retained premium (CAR Identification Codes 0 and 1) is less than zero, this premium is excluded from the commercial participation ratio formula.

- (ii) For the industry, separately for liability and physical damage, determine the total industry retained premium to be used in the calculation of commercial participation ratios. Premium shall be separately summarized for CAR Identification Codes 0 and 1 as described in (i) above.

All retained premium (CAR Identification Codes 0 and 1) for Antique Vehicles (Classification Code 9620) shall be excluded from the calculations of commercial participation ratios.

(b) Determine Company's Final Participation Ratio

Determine each company's final participation ratio by dividing the company's retained premium as determined in (i) above by the total industry retained premium as determined in (ii) above.

(2) Policy Years 1995 Through 2005

For policy years 1995 through 2005, a company's commercial participation ratios shall be determined as a function of the company's utilization of the residual market. If the company is not a Servicing Carrier for commercial motor vehicle business, a "grossing-up" process is performed.

The formula for determining commercial participation ratios shall be as follows:

(a) Determine Premium to be Used in Participation Ratio Calculation

For each company, separately for liability and physical damage, determine the company's written premium to be used in the calculation of commercial participation ratios. Premium shall be separately summarized for the following CAR Identification Codes.

CAR Identification Code	Description
0	Voluntary written premium from voluntary agents or written directly by the company
1	Voluntary written premiums from Exclusive Representative Producers with whom the company has no voluntary relationship
4	Ceded written premium from voluntary agents or written directly by the company

Note that all ceded premium written through Representative Producers with whom the Servicing Carrier has no voluntary relationship (CAR Identification Code 5) are excluded from the calculation of commercial participation ratios.

Additionally, all premium (CAR Identification Codes 0, 1, and 4) for Antique Vehicles (Classification Code 9620) shall be excluded.

If the sum of a company's voluntary written premium (CAR Identification Codes 0 and 1) is less than zero, this premium is excluded from the commercial participation ratio formula.

Additionally, if the company's ceded written premium (CAR Identification Code 4) minus the excluded premium noted in (b) below is less than zero, this premium is excluded from the commercial participation ratio formula and the company's ceded market share in (d) below will equal zero.

(b) Identify Commercial Exclusions

Premium from risks meeting the criteria noted below shall be identified and excluded as necessary from the commercial participation ratio calculations.

For policy years 2003 through 2005, premium from ceded risks (CAR Identification Code 4) meeting the following criteria shall be excluded:

Exclusion Criteria		
Classification Description	Policy Year(s)	Statistical Code
<u>Contract Carriers</u> Hauling Chemicals Hauling Petroleum or Petroleum Products All Other	2003-2005	###230 ###270 ###290
<u>Petroleum Business</u>	2003-2005	###920
<u>Long-haul Truckers</u> Non-fleet Fleet	2003-2005	##32## ##62##
<u>Emergency Vehicles</u> Emergency Ambulances Fire Department Law Enforcement	2003-2005	791300 790800, 790900 791100, 791200, 794200
School Buses	2003-2005	61##00, 62##00
Buses N.O.C.	2003-2005	53##00, 54##00, 55##00, 58##00
Limousines	2003-2005	42#900
Car Service	2003-2005	43#900
Truckers Cost-of-Hire	2003-2005	661300
Chemical Manufacturers	2003-2005	###110
<u>Garage</u> Non-franchised Dealers Repair Shops	2003-2005	735100, 735200 780800, 781000, 781100, 781200, 781300
<u>Taxicabs</u> Fleet Non-fleet	2003-2005	418700, 419700, 410700, 418800, 419800, 410800, 418900, 419900, 410900 415700, 416700, 417700, 415800, 416800, 417800, 415900, 416900, 417900
Van Pools	2004-2005	411###, 412###
<u>Zone Rated Bus</u> Fleet Non-Fleet	2004-2005	520900, 560900 527900, 567900

Exclusion Criteria		
Classification Description	Policy Year(s)	Statistical Code
<u>Specialized Delivery</u> Armored Cars	2004-2005	###410
Church Bus	2004-2005	638#00, 639#00, 630#00, 635#00, 636#00, 637#00
<u>Social Services</u> <u>Automobile</u> Employee Operated All Other	2004-2005	64#### 65####
<u>Short Term Leasing or</u> <u>Rental Concerns</u> Private Passenger Autos Miscellaneous Types	2004-2005	721400 721600
Bobtail Operations	2004-2005	748900
Ambulance Services – Non Emergency	2004-2005	791400
<u>Driver Training</u> <u>Programs</u> Educational Institutions Commercial Driving Schools	2004-2005	792600 792700

(c) Assign a “Gross-Up” Ceded Premium for Non-Servicing Carriers

For companies that are not Servicing Carriers for commercial motor vehicle business, a "gross-up" ceded written premium is assigned. The “gross-up” ceded premium that is assigned will bear the same relationship to the non-Servicing Carrier's voluntary written premium (CAR Identification Codes 0 and 1) as the total of all Servicing Carriers' ceded written premium (CAR Identification Code 4) bears to the total of all Servicing Carriers' voluntary written premium (CAR Identification Codes 0 and 1).

(d) Determine Ceded Market Share

For each company, for policy years 2001 and prior, determine the company's ceded market share after the assignment of a "gross-up" ceded premium for non-Servicing Carriers. Divide the company's ceded written premium (CAR Identification Code 4) as determined in (a) or (c) above by the total industry ceded written premium (CAR Identification Code 4) as determined in (a) and (c) above. Company and industry premium identified in (b) above is excluded from this calculation.

(e) Determine Total Market Share

For each company, for policy years, 2001 and prior, determine the company's total market share after the assignment of a "gross-up" ceded premium for non-Servicing Carriers. Divide the company's total voluntary (CAR Identification Codes 0 and 1) and ceded (CAR Identification Code 4) written premium as determined in (a) and (c) above, by the total industry voluntary (CAR Identification Codes 0 and 1) and ceded (CAR Identification Code 4) written premium as determined in (a) and (c) above. Company and industry premium identified in (b) above is excluded from this calculation.

(f) Determine Utilization Ratio

For policy years 2001 and prior, determine each company's utilization ratio by combining 50% of the ratio from (d) above and 50% of the ratio from (e) above.

(g) Determine Adjusted Total Written Premium

For policy years 2001 and prior, determine each company's adjusted total written premium. Multiply the total industry written premium (after the assignment of a "gross-up" ceded premium for non-Servicing Carriers) as determined in (a) and (c) above, by the company's utilization ratio as determined in (f) above. Industry premium identified in (b) above is excluded from this calculation.

(h) Determine Company's Final Participation Ratio

(i) Policy Years 2001 and Prior

Determine each company's final participation ratio by dividing the company's adjusted total written premium as determined in (g) above by the total industry written premium.

(ii) Policy Years 2002 through 2004

For each company and for the industry, determine the following:

- a) Voluntary written premium from all sources (CAR Identification Codes 0 and 1) from (a) above.
- b) Ceded written premium (CAR Identification Code 4) from (a) or (c) above, excluding premium identified in (b) above.

Using the voluntary and ceded premium identified above, determine each company's final participation ratio as:

$$\frac{(\text{Company Voluntary Retained Written Premium}) + (\text{Company Ceded Written Premium} \times K)}{(\text{Industry Voluntary Retained Written Premium}) + (\text{Industry Ceded Written Premium} \times K)}$$

In this formula, for policy years 2002 and 2003, the value of the K factor shall be 12.0. For policy years 2004 and 2005 the value of the K factor shall be 11.0.

3. Companies Electing to Withdraw

a. Private Passenger Automobile

A company electing to withdraw from the Massachusetts private passenger automobile insurance market shall file a plan for an orderly withdrawal over a period which shall not exceed three (3) years and which shall include full settlement of all financial obligations to CAR. Approval of the plan for purposes of this section shall mean written approval by the Commissioner of Insurance. Prior to approval, the Commissioner of Insurance shall hold a public hearing if requested to do so by the Governing Committee of CAR, any Member Company of CAR, or any association of producers, to consider the effect of the withdrawal on the orderly and equitable conduct and operation of the Massachusetts motor vehicle insurance market. Any such party seeking a hearing must file a request with the Division of Insurance within 10 days of notice by the Division of Insurance to CAR of the opportunity for a hearing. Copies of the plan shall be made public at the time of such notice.

On approval of this plan, data for the withdrawing company shall be removed from the calculation of participation ratios for the remainder of the industry beginning in the first year following the year of election to withdraw. The participation ratio of the withdrawing company shall remain constant over the three-year period following the year of election to withdraw and shall be applied separately for those three years. The withdrawing company's participation ratio for this period shall be the company's pre-credit utilization ratio as determined in Rule 11.B.1.c. for the year of election. Upon request of the company electing to withdraw, CAR may at its option, agree to accept a single payment at any time in settlement of all amounts then outstanding, including those amounts outstanding as a consequence of the calculations specified in this paragraph.

If the withdrawing company is later found not to have complied with the provisions of the plan as approved by the Commissioner of Insurance, the company's payment pursuant to Rule 11.B.3. may be adjusted to assure that the final payment for each year will be no less than the payment which, absent the approval of the withdrawal plan, would have been made pursuant to Rule 11.B.1. had no plan been filed and approved.

b. Commercial Automobile

Companies electing to withdraw from the Massachusetts commercial automobile market but still maintain their license to underwrite other than automobile insurance in Massachusetts shall file a plan for such withdrawal with the Commissioner of Insurance for approval. Such a plan shall specify in detail how its risks are to be placed elsewhere.

C. Settlement of Balances

1. CAR will issue quarterly summaries to all Members reflecting their cumulative balances. However, for the current policy year there will be no reimbursement of Members with allowable credits in excess of written premiums, nor reimbursement of CAR by any of the Members until after the close of the third quarter of the calendar year, or at a later date if so determined by the Governing Committee.
2. The Governing Committee, subject to the approval of the Commissioner, may offer or allow a Servicing Carrier reimbursement in whole or in part for specific extraordinary expense incurred in qualifying for, continuing as, or ceasing to be, a Servicing Carrier. Such expense must be explained and supported in such detail as required by the Governing Committee, and must be in its judgment significantly in excess of the normal additional expense expected to be incurred by the Servicing Carrier, and must be actually incurred before reimbursement. The Servicing Carrier must petition the Governing Committee for such relief.

3. The Governing Committee, subject to the approval of the Commissioner, may authorize reimbursement of Servicing Carriers for normal insurance business losses incurred in connection with CAR business. Such normal business losses shall be as defined and designated by the Governing Committee but shall not include any loss or expense incurred as a result of fraud or dishonesty on the part of a Servicing Carrier's claims personnel (including but not limited to independent adjusters and agents), and each Servicing Carrier shall hold CAR harmless from and reimburse it for any such loss or expense charged. The Servicing Carrier must petition the Governing Committee for such relief.

A. Appointments

1. Private Passenger

The Governing Committee shall appoint Servicing Carriers as authorized in the Plan and Rules of Operation. A Member may be excused from its private passenger Servicing Carrier responsibilities for Exclusive Representative Producer business if the Member executes an agreement with another entity for handling its share of private passenger Exclusive Representative Producer business. The agreement must be reviewed and approved by CAR. Nothing in this paragraph shall be construed to affect the rights of any private passenger Servicing Carrier to enter into any contractual agreement for the purpose of servicing the Servicing Carrier's voluntary or voluntary ceded private passenger business. Nothing in this paragraph shall be construed so as to relieve any Servicing Carrier of its share of the underwriting and/or administrative expenses of CAR nor of its responsibility to provide coverage as required by G.L. c. 175, §113H(A).

a. Each Member Company is required to be a private passenger Servicing Carrier provided the company's reported written property damage liability exposures for private passenger motor vehicle insurance business equals or exceeds an established threshold as follows:

(1) For private passenger business, all companies with 5,000 or more reported written property damage liability exposures for the most recently completed policy year, will be required to become a private passenger Servicing Carrier effective January 1st of the next policy year following notification of eligibility status.

2. Commercial

- a. For commercial motor vehicle business effective prior to January 1, 2006, each company with reported voluntarily produced commercial written premium equal to or greater than 0.5% of the total market voluntarily produced commercial written premium, will be required to become a commercial motor vehicle Servicing Carrier effective January 1st of the next policy year following notification of eligibility status. A Member will only be required to become a Servicing Carrier when it has met or exceeded the above stated threshold.
- b. For policies effective January 1, 2006 and subsequent, the Governing Committee shall appoint a limited number of Servicing Carriers, for a specified period of time, as authorized in the Plan and Rules of Operation, based on the response of Member Companies to the Request for Proposal for Servicing Carrier for Massachusetts Residual Market Commercial Business.
 - (1) A commercial Servicing Carrier may only enter into a contractual agreement for the purpose of servicing its commercial ceded business, if the terms and conditions of that agreement have been fully disclosed in the response of that Member to the aforementioned Request for Proposal.
 - (2) A commercial Servicing Carrier, in addition to satisfying the requirements listed in Section 4. hereunder, shall be required to satisfy all criteria contained in the aforementioned Request for Proposal, consistent with the Member's response to the Request for Proposal.
3. For purposes of determining Servicing Carrier eligibility, groups of companies under the same ownership and management will be treated as a single member company.
4. In order to assure the protection of the public interest, the Governing Committee in considering the appointment of a Member as a Servicing Carrier shall require the following:

- a. That the company has satisfied the Governing Committee that it, or another entity pursuant to a written agreement reviewed and approved by the Governing Committee or its designee, has the ability to, and it will effectively:
 - (1) Provide policy issuance and premium collection services for all eligible classes of risks, except for those classes of risks specifically exempted by the Commissioner upon the request of the applicant.
 - (2) Service insurance claims in every state, the District of Columbia and Canada.
 - (3) Administer a Direct Bill Program for Private Passenger risks and for Commercial risks.
 - (4) Provide an Installment Payment Plan which has been filed with and approved by the Commissioner. The Installment Payment Plan shall require no more than a 30% first or deposit payment on or before the policy effective date, and no less than seven monthly payments thereafter. A Servicing Carrier shall cooperate with its Exclusive Representative Producers to assure that policyholders are made aware of their option to utilize an Installment Payment Plan.
 - (5) Maintain a Special Investigative Unit to investigate suspicious or questionable motor vehicle insurance claims for the purpose of eliminating fraud, and to verify garaging and policy facts on a representative sample of policies.
 - (6) Report all required information to CAR in an accurate and timely manner.
 - (7) Adopt and maintain a plan approved by the Commissioner of Insurance providing for direct payment by the insurer to the insured under collision, limited collision, comprehensive, and fire and theft coverages.

This requirement shall apply to all private passenger Servicing Carriers whose average market share for the three years preceding equals or exceeds one percent of the total private passenger market.

Additionally, this requirement shall also apply to all commercial Servicing Carriers January 1, 2006 and subsequent.

B. Servicing Carrier Responsibilities

1. No domestic insurance company shall be denied participation as a Servicing Carrier based solely upon its share of the Massachusetts motor vehicle insurance market.
2. If a Servicing Carrier has contracted with a third party for performing any of its Servicing Carrier's responsibilities, the Servicing Carrier guarantees said performance by such third party.
3. Servicing Carriers must provide quality service to CAR policyholders by maintaining the standards established as a condition of appointment under Section A. 4 of this Rule.
4. Policies and Forms
 - a. For private passenger business, policies and other forms mailed to policyholders shall be the same as those used for non-Servicing Carrier motor vehicle business. Servicing Carriers shall provide the same level and type of service to policies issued through CAR, as they provide to policies issued voluntarily.
 - b. For commercial business, policies and other forms mailed to policyholders shall be the same as those specifically referenced in CAR's Manual of Administrative Procedures.
 - c. Servicing Carriers shall provide the same level and type of service to policies issued through CAR, as they provide to policies issued voluntarily.

5. For Private Passenger Motor Vehicles

No group or members of a group under the same management or ownership or both may charge rates on business subject to the provisions of G.L. c. 175, §113B, different from those fixed and established under such section or provide different levels of service through a member of the group that is not a Servicing Carrier than is provided to policyholders insured by a Servicing Carrier member of the group.

6. General Duties

The Servicing Carrier shall perform the following general duties:

- a. Provide a contract signed by an authorized company representative with terms consistent with these Rules to a qualified newly assigned or reassigned ERP within 15 business days of the Servicing Carrier's receipt of the assignment by CAR. If the Servicing Carrier determines that the assigned or reassigned ERP is not duly qualified, the Servicing Carrier will notify CAR within 2 business days of that determination.

However, during the initial period of assigning ERPs to one of the limited number of Servicing Carriers appointed to issue commercial policies effective January 1, 2006 and subsequent, the Servicing Carrier must provide a contract signed by an authorized company representative with terms consistent with these Rules no less than 60 calendar days prior to January 1, 2006. If the Servicing Carrier determines that the assigned ERP is not duly qualified, the Servicing Carrier will notify CAR within 2 business days of that determination.

- b. Accomplish confirmation of operator driving licenses and records in order to effectively administer the Safe Driver Insurance Plan.
- c. Verify that representations contained in the application for insurance are accurate as to classification, garaging, discounts, credits, vehicle use, vehicle description and experience for those risks eligible to be experience rated.

- d. Assure that a policy has been issued for each RMV-1 and/or RMV-3 certificate and that the policy effective date and the certification date are the same.
- e. Adopt procedures designed to assure that all assigned Exclusive Representative Producers comply with all provisions of the contract between the Servicing Carrier and the producer.
- f. Implement procedures to assure collection of premiums billed.
- g. Comply with the terms and conditions of premium finance notes and/or agreements submitted to the Servicing Carrier, on behalf of applicants for insurance, by the producer or by a premium finance company licensed under the laws of the Commonwealth of Massachusetts.
- h. Termination

Servicing Carriers shall be entitled to immediately terminate an Exclusive Representative Producer's contract to bind coverage on behalf of the Servicing Carrier when any of the conditions listed below exist or upon failure of the Exclusive Representative Producer to meet the requirements/definition of Exclusive Representative Producer as defined in Rule 2 of the Rules of Operation.

- (1) Those conditions deemed to be cause for immediate termination of an Exclusive Representative Producer contract and authority to bind coverage shall include:
 - (a) Failure to maintain a valid agents/brokers license as issued by the Division of Insurance.
 - (b) Willful misappropriation of premium due a Servicing Carrier in accordance with the provisions of CAR Rules of Operation.
 - (c) The entry of a finding, by a court of competent jurisdiction that the producer has engaged in fraudulent activity in connection with the business of motor vehicle insurance.

- (2) The following conditions shall be cause for a Servicing Carrier to terminate an Exclusive Representative Producer's authority to bind coverage on behalf of a Servicing Carrier with said Exclusive Representative Producer being entitled to a thirty day written notice of termination:
- (a) Failure to remit payments to a Servicing Carrier on a timely basis in accordance with CAR's Rules of Operation.
 - (b) Failure to notify the Servicing Carrier of any suspected fraud in the application for insurance or in the underwriting or rating process or in the payment of premium obligations or surrounding a loss.
 - (c) Failure to assist the Servicing Carrier during any audit or investigation.
 - (d) Violations of the conditions set forth in the Servicing Carrier contract.
 - (e) Failure to report all coverages bound within two working days of the effective date of coverage.
 - (f) Failure to comply with reasonable procedures as supplied by the Servicing Carrier for processing claims, remitting premiums, and requesting coverages.
 - (g) Failure to adhere to a directive issued by the Commissioner relative to the charging of Service Fees.
 - (h) Failure to provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data.
 - (i) Failure to comply with applicable agency requirements and procedures, as prescribed in the CAR Rules of Operation.
 - (j) Failure to refrain from brokering private passenger business, as defined in Rule 14.B.1.r.

- (3) All Exclusive Representative Producer terminations issued by a Servicing Carrier, both immediate and thirty (30) day terminations, shall:
- (a) Be in writing.
 - (b) State the specific CAR Rule provision(s) that constitute the basis for the termination.
 - (c) Include a copy of the CAR Request for Review form, and a copy of the section of Rule 13 entitled “Termination”, to advise the ERP of its right to request a review of the termination by CAR.
 - (d) Be hand delivered or mailed by a method that provides proof of mail to the ERP’s principal place of business, with a copy of the termination notice sent to CAR concurrently.
 - (e) Define changes in operational procedures, if any, that the Servicing Carrier intends to implement concurrent with the ERP’s termination effective date.

It shall be the responsibility of each Member of CAR to so notify CAR of any change in the status of any of their producers so that this information may be communicated to the remaining Servicing Carriers. It shall also be the responsibility of each Member to so notify CAR of any Exclusive Representative Producer which defaults on premium payments.

Any Exclusive Representative Producer terminated pursuant to this Rule may request that the termination be reviewed by CAR pursuant to the provisions of Rule 20. A complete “Request For Review” form must be received by CAR within thirty (30) calendar days of the delivery of the termination notice, with a copy of this Rule and a copy of the “Request For Review” form, to the ERP’s principal place of business. A review by the Market Review Committee of CAR will be held within fifteen (15) business days of the date of CAR’s receipt of the completed “Request For Review” form.

If the termination is upheld by the Market Review Committee, the terminating Servicing Carrier may commence issuance of non-renewal notices as of the date of the Committee's decision, unless the ERP requests, and is granted, a stay of non-renewal notifications. The request for a stay must be made before the adjournment of the Market Review Committee meeting at which the termination has been sustained. The request for stay must be made in conjunction with the ERP's stated intent to have the Committee's action reviewed by the Governing Committee Review Panel, pursuant to Rule 20. The Market Review Committee has the discretion to grant such a stay only if it deems such action is appropriate.

At the time a termination notice is issued, the Servicing Carrier will continue to service the ERP's in-force business, until all of the policies have been legally cancelled or non-renewed. Such service will include additions, deletions and changes of vehicles and coverages on in-force policies. The Servicing Carrier may define changes in operational procedures, as are necessary to effectively service the in-force policies. If the changes in procedures are to be implemented as of the termination effective date, the Servicing Carrier will provide written explanations of those procedures at the time of the notice of termination. The ERP may request a review of any such changes in the Servicing Carrier's operational procedures.

- i. Report immediately to CAR and the Division of Insurance any termination of an Exclusive Representative Producer's contract and initiate procedures in a timely manner, including litigation if necessary, to administer a controlled run off of the business from an Exclusive Representative Producer whose agreement has been terminated.
- j. Maintain effective communication with Exclusive Representative Producers by scheduling meetings when necessary and conducting whatever educational/training sessions as may be required to assure that Exclusive Representative Producers provide quality service to the motoring public.

- k. Verify, prior to contracting and on an ongoing basis, producer eligibility for assignment to a Servicing Carrier as required by G.L. c. 175, §113H.
- l. Provide Exclusive Representative Producers with all information and procedures required for them to effectively service policies issued through CAR.
- m. Comply with all of the provisions of the Rules of Operation and Manual of Administrative Procedures.
- n. Maintain records of infractions of the Rules of Operation of CAR by Exclusive Representative Producers and report such infractions as appropriate and necessary.
- o. Provide Exclusive Representative Producers with necessary information from the policy declaration page, to support their servicing of their insureds, in an appropriate and usable format and medium.
- p. Provide producers with a list of approved inspection services for conducting pre-inspections.
- q. Provide Exclusive Representative Producers, at least quarterly, with premium, production, and experience data on their business.
- r. Notify CAR of any new affiliated agency status, or changes in affiliated agency relationships.

7. Reporting Requirements

All eligible coverages written by a Servicing Carrier must be reported to CAR in accordance with the following provisions:

- a. New Business – Servicing Carriers must provide CAR written or electronic notice of eligible coverages bound within twenty-three calendar days of the effective date of the policy, otherwise CAR's obligation for reimbursement of losses shall become effective on the date CAR receives proper written or electronic notification of the eligible coverages bound.

- b. Renewals – Servicing Carriers must provide CAR a written or electronic notice of eligible coverages bound prior to the effective renewal date of the policy, otherwise CAR's obligation for reimbursement of losses shall become effective on the date CAR receives proper written or electronic notification of the eligible coverages bound.
- c. A Servicing Carrier may elect to cede 100% of the new business of an ERP. This option can be selected for only private passenger new business, for only commercial new business, or for all new business from the ERP. If this option is selected, the Servicing Carrier must cede all eligible new business produced by the ERP, and CAR's obligation for reimbursement for losses will commence as of the new business policy's effective date, regardless of the date that the cession notice is received by CAR.

When an ERP is newly assigned to a Servicing Carrier by CAR, the Servicing Carrier may have the 100% cede option apply as of the contracting date provided that CAR is notified in writing by the Servicing Carrier of their intentions within thirty (30) calendar days of the Servicing Carrier's receipt of the assignment. After the initial thirty (30) calendar day period, all elections by a Servicing Carrier to cede 100% of an ERP's new business must apply as of the first day of a month, which date must be no less than thirty (30) calendar days later than the date that the notification is received by CAR. Servicing Carriers may change elections, with the same notification lead times to CAR applying.

Absent specific notice to CAR of the intention to cede 100% of an ERP's new business, all new business produced by an ERP will be ceded in accordance with 7.a. above. Regardless of the Servicing Carrier's new business 100% cede election for a particular ERP, all renewal business from the ERP will be ceded in accordance with 7.b. above.

- d. Servicing Carriers must report on a monthly basis their premiums written, paid losses, allowable expenses and any other information which may be required by the Plan, Rules or Manual of Administrative Procedures.

e. If a Servicing Carrier elects to cede a policy, all coverages written on that policy which are eligible coverages under Rule 6 must be reported, as ceded, to CAR, by the Servicing Carrier.

8. Continuation of Eligibility as a Servicing Carrier

A private passenger Servicing Carrier must maintain a viable book of voluntarily written private passenger motor vehicle policies. The Commissioner may terminate any Servicing Carrier if he finds that disruptive reductions in voluntarily issued private passenger motor vehicle policies are in violation of this section.

9. Inducements

No Servicing Carrier shall offer any inducement, monetary or otherwise, to the ERP of another Servicing Carrier to incent that ERP to accept business from, or to purchase, that Servicing Carrier's ERP or a part of that ERP's book of business. CAR will not recognize any ERP sale, unless the purchasing ERP and the Servicing Carrier of the selling ERP submit affidavits that such inducements or incentives are not part of the transaction.

10. Penalties

If CAR determines that either a Servicing Carrier or a Non-Servicing Carrier Member of CAR is found to have provided a direct incentive for either an ERP or a voluntary producer to engage in brokering activity prohibited by Rule 14.B.1.r., CAR shall assess a penalty on such Servicing Carrier or Non-Servicing Carrier for all exposures or premium identified as being so brokered. The assessment shall be \$2,000 per exposure for private passenger motor vehicles for each of the calendar years in which the business was brokered, with a minimum penalty of \$25,000.

C. ERP Subscription

1. Subscription Share (Ought to Have) and Methodology – Private Passenger
 - a. Servicing Carriers will be assigned Exclusive Representative Producers (ERPs) based upon the Servicing Carrier’s total market share. The Servicing Carrier’s “ought to have” share of ERP exposures will be equal to the Servicing Carrier’s percentage of the total market multiplied by the sum of all Servicing Carriers’ ERP exposures. Servicing Carrier ERP subscription reports will be developed based upon statistical data reported to CAR for the latest twelve (12) policy effective months. CAR will verify, validate and/or adjust this data for use in the subscription process, including the assignment and reassignment of ERPs and Servicing Carrier oversubscription relief.
 - b. A Servicing Carrier’s “over or under subscription” position will be determined by comparing its actual number of ERP exposures to its “ought to have” number of ERP exposures and expressing the result as a percentage of the “ought to have” number of ERP exposures.
 - c. A Servicing Carrier's over/under subscription level is arrived at by subtracting its own number of ERP exposures from its "ought to have" number of ERP exposures as defined above.
 - (1) A Servicing Carrier assigned a newly emerging ERP will be credited with the greater of 400 exposures or the actual number of exposures written by that ERP until the third anniversary of the assignment, for purposes of determining the Servicing Carrier’s subscription level. Thereafter, the actual number of exposures written by that ERP will be attributed to the Servicing Carrier.

Exposures written by producers appointed as ERPs, as a result of losing their last voluntary private passenger market, are to be fully attributed to the successor Servicing Carrier at the time of appointment. The Servicing Carrier terminating the voluntary relationship will have exposures deducted from its share as those exposures expire or are written through another carrier.

- (2) When one ERP purchases an entire book of automobile business from another ERP, the exposures associated with the purchased ERP will be fully attributed to the successor Servicing Carrier and will be deducted from the predecessor Servicing Carrier at the time of transfer and the selling ERP's appointment will be terminated. Voluntarily contracted ERP transfers will be counted as voluntary agent produced exposures for the successor ~~Servicing~~ Carrier on an "as written" basis and the total twelve (12) month exposures written by the ERP Servicing Carrier on behalf of the transferring producer will be subtracted from the ERP Servicing Carrier ~~on an "as written" basis immediately upon CAR's receipt of notification from the successor carrier or the ERP.~~
- (3) Companies which have been Servicing Carriers for thirty-six (36) months or less will have their voluntarily written (non-ERP) exposure total "grossed up" using a factor that is based on a three (3) year rolling average of the industry non-ERP cession rate. The factor will be updated annually at the end of June.
- (4) The primary consideration for subscription order will be based on a Servicing Carrier's percentage of their "ought to have" ERP share. However, for Servicing Carriers between 75% and 100% of their "ought to have" ERP shares, subscription will be calculated in 5% intervals within which subscription order will be based on exposure counts.

- (5) No ERP with greater than 300 exposures shall be assigned to a Servicing Carrier where the assignment will result in the Servicing Carrier exceeding 105% of its “ought to have” ERP share. In the event that an assignment would bring a carrier over 105%, the ERP will be assigned to the next most undersubscribed Servicing Carrier where the assignment complies with this Rule, and the most undersubscribed Servicing Carrier will remain eligible for the next assignment.
- d. A Servicing Carrier is prohibited from entering into a two or three party agreement with an ERP for the purpose of a change in assignment.
- e. If an ERP receives a voluntary contract from a Servicing Carrier and is subsequently terminated within twenty-four (24) months of the contract date, the canceling Servicing Carrier’s and industry’s exposure totals will continue to include the producer’s number of exposures, in force as of the cancellation date, as “produced by a voluntarily contracted producer” for a period of thirty-six (36) months. In addition, actual exposures written will be counted as ERP exposures for the newly assigned ERP Servicing Carrier.
- f. If a Servicing Carrier is undersubscribed by 25% and 1,000 exposures or for three (3) consecutive months, CAR will simultaneously notify the Governing Committee and all oversubscribed Servicing Carriers of that circumstance. The Governing Committee will determine whether to order a redistribution of ERPs from oversubscribed Servicing Carriers to the undersubscribed carrier. An oversubscribed Servicing Carrier may notify the Governing Committee of its desire to forego any redistribution of its ERPs. Upon Governing Committee direction, CAR will randomly reassign ERPs from the then most oversubscribed Servicing Carrier until the undersubscribed Servicing Carrier’s subscription approximates its “ought to have” share pursuant to the procedures outlined in C.2.

2. Subscription Relief – Private Passenger

In order to assure that the subscription relief process is responsive to those Servicing Carriers that become oversubscribed and to further assure that the relief process itself does not cause additional Servicing Carriers to become oversubscribed, the following methodology will be used to provide subscription relief, making every effort to reduce the oversubscribed Servicing Carrier to a level of 100% of its “ought to have” ERP exposures. [Subscription relief will no longer be available after March 31, 2009.](#)

- a. A Servicing Carrier may petition CAR for relief if it has been oversubscribed at a level of 110% or more for a period of three (3) or more consecutive months. The petition will be in writing and addressed to the President of CAR [and must be received by CAR on or before March 31, 2009.](#)
- b. CAR will confirm the petitioner’s eligibility for relief based upon the Servicing Carrier’s subscription level at the time of the Servicing Carrier’s petition. CAR will verify and validate the petitioning Servicing Carrier’s reported data for the applicable three (3) month period. CAR will also review all Servicing Carriers’ data reported for the same period, pursuant to C.1.a. Upon completion of the data validation process, CAR will then perform the following subscription relief procedure.
 - (1) CAR will randomly select ERPs of the petitioning Servicing Carrier and will reassign those ERPs to the most undersubscribed Servicing Carrier pursuant to C.1. However, if a randomly selected ERP will reduce the petitioning Servicing Carrier’s “ought to have” ERP share to below 100%, or, if the reassignment of the ERP causes the most undersubscribed Servicing Carrier’s ERP subscription level to go above 100%, the ERP will not be assigned and a new selection will be made.

- (2) Following the reassignment of each individual ERP, CAR will recalculate subscription levels for all Servicing Carriers. The process will continue until the petitioning Servicing Carrier's subscription level is as close to 100% as possible without going below 100%. In any event, the petitioning Servicing Carrier's subscription level must be less than 105% of its "ought to have" number of ERP exposures, while assuring that no additional Servicing Carriers become oversubscribed in the process.
- (3) If after all of the petitioning Servicing Carrier's eligible ERPs have been reassigned, but subscription relief cannot be completed because the only ERPs left to reassign produce entire books of business that would cause either the petitioning Servicing Carrier's subscription level to drop below 100% or the recipient Servicing Carrier's subscription level to exceed 100% of its "ought to have" share, further relief will be granted by reassigning exposures to the most undersubscribed Servicing Carrier by utilizing garaging towns. The supplementary relief process will include the following:
 - (a) CAR will randomly reassign the garaging towns of a randomly selected ERP to the most undersubscribed Servicing Carrier.

The reassignment process will be in accordance with Sections C.2.b.(1)–(2) of this Rule, substituting garaging town in place of an entire ERP as the unit of assignment. CAR will recalculate subscription levels for all Servicing Carriers after the reassignment of each individual garaging town, until the petitioning Servicing Carrier's subscription level is reduced to as close to 100% as possible without going below 100% of its "ought to have" number of ERP exposures.

- (b) The individual garaging towns reassigned to a Servicing Carrier through the multiple Servicing Carrier relief process will function as an independent ERP assignment on a going forward basis.

- (c) Each Servicing Carrier writing business with a multiple Servicing Carrier ERP is required to monitor the process by ensuring that the policies it writes are only from the garaging town(s) it has been assigned.
 - c. ERPs or individual garaging towns so reassigned by CAR will be reimbursed by the petitioning Servicing Carrier at a rate of \$15 per exposure based on a count of the ERP exposure as statistically reported to CAR for the most recent twelve (12) month period at the time of reassignment.
 - d. If an ERP or individual garaging town was assigned or reassigned within the previous thirty-six (36) months, that ERP or individual garaging town of an ERP will not be randomly reassigned, and another random selection shall be made from the oversubscribed Servicing Carrier's remaining ERPs unless this provision precludes an oversubscribed Servicing Carrier from obtaining subscription relief, in which instance an ERP or an individual garaging town of an ERP may be reassigned notwithstanding having been assigned or reassigned within the previous thirty-six (36) months.
- 3. Subscription Methodology – Commercial
 - a. For Policies Effective January 1, 2006 and Subsequent
 - (1) Each producer that has an assignment to a commercial Servicing Carrier on December 31, 2005 shall be assigned to one of the limited number of commercial Servicing Carriers appointed to issue policies effective January 1, 2006 and subsequent. Such assignments will be made to provide equitable distribution among all those carriers based upon CAR's review of premium volume and agency loss ratio by major commercial class, with an effort to minimize market disruption. Subsequent to the original assignments, CAR will perform annual reviews of the distribution of ceded commercial written premium and will make such periodic adjustments to the distribution of commercial business as the Governing Committee determines is necessary to ensure that no individual carrier is unduly burdened.

- (2) Two- and three- party agreements with an ERP and a commercial Servicing Carrier will not be permitted.
- (3) An applicant for an ERP assignment to a commercial Servicing Carrier will be assigned to a commercial Servicing Carrier on a rotational basis subject to the provisions of section C.3.a (1) of this Rule.

b. For Policies Effective Prior to January 1, 2006

- (1) A Servicing Carrier's "ought to have" ERP subscription level will be based upon its voluntarily written (non-ERP) market share. Further defined, a Servicing Carrier's "ought to have" volume of ERP written premium will be equal to that Servicing Carrier's actual percentage of the total Servicing Carrier non-ERP market multiplied by the sum of all Servicing Carriers' ERP written premium.

A Servicing Carrier's over/under subscription level is arrived at by subtracting its own volume of ERP written premium from its "ought to have" volume of ERP written premium as defined above.

Subscription order will be based on each Servicing Carrier's variance from its "ought to have" ERP written premium dollars.

- (2) Two-party agreements with an ERP of a Servicing Carrier which has less than 100% of its "ought to have" written premium will not be permitted. Three-party agreements providing for an ERP to go from its present Servicing Carrier to a less subscribed Servicing Carrier are permitted.

A. General Provisions

The Massachusetts Automobile Insurance Plan (the “MAIP”) has been created to provide private passenger motor vehicle insurance to eligible risks, as defined by Rule 22, who seek and are unable to obtain such insurance through the voluntary market, and to assure that the risks written through the MAIP are distributed equitably based upon the Quota Share of each Member, both as defined by Rule 22.

The Rules of Operation of the MAIP are adopted in accordance with the CAR Plan of Operation in order to implement the MAIP and shall be effective July 16, 2007, subject to the Provisions for the Phase-In of Placements in the MAIP set out in Rule 21.B below and the constraints identified in Rule 21.C below.

B. Provisions for the Phase-In of Placements in the MAIP

In order to achieve a smooth transition from the reinsurance facility administered by Commonwealth Automobile Reinsurers (“the CAR pool”) to the MAIP, the placement of eligible risks in the MAIP will not begin until April 1, 2008 (see Rule 21.B.2 below) and will, at first, be limited to new business. The placement of all other business in the MAIP will be subject to a gradual process. The first, limited category of risks that must be placed in the MAIP if declined in the voluntary market will also begin for policies effective on or after April 1, 2008 (see Rule 21.B.2 and Rule 21.B.3 below). Only as of April 1, 2009 must all risks that are declined in the voluntary market be placed in MAIP (see Rule 21.B.4 below). Additionally, constraints on business that cannot be non-renewed are imposed for a three-year transition period (see Rule 21.C below). This measured approach is necessary to ensure that the MAIP is not overwhelmed in its initial operation and to allow CAR time to implement the administrative framework of the MAIP. To achieve these benefits, the following rules apply to eligibility for ceding to the CAR pool and to eligibility for placement through the MAIP on or after July 16, 2007:

1. Beginning on July 16, 2007, the MAIP Rules become effective, but no business can be placed in the MAIP until April 1, 2008. Members who are eligible to cede under the CAR Rules may continue to cede to the CAR pool new or other private passenger motor vehicle insurance business, including renewal business, with policy effective dates from July 16, 2007 through March 31, 2008.
2. All new business, as defined by Rule 22, with policy effective dates on or after April 1, 2008, must either be written voluntarily or be declined and referred for placement through the MAIP. These declined risks can no longer be ceded to the CAR pool as of April 1, 2008.
3. All private passenger motor vehicle insurance business, including renewal business, with policy effective dates on or after April 1, 2008 that has 10 or more merit rating points, as determined by the MAIP rate manual rules, must either be written voluntarily or declined and referred for placement through the MAIP. These risks can no longer be ceded to the CAR pool as of April 1, 2008.
4. All private passenger motor vehicle insurance business with policy effective dates on or after April 1, 2009, must either be written voluntarily or be declined and referred for placement in the MAIP. These risks can no longer be ceded to the CAR pool as of April 1, 2009.

The last policy effective date on which any risk can be ceded to the CAR pool is March 31, 2009.

C. Constraints on Placement in the MAIP During the Transition Period

All Clean-in-Three risks, as defined in Rule 22, with renewal dates during the period April 1, 2008 through March 31, 2011, cannot be non-renewed by a Member unless:

1. The insured, at his own initiative, chooses not to renew his policy with such Member;

2. The producer terminates his relationship with a Member and the producer transfers his book of business, which includes such Clean-in-Three risk, from that Member to a new Member; or
3. The Member terminates his relationship with a producer and the producer transfers his book of business, which includes such Clean-in-Three risk, from that Member to a new Member.

[A Member, to which an ERP is reassigned pursuant to Rule 13.C.2., shall write Clean-in-Three Risks transferred to it as a consequence of the reassignment as new business. The Member may not non-renew such risks prior to April 1, 2011 unless a risk no longer meets the Clean-in-Three criteria delineated in Rule 22 at renewal.](#)

D. Responsibility of CAR During the Transition Period

CAR is directed to submit to the Commissioner, by December 15, 2009, proposed rules that will ensure continued control of the size of the residual market after April 1, 2011. In developing such rules, CAR is to consider market-based strategies as well as other methodologies.

Policies of an Eligible Risk as defined in Rule 22 – Definitions and written by an ARC ~~may~~ shall at the request of the applicant provide ~~for~~ coverage ~~up~~ subject to the following limits for private passenger motor vehicles.

1. Bodily Injury Liability: Total policy limits of ~~\$500,000~~ 250,000 each person, \$500,000 each accident;
2. Personal Injury Protection: \$8,000 per person, per accident;
3. Property Damage Liability: Total policy limits of \$250,000 each accident;
4. Medical Payments: \$25,000 each person;
5. Uninsured Motorists: ~~\$500,000~~ 250,000 each person, \$500,000 each accident for bodily injury;
6. Underinsured Motorists: ~~\$500,000~~ 250,000 each person, \$500,000 each accident for bodily injury;
7. Physical Damage Insurance, which shall mean: (a) collision coverage or limited collision coverage, (b) fire and theft coverage, or (c) comprehensive coverage, as those coverages are defined in the private passenger motor vehicle insurance policy approved for the MAIP. Assigned Risk Companies must charge the extra risk rate or, in the alternative, refuse to issue collision, fire, theft or comprehensive coverage under any of the following circumstances:
 - a. Comprehensive, fire and theft or collision coverage on a vehicle customarily operated by or owned by persons convicted within the most recent five (5) year period of any category of vehicular homicide, auto insurance related fraud or motor vehicle theft;
 - b. Comprehensive, fire and theft or collision coverage on a vehicle customarily driven by or owned by persons who have, within the most recent five (5) year period, made an intentional and material misrepresentation in making claim under such coverages;

- c. Collision coverage on a motor vehicle customarily driven by or owned by persons who have been involved in four (4) or more accidents in which such person has been deemed to be at fault in excess of fifty percent (50%) within the three (3) years immediately preceding the effective date of the policy;
 - d. Comprehensive or fire and theft coverages on a motor vehicle customarily driven by or owned by persons who have had two (2) or more total theft or fire claims within the three (3) years immediately preceding the effective date of the policy;
 - e. Comprehensive, fire and theft or collision coverage on a motor vehicle customarily driven, or owned by persons convicted one time within the most recent three (3) year period of any category of driving while under the influence of alcohol or drugs;
 - f. Comprehensive, fire and theft or collision coverage on any motor vehicle for which a salvage title has been issued by the Registrar of Motor Vehicles unless a new certificate of title has been issued pursuant to G.L. c. 90D § 20D; or
 - g. Comprehensive, fire and theft or collision coverage on a high-theft motor vehicle that does not have at least a minimum anti-theft or auto recovery device as prescribed by the Commissioner. The Commissioner may designate as a “high-theft vehicle” any motor vehicle, classified according to make, model and year of manufacturer, which has both above average incidence of theft and above-average original sales price, and may approve discounts for appropriate anti-theft or auto recovery devices for such motor vehicles.
8. An ARC may waive any deductible amount applicable to a payment under comprehensive coverage for glass damage and be reimbursed, when the policyholder has elected to repair rather than replace damaged glass as permitted by law and where satisfactory proof of the repair has been presented to the company.
9. Towing and Labor: \$100.00 per disablement; and
10. Substitute Transportation: \$100.00 per day, thirty (30) day maximum.

A. Calculation of Initial Quota Share

For the purposes of calculating a Member's initial Quota Share, the Member's voluntary market share will be the ratio of each Member's written property damage liability exposures for the twelve month period ending June 30, 2007 with CAR ID codes 0 or 1 over the industry written exposures for the twelve month period ending June 30, 2007 with CAR ID 0 or 1. Exposures for motorcycles, snowmobiles, and electric cars will be adjusted by a factor of 0.33.

B. Assignment of Applications

The MAIP shall randomly assign applications that are eligible for coverage based on each Member's individual Quota Share. A Member's Quota Share shall reflect that Member's proportion of private passenger motor vehicle MAIP premiums that its respective voluntary private passenger property damage liability direct written exposures bears to the statewide total of voluntary private passenger property damage liability direct written exposures of all companies in the state.

1. For the purpose of such distribution as described above: (1) voluntary private passenger property damage liability direct written exposures; and (2) private passenger MAIP premiums shall be defined as below:
 - a. "Voluntary private passenger property damage liability direct written exposures" shall be the number of private passenger property damage liability car years written by the company for the most recent twelve (12) months, regardless of the type of motor vehicle insurance policy under which such property damage liability car years are written, excluding private passenger liability car years written through the MAIP and excluding Clean-in-Three exposures written through an ERP who does not hold a voluntary contract as of April 1, 2009 and renewed pursuant to Rule 21.C. Exposures for motorcycles, snowmobiles, and electric cars will be adjusted by a factor of 0.33.

- b. "Private passenger motor vehicle MAIP premiums" shall be developed from the MAIP rates and rating plan and shall include the total of: 20/40 bodily injury (including guest), \$100,000 property damage liability, and \$8,000 personal injury protection manual premiums excluding subsidies calculated using MAIP cost-based rates and adjusted for the MAIP merit rating plan for private passenger motor vehicle MAIP insureds and any risk voluntarily insured that is eligible for premium credits allowed under this rule.
2. MAIP will assign applications to the most undersubscribed Member as defined by the ratio of the Member's assigned MAIP premium to the Member's credit-adjusted Quota Share. In the event this ratio is the same for two or more Members, MAIP will assign the application to the most undersubscribed of those Members based upon the difference between each Member's assigned MAIP premium and its credit-adjusted Quota Share. All assignments are subject to the distribution restrictions relative to the assignment process identified in Rule 29.F. After assignment, MAIP will update the accumulated assigned MAIP premium and recalculate each Member's ratio of assigned MAIP premium to credit-adjusted Quota Share.

C. Quota Share Adjustment

The MAIP shall adjust the assigned premium Quota Share of each Member monthly, in order to correct for the amount of previously assigned MAIP premium which was less than or in excess of each Member's appropriate share of total MAIP premium, for the amount of premium connected with reversed assignments due to non-payment or insufficient funds, and for the amount of premium associated with MAIP risks moving to the voluntary market or adjustments for any applicable credits. On a monthly basis, the MAIP shall notify each Member of its market share and Quota Share (premium) adjustments.

Until April 1, 2009, the premium Quota Share of each Member shall be based on the voluntary exposure market share described in A, above. Thereafter, monthly adjustments will be made to each Member's premium based Quota Share to reflect the latest rolling twelve (12) month voluntary exposure based market share.

D. Assignment Period

An Eligible Risk shall be insured by a designated ARC for a period of three (3) consecutive years. The designated ARC may offer to continue an Eligible Risk's assignment beyond the period of three (3) consecutive years by offering to write a third or subsequent renewal.

If an Eligible Risk that is unable to obtain insurance in the voluntary market at the end of the consecutive three (3) year period, or is unable to obtain an extension by the designated ARC may reapply for coverage through the MAIP. Such reapplication shall be considered a new application and the Eligible Risk shall be assigned to a different Member such that the designated ARC is different than the previous ARC.

In the case of nonresident military personnel, as described under Rule 26.A.1.c, the designated ARC need not renew if at the time of the renewal the policyholder is stationed in another state and his motor vehicle is not registered in Massachusetts.

E. Credit Programs

All credits for each rate year shall be reviewed annually and submitted to the Commissioner for his/her approval. Any premium credited under this Rule that in aggregate exceeds one-hundred percent (100%) of the overall quota share may not be credited against the quota share.

1. Voluntary Credit

- a. For policies with effective dates of April 1, 2008 through March 31, 2009, each Member shall receive a credit for any exposure that is eligible for MAIP placement pursuant to Rule 21.B.3., including those exposures meeting the MAIP eligibility criteria but written under a group marketing plan pursuant to M.G.L. c. 175, § 193R, that it insures voluntarily.

- b. For policies with effective dates on or after April 1, 2008, each Member shall receive a credit for any exposure that is eligible for MAIP placement for reasons other than those described in Rule 21.B.3., including those exposures meeting the MAIP eligibility criteria but written under a group marketing plan pursuant to M.G.L. c. 175, § 193R, that it insures voluntarily in the territory and operator classes pursuant to section E.2 below.
- c. Credit shall be applied to the Member's Quota Share in Rule 29.C for the appropriate premiums as defined under section E.2 below.

2. Amount of Credits

Members shall receive a credit for each exposure equal to the annual private passenger motor vehicle MAIP premium for the risk, as if it had been insured through the MAIP, if 10 or more points are attributable to the exposure based on the MAIP rate manual.

Members shall receive credit for each exposure written voluntarily pursuant to Rule E.1.b above in the territory and operator classes listed below. The amount of credit shall equal the annual private passenger motor vehicle MAIP premium for the risk as if it has been insured through the MAIP, multiplied by the factor shown below.

To the extent an exposure qualifies for credit on the basis of merit rating points and on the basis of operator class and territory, the final credit shall be the greater of the credit based on merit rating points or the credit based on operator class and territory.

Territory	Operator Class							
	10	15	17	18	20	21	25	26
1					1.0		1.0	
2					1.0		1.0	
3					1.0		1.0	
4					1.0		1.0	
5					1.0		1.0	
6					1.0		1.0	
7					1.0		1.0	
8					1.0		1.0	
9					1.0		1.0	
10					1.0		1.0	
11					1.0		1.0	
12					1.0		1.0	
13					1.0		1.0	
14					1.0	1.0	1.0	1.0
15	1.0	1.0	1.0		1.0	1.0	1.0	1.0
16	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
17					1.0		1.0	
18	1.0	1.0			1.0		1.0	
19	1.0	1.0	1.0		1.0		1.0	
20	1.0	1.0	1.0		1.0		1.0	
21	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
22	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
23			1.0		1.0		1.0	
24					1.0		1.0	
25					1.0	1.0	1.0	1.0
26			1.0		1.0	1.0	1.0	1.0
27					1.0		1.0	
40					1.0		1.0	
41					1.0	1.0	1.0	1.0
42	1.0	1.0	1.0		1.0	1.0	1.0	1.0
43	1.0	1.0	1.0		1.0	1.0	1.0	1.0
44	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
45	1.0	1.0	1.0		1.0	1.0	1.0	1.0

3. Take-Out Credit

Each Member shall receive a credit for each exposure previously insured through the MAIP that it writes voluntarily at the expiration of the MAIP policy.

To qualify for take-out credit, all of the following requirements must be met:

- a. The Member must provide proper notification prior to the expiration of the policy;
- b. The voluntary policy must be in effect for at least ninety (90) days;
- c. The kinds and amounts of coverage to be offered as a voluntary risk shall at least equal those in the policy being replaced;
- d. The Member shall be required to submit an approved monthly reporting form to the MAIP for all policies qualifying for credit during the month and to submit supporting data to the MAIP upon request; and
- e. The Member shall, if requested by the MAIP, agree to a physical audit of its records to substantiate the credits and exposures stated in the monthly report. The executed request for credit form must be submitted to the MAIP by the last day of the fourth month following the effective date of the policy.

The value of a take-out credit, for the purposed of the section, shall be determined by the MAIP no later than April 1, 2009.

F. Distribution Restrictions

Distribution shall be made on the basis that any applicant eligible for assignment under the MAIP Rules shall be assigned or reassigned to any Member with a Quota Share, subject to the following restrictions:

1. No risk shall be assigned to more than one Member.
2. Household Procedure

The household procedure will apply only to private passenger motor vehicle insurance policies with effective dates on or after April 1, 2009.

If a voluntary private passenger motor vehicle insurance policy is in force on a motor vehicle owned by a Household Member at the time an application to the MAIP is submitted, that application shall be assigned to the Member currently providing the voluntary insurance, provided that all of the following requirements are met:

- a. A copy of the coverage selections page for the policy providing private passenger motor vehicle insurance coverage for a vehicle owned by a Household Member is submitted with the application; and
- b. The limits and coverages requested are available from the assigned household company.

Any assignment to a Member under the provisions of the household procedure that is contrary to such provisions shall be returned to the MAIP promptly for reassignment in accordance with the household procedure.

3. Reassignment to Prior Member

In the case where an applicant or policyholder has been cancelled for nonpayment of premium, or has an outstanding premium balance due a Member and is otherwise eligible for placement in the MAIP pursuant to M.G.L. c. 175, Section 113H, the applicant or policyholder is ineligible for assignment to another Member, and will be assigned to that same Member such that the policy premium deposit will be applied first to the outstanding premium due, and any remaining deposit balance will be applied to the new policy.

G. Accruing, Buying, Selling or Transferring Credits

1. Eligibility

~~1.a.~~ Members-Assigned Risk Carriers may accrue excess credits.

~~2.b.~~ As of April 1, 2008, Members-Assigned Risk Carriers may sell, transfer, or buy excess credits to or from other Members-Assigned Risk Carriers in accordance with ~~systems and the~~ procedures below. ~~to be developed by CAR.~~

2. Operational Procedures

CAR will calculate the volume of excess credit premium eligible for transfer, if any, for each ARC on a monthly basis. Such calculation will be made in conjunction with updates to the statistical base data.

3. Notification of Intent to Transfer Credits

~~3.~~ Members-Assigned Risk Carriers shall report to CAR within 30 days the execution of any agreement by the ARC all transactions relating to the purchase, sell or transfer or sale of excess credits. An ARC shall notify CAR by submitting the prescribed authorization form to CAR. The terms of any such agreement must be reviewed by CAR and found to be consistent with CAR Rules.

H. Credits Relating to Clean-in-Three Risks

Not later than April 1, 2009, CAR shall develop a credit mechanism designed to encourage Members to voluntarily insure consumers who are Clean-in-Three Risks and who meet the following criteria:

1. The applicant or any person who usually drives the motor vehicle has not failed to pay an insurance company any private passenger motor vehicle insurance premiums due or contracted during the preceding twelve (12) months; and
2. Any person who usually drives the private passenger motor vehicle holds or is eligible to obtain an operator's license.

Such credit will be available to Members as of April 1, 2011, when the transitional constraint on non-renewal of Clean-in-Three risks as provided for in Rule 21.C has ended.

A. Appointments

The Governing Committee shall appoint ARCs in accordance with the eligibility requirements specified in accordance with the Plan and these Rules. For purposes of determining eligibility, groups of companies under the same ownership and management will be treated as a single Member.

A Newly Writing Company will be eligible for appointment as an ARC and be required to accept assignments through the MAIP on the 24-month anniversary of the calendar date on which the Newly Writing Company's initial Private Passenger Motor Vehicle insurance rates and rate manual became effective.

A Member may be excused from its private passenger motor vehicle servicing carrier responsibilities for the business assigned to it through the MAIP if the Member executes a Limited Assignment Distribution Agreement (LADA). Rule 36 details the eligibility requirements and procedures applicable to LADAs.

1. In order to assure the protection of the public interest, the Governing Committee, in considering the appointment of an ARC, shall require that the Member has the ability to and will effectively meet the following requirements:
 - a. Provide policy issuance and premium collection services for all eligible classes of risks, except for those classes of risks specifically exempted by the Commissioner;
 - b. Service insurance claims in every state, the District of Columbia and Canada;
 - c. Administer a direct bill program;
 - d. Provide an installment payment plan as described in Rule 28 – Application Process. An ARC shall cooperate with ARPs to assure that policyholders are made aware of their option to utilize an installment payment plan;

- e. Maintain a special investigative unit to investigate suspicious or questionable motor vehicle insurance claims for the purpose of eliminating fraud;
- f. Report all required information to the MAIP in an accurate and timely manner;
- g. Adopt and maintain a plan approved by the Commissioner providing for direct payment by the insurer to the insured under collision, limited collision, comprehensive, and fire and theft coverages; and
- h. Use the policy forms, endorsements, new business application and renewal questionnaire filed by the MAIP with and approved by the Commissioner for use in private passenger motor vehicle insurance.

B. Responsibilities

Nothing in this Rule shall be construed to affect the rights of any Member to enter into any third party contractual agreement for the purpose of servicing its voluntary business. Nothing in this Rule shall be construed so as to relieve any Member of its Quota Share or its share of the administrative expenses of the MAIP, as required by G.L. c. 175, § 113H. A Member appointed as an ARC is required to perform the following responsibilities in its capacity as an ARC:

- 1. An ARC must provide quality service to policyholders assigned through the MAIP by maintaining the standards established as a condition of appointment under Section A.1 of this Rule. Policies and other forms mailed to policyholders shall be the same as those filed by the MAIP and approved by the Commissioner for private passenger motor vehicle business. An ARC shall provide the same level of service to policies assigned to it through the MAIP as it provides to policies it issues voluntarily.

2. An ARC shall bill the premium for a policy issued through the MAIP that is the lesser of the premium calculated using the ARC's rates applicable to that policy if the ARC or its affiliates had issued the policy in the voluntary market and the premium calculated using the MAIP rates on file with the Commissioner. For the purposes of this comparison:
 - a. The ARC, though its affiliated companies, shall quote risk-specific premiums based on the rates applicable to its voluntary policies for any eligible risk obtaining insurance through the MAIP.
 - b. The ARC must use voluntary private passenger motor vehicle insurance rates that are based primarily on actual loss and expense experience for risks voluntarily insured.
3. No companies within an insurer group under the same management or ownership or both may provide a different level of service through a company within the group that is not an ARC than is provided to policyholders insured by a company with the group that is an ARC.

4. General Duties

ARCs shall perform the following general duties.

- a. Confirm operator driving licenses and records in order to administer the MAIP merit rating plan and its own merit rating plan accurately;
- b. Verify eligibility criteria;
- c. Verify that representations contained in the application for insurance are accurate as to classification, garaging, discounts, credits, vehicle use and vehicle description;
- d. Assure that a policy has been issued for each RMV-1 and/or RMV-3 certificate and that the policy effective date and the certification date are the same;
- e. Implement procedures to assure collection of premiums billed;

- f. Comply with the terms and conditions of premium finance notes and/or agreements submitted to the ARC on behalf of applicants for insurance, by the producer or by a premium finance company licensed under the laws of the Commonwealth of Massachusetts;
- g. Ensure that there is communication among the ARC's Underwriting, Claims, and SIU Departments and that any discrepancies in information are shared promptly among the departments and documented;
- h. Maintain and forward to the MAIP a copy of all written complaints filed with the ARC regarding the service provided by the ARC or any ARP; and
- i. Monitoring of Assigned Risk Producers

ARCs will be responsible for notifying the MAIP of ARP infractions that may result in the revocation of the ARP's MAIP certification as follows:

- (1) Failure to maintain a valid producer's license as issued by the Division of Insurance;
- (2) Willful misappropriation of premium due an ARC in accordance with the provisions of the MAIP Rules of Operation;
- (3) The entry of a finding, by a court of competent jurisdiction that the producer has engaged in fraudulent activity in connection with the business of motor vehicle insurance;
- (4) Failure to remit payments to an ARC on a timely basis in accordance with the MAIP Rules of Operation;
- (5) Failure to notify the ARC of any suspected fraud in the application for insurance or in the underwriting or rating process or in the payment of premium obligations or surrounding a loss;

- (6) Failure to assist the ARC during any audit or investigation;
- (7) Failure to report all coverages bound within two (2) working days of the effective date of coverage;
- (8) Failure to comply with reasonable procedures as required by the MAIP for processing claims, remitting premiums and requesting coverages;
- (9) Failure to adhere to a directive issued by the Commissioner relative to the charging of service fees;
- (10) Failure to provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data;
- (11) Failure to comply with applicable agency requirements and procedures, as prescribed in the MAIP Rules of Operation; and
- (12) Failure to comply with all of the provisions of the Rules of Operation and Manual of Administrative Procedures.

4. Reporting Requirements

On a monthly basis, ARCs must report all premiums written, and any other information that may be required by the Plan, Rules or Manual of Administrative Procedures.

5. Continuation of Eligibility as an ARC

An ARC must maintain a viable book of voluntarily written private passenger motor vehicle insurance policies. The Commissioner may terminate any ARC if he or she finds that disruptive reductions in voluntarily issued motor vehicle policies are in violation of this section.

C. Procedures for Voluntary Writing of Risks from the MAIP

1. Voluntary Writing by an ARC of Its Own Policyholder Insured through the MAIP.

a. Eligibility

A risk is eligible if it is currently insured through the MAIP.

b. Offer to Write

The kinds and amounts of coverage to be offered for such voluntary risks shall not be less than those afforded by the policy being replaced unless the insured refuses such kinds and amounts of coverage.

c. Notification to the Producer of Record

The producer of record must be mailed notification of such offer on a prescribed form ninety (90) days prior to expiration, which shall contain the premium quotation to be offered. The policyholder shall be mailed the offer for voluntary coverage forty-five (45) days prior to expiration with copy to the producer of record.

Following such offer to write, the ARC shall have no further obligations to the policyholder or to the producer of record if the policyholder obtains replacement insurance from another Member.

If such replacement coverage is obtained by the producer of record within the period of his or her forty-five (45) day advance notice, the producer of record shall notify the assigned ARC and it shall not make an offer to the policyholder.

d. ARC Obligations to the Producer of Record

An ARC may choose, during the period from April 1, 2008 through March 31, 2011, to offer voluntary coverage to a policyholder it has insured through the MAIP. Once the ARC mails the offer to write voluntary coverage and the policyholder accepts the offer, during that period the policyholder's producer of record shall continue to represent the policyholder who has been written or renewed in the voluntary market and to service the policy unless: 1) the producer is decertified or suspended by the MAIP or the Commissioner of Insurance pursuant to Rule 31.B; 2) the insured chooses to terminate such producer as its producer of record; or 3) the producer of record is precluded from dealing with other companies by contract. During the period from April 1, 2008 through March 31, 2011, an ARC who subsequently writes a policy on a voluntary basis that it previously insured through the MAIP shall pay a commission in accordance with its commission structure for business written in the voluntary market at voluntary rates, regardless of whether there is a contract between the ARC and the producer of record. No commission payments shall be made to the producer of record if that producer is decertified or suspended under Rule 31.B, is terminated by the policyholder as its producer of record, or is precluded from dealing with other companies by contract.

On and after April 1, 2011, the ARC shall have no further obligation to the producer of record unless there is a contract between the licensed producer and the ARC. However, the ARC shall have the option of servicing the policy through the producer of record.

2. Voluntary Writing of Present MAIP Insured by Member Other Than the ARC

a. Eligibility

A risk is eligible if it is currently insured through the MAIP.

b. Offer to Write

The kinds and amounts of coverage to be offered for such voluntary risks shall not be less than those afforded by the policy being replaced unless such kinds and amounts of coverage are refused by the insured.

3. Right of Insured to Reapply to Plan

Nothing in the provisions of this Section shall render the policyholder ineligible for coverage in the MAIP for the full term of the three (3) year assignment period. Subject to the right to reassignment pursuant to Rule 26.A.2., the policyholder may, at his or her option, continue the policy with the ARC as a MAIP risk if the three (3) year assignment period has not yet expired.

D. Obligations of Assigned Risk Companies Relative to Clean-in-Three Business

The producer of a Clean-in-Three Risk, renewed by an ARC in accordance with Rule 21.C., shall continue as the risk's producer of record and shall be paid commissions owed on such business, even if the producer does not hold a voluntary contract with the ARC.

DE. Failure to Comply with the Provisions of this Section

If the Governing Committee finds that any Member without good cause is not complying with the provisions of this section it shall notify the Commissioner in writing.

EF. Reporting Credits

Refer to the Manual of Administrative Procedures for the procedure outlining the reporting of all credits.