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April 27, 2012

**BULLETIN NO. 962**

**PROPOSED CHANGES TO THE RULES OF OPERATION**

At its meeting of April 18, 2012, the Governing Committee voted to amend the following Rules of Operation by deleting and adding the language as indicated on the attached copies. A copy of the Filing Letter, which contains an explanation of the Rule changes, is attached for your information.

The impacted Rules are listed below.

- Rule 28 – Application Process
- Rule 29 – Assignment Process
- Rule 30 – Assigned Risk Company Requirements
- Rule 31 – Assigned Risk Producer Requirements

This Bulletin, with a copy of the proposed changes to the Rules 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 30 days after filing, provided the Commissioner has not previously disapproved the Rule in writing.

DANIEL R. JUDSON  
President

Attachment



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PRESIDENT

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April 27, 2012

Honorable Joseph G. Murphy  
Commissioner of Insurance  
Massachusetts Division of Insurance  
1000 Washington Street, Suite 810  
Boston, MA 02118

### **Proposed Changes to the Rules of Operation**

Dear Commissioner Murphy:

In accordance with the provisions of Article X of the Plan of Operation, I hereby file, at the request of the Governing Committee, amendments to the following Rules of Operation:

Rule 28 – Application Process  
Rule 29 – Assignment Process  
Rule 30 – Assigned Risk Company Requirements  
Rule 31 – Assigned Risk Producer Requirements

CAR's Governing Committee, at its meeting of April 18, 2012, adopted modifications to the Rules referenced above. Changes are shown by deleting and adding the language as reflected on the attached copies. The remainder of these Rules is unchanged.

### **Brief Summary**

Modifications to Rules 28, 30 and 31 (including non-substantive “clean-up edits”) address the availability of an Assigned Risk Carrier's (ARC) voluntary rates at the point of an assignment in order to provide the Assigned Risk Producer (ARP) the ability to obtain a voluntary quote for comparison to the MAIP premium for the purpose of determining the down payment. During multiple meetings a thorough and deliberative analysis was performed by the MAIP Steering Committee in conjunction with CAR staff regarding methods by which ARCs can provide voluntary rates. By a unanimous vote of the MAIP Steering Committee and a twelve to one vote of the Governing Committee, the proposed amendments require access to voluntary rates directly from an ARC through a web-based application, through a third party vendor of rating services, or via a dedicated toll free telephone service. A chronology and summary of the analysis which resulted in these amendments is provided below.

Rule 29 has been modified to waive the pre-inspection requirements for an Eligible Risk non-renewed in accordance with the provisions of Rule 29.D. 2., including the suggested language found in the Commissioner's March 22, 2012 correspondence.

## **Summary and Chronology**

At its April 20, 2011 meeting, the Governing Committee authorized the formation of an informal working group as recommended by the MAIP Steering Committee, to address various issues relating to MAIP operations identified by the Massachusetts Urban Agents Association (MUAA). Among the issues discussed was the premium deposit based on 25% of the MAIP rate as required by Rule 28. The discussion on the premium deposit ultimately evolved to the broader issue regarding the availability of voluntary rates.

### **The Working Group Meetings**

The working group met three times in late April and early May, 2011: April 26, 2011, May 3, 2011 and May 10, 2011. Discussion focused primarily on down payment requirements; the need for supplemental information to accurately rate a policy; service levels provided by ARCs; and, concerns relating to the non-renewal of assigned policies whose three year assignment period has expired.<sup>1</sup> As part of the discussion on deposit premium and the need to conform to statutory requirements relating to down payments, the topic of access to the voluntary rate of the ARC was introduced at the May 10, 2011 meeting of the working group. The group concluded that access to voluntary rates would be suggested for consideration by the MAIP Steering Committee.

### **June 7, 2011 – MAIP Steering Committee**

The findings of the working group were presented to the MAIP Steering Committee at its June 7, 2011 meeting. The MAIP Steering Committee subsequently directed CAR staff to prepare a feasibility analysis on including the voluntary rate of the assigned company through the online MAIP Policy Application (the Application) at the time an assignment is processed. The Application is the online system developed by CAR where the ARP completes the application for coverage and receives the assignment in real time. The Application calculates the down payment as 25% of the MAIP premium based upon the coverage selected, the premium town, and the class and merit rating status of the operator of the vehicle to be insured. The MAIP Steering Committee discussed the fact that the development of a voluntary quote is dependent upon the accuracy of the information provided through the application process including any supplemental information required by the ARC.

### **September 16, 2011 – MAIP Steering Committee**

Consistent with the direction of the MAIP Steering Committee, CAR staff identified and reviewed three options addressing the calculation of a voluntary quote after the assigned company has been determined. The analysis provided by CAR staff to the MAIP Steering Committee is included as Appendix A and is summarized below.

#### **Option I**

In this option CAR would incorporate the voluntary rates of each ARC as part of the Application, essentially creating and maintaining seventeen rating engines (there are twenty-nine ARCs, twelve have executed Limited Assignment Distribution Agreements)<sup>2</sup>. After the assigned company is identified, the Application would calculate and compare the MAIP premium to the assigned company voluntary premium and determine the down payment using the lower amount. This is the most costly of the alternatives, conservatively

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<sup>1</sup> Modifications to Rules 29 and 30 have been filed and approved which identify minimum requirements for ARC service levels, require an ARC to provide a form for supplemental information to the Eligible Risk at the time an assignment is made, and which provide non-renewal procedures for those policies whose three year assignment period has expired. Therefore, this filing is limited to the issue of voluntary rate availability, and premium deposit.

<sup>2</sup> At the time that this analysis was performed there were twenty-seven ARCs, ten with executed LAD agreements.

estimated at \$2,000,000<sup>3</sup> to develop over a thirty-six to forty-eight month timeframe with ongoing annual maintenance estimated at \$450,000 to \$500,000.

#### Option II

In this option each ARC would be required to maintain a web-based rating application that would be accessed by the Application to obtain the voluntary quote after the ARC is identified through the assignment process. In this case, CAR would provide the portal to transmit the information necessary to calculate the voluntary premium to the ARC, and receive the voluntary quote back from the ARC. The Application would compare the MAIP premium to the voluntary quote as calculated by the ARC and determine the down payment using the lower amount. The deposit amount would then be reported to the ARP through the Application. CAR development costs are estimated at \$600,000 to \$700,000 with development timeframes estimated at twelve to eighteen months. ARC costs to receive and transmit data to CAR for this purpose are not known.

#### Option III

Option III extends the parameters described under Option II to third party vendors of real time rating services to which the Application would transmit the information necessary to obtain the voluntary rate quote of the assigned company. Cost estimates and timing of this option are essentially the same as noted for Option II.

It was the consensus of the MAIP Steering Committee to explore less costly and more timely alternatives, with the MAIP Steering Committee requesting information concerning the number of ARCs that currently provide voluntary rate access to ARPs. It was at this point that discussion began to focus on requiring the ARC to provide the voluntary quote directly to the ARP after an assignment has been processed thereby eliminating any interaction with CAR's Application in order to obtain a voluntary rate calculation.

#### November 8, 2011 – MAIP Steering Committee

CAR staff reviewed with the MAIP Steering Committee the results of a survey of the ARCs relating to the current availability of voluntary rates to ARPs. Ten of the seventeen ARCs receiving over 75% of the assignments for the twelve month period ending September, 2011 provide some level of online access to their voluntary rates. The survey results are contained in an exhibit reviewed by the MAIP Steering Committee and attached as Appendix B.

Discussion focused on the need for ARPs to provide their customers with an accurate premium quote and the ability to collect the corresponding down payment, and the methods by which this might be accomplished. Various aspects of the voluntary rate calculation process were debated, including the need for the ARP to provide all of the information necessary to generate a voluntary premium quote from any particular ARC. It was noted that this aspect is not uniform across ARCs, as each ARC has its own rating structure with unique characteristics. Given this fact, in addition to the increasing complexity and frequency of ARC voluntary rate filings, additional discussion ensued regarding the significant costs associated with modifying CAR's Application to include the ability to provide a voluntary ARC rate quote. Ultimately, the MAIP Steering Committee voted to require that each ARC provide access to its voluntary rates at the time an assignment is made, and noted that additional research would be required to fully develop this proposal to identify potential Rule amendments and to establish parameters for access.

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<sup>3</sup> During discussions at subsequent meetings Members opined that development costs could be significantly greater than the original projected estimate.

#### January 18, 2012 – MAIP Steering Committee

The Committee discussed the parameters for accessing an ARC's voluntary rates, and reviewed three options whereby an ARP may access voluntary rate quotes from an ARC: first, directly from the ARC through a web-based application sponsored by the ARC at no cost to the ARP; second, through a third party vendor who provides rating services for a fee; or third, through a dedicated toll free telephone service provided by the ARC for the purpose of obtaining a voluntary rate quote. Each ARC would determine which delivery method best met its needs from a development and cost perspective. Potential amendments to the Rules of Operation which would be necessary to modify down payment requirements and to identify ARP and ARC responsibilities were identified. The MAIP Steering Committee noted that an ARP will have the option of obtaining the ARC's voluntary rate for comparison to the MAIP calculated premium for the purpose of determining the down payment. If a voluntary quote is not obtained by the ARP, the deposit premium would remain as 25% of the MAIP calculated premium. In each case the ARC has the responsibility for the final determination of its voluntary premium for comparison to the MAIP premium to satisfy Lane-Bolling requirements.

The MAIP Steering Committee discussed timing of the voluntary quote, potential modification to installment payment requirements, ARC and ARP development costs, and determined that discussion be continued at the next meeting.

#### February 14, 2012 – MAIP Steering Committee

The MAIP Steering Committee finalized its proposal, clarifying portions of the Rules of Operation that would be modified in order to implement the proposal. ARCs would be required to provide access to voluntary rates, with a concurrent amendment to the ARC Performance Standards in order to monitor compliance. Determination of the down payment would be based upon the lower of the MAIP total calculated premium or the ARC total voluntary quote, and that upon receipt of the information necessary to calculate a voluntary quote, the ARC would provide the voluntary quote to the ARP utilizing the same timeframes as provided to voluntary market quotes, and within 48 hours of the assignment. The proposal is attached as Appendix C. CAR staff was directed to draft amendments to the Rules as outlined in the proposal for consideration at the next meeting.

#### March 28, 2012 – MAIP Steering Committee

The MAIP Steering Committee reviewed the amendments to the Rules of Operation as identified in the February 14, 2012 proposal, and voted unanimously to recommend adoption by the Governing Committee.

#### April 18, 2012 - Governing Committee

The Governing Committee received the report of the MAIP Steering Committee<sup>4</sup> and on a twelve to one vote, accepted the proposed amendments as recommended. The motion that was voted on included a directive to CAR staff to explore the possibility of web-based rating to be used as an industry standard for these purposes. During the discussion surrounding the motion the consensus was that CAR would monitor the effectiveness of these Rule amendments in achieving their objective.

Amendments have been made to Rules 28, 30 and 31 to reflect the requirement for an ARC to provide ARPs with access to its voluntary rates at the time a MAIP assignment is processed. Effective

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<sup>4</sup> The Governing Committee, at its meetings of June 15, September 21, November 16, 2011 and February 15, 2012 received status reports on the analysis undertaken by the MAIP Steering Committee relating to ARP access to voluntary rates.

September 1, 2012, companies will be required to provide voluntary rate access to producers either by direct web-based rating, through a third party comparative rating vendor or by telephone quoting service. If a voluntary quote is obtained by the ARP, the required new business deposit premium will be 30% of the lower of the MAIP quoted premium or the ARC voluntary quoted premium. If a voluntary quote is not obtained, a 25% deposit of the MAIP quoted premium will be required. In addition to the original signed application, any supplemental or additional information and the required premium deposit, the proposed rule language requires the ARP to provide a copy of the voluntary premium quote or a voluntary premium quote identification number to the ARC within two business days of assignment.

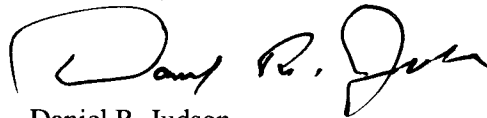
Additionally, the Governing Committee proposes minor modifications to Rules 28, 30 and 31 to delete obsolete language and to clarify and renumber section references, as necessary.

#### Rule 29

For those risks that an ARC intends to non-renew at the expiration of the three-year assignment period, in accordance with the procedures contained in Rule 29, Rule 29.D.2. is amended to waive the pre-inspection requirement if the Eligible Risk is unable to obtain replacement coverage at the expiration of the three-year assignment period and is assigned to another Assigned Risk Company, provided that the vehicle(s) to be insured under the new policy are the same vehicle(s) insured under the previous policy.

A copy of the proposed amendments to Rules 28, 29, 30 and 31 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,



Daniel R. Judson  
President

Attachments: Appendix A – Memorandum to MAIP Steering Committee Dated September 6, 2011  
Appendix B – ARC Voluntary Rate Survey  
Appendix C – Memorandum to MAIP Steering Committee Dated February 3, 2012  
Rule 28 – Application Process  
Rule 29 – Assignment Process  
Rule 30 – Assigned Risk Company Requirements  
Rule 31 – Assigned Risk Producer Requirements

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

# APPENDIX A

## MEMORANDUM

TO: Members of the MAIP Steering Committee

FROM: Pamela Wallace

DATE: September 6, 2011

RE: Agenda Item MSC 11.09 - Voluntary Rate Analysis

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At its June 7, 2011 meeting, the MAIP Steering Committee directed staff to explore the feasibility of incorporating the voluntary rate of the Assigned Risk Company (ARC) into the assignment process for the purpose of calculating the down payment. Staff identified three options which are summarized below, to address the calculation of voluntary rates. Estimates on pricing and development duration are based upon CAR's current development costs, staffing and where applicable, information obtained through interviews with current software vendors of rating services.

### Option I – Modify the MAIP Policy Application to calculate voluntary premium

In this option CAR would obtain each ARC's voluntary rates and develop separate rating engines for each set of rates. After the ARC is identified through the assignment process, the voluntary premium is calculated and compared to the MAIP calculated premium resulting with the down payment reflected as either 30% of the MAIP premium or 30% of the voluntary premium (as provided by G.L.c. 175, §113E) whichever is less. The determination of the down payment is based upon information collected through the application process. The final policy premium will be determined by the ARC receiving the assignment in accordance with the provisions of Rule 30.B.2.

The following information is necessary to develop this option and modify the MAIP Policy Application:

- Identify and modify the Rules of Operation, ARC and ARP procedures as may be required for the development of this option.
- Obtain the rate filings from each of the 17 ARCs (There are currently 27 ARCs, 10 have executed LAD agreements).
- Obtain specific instruction on each of the methods and algorithms to calculate premium.
- Identify the detail on each of the components contained in supplemental applications.
- Establish a direct connection to the RMV to obtain the driving record of each operator, year first licensed and whether driving training applies. Details on foreign or out of state licensed operators is an issue requiring further analysis.
- Acquire and adjust as may be necessary mainframe hardware, servers, and software.
- Hire and train additional staff necessary to maintain rating software.

- Between 4/1/10 and 3/31/11, each of the 17 ARCs had rates placed on file by the DOI. During this timeframe, 21 additional filings impacting rates are reflected on the DOI's website. Additional analysis is required relating to the timing of rate changes and resulting impacts to the voluntary rate calculation.

Estimated CAR Total Cost - \$1.8 to \$2 mil

Annual Maintenance Cost - \$450,000 to \$500,000

Estimated Development Time – 36 to 48 months

#### Option II – Obtain voluntary premium via an ARC developed rating service

In this option each ARC would be required to develop and provide CAR, the location of a web based rating application which would be accessed by the MAIP Policy Application to obtain the voluntary premium for each assignment. Further investigation will be required to determine ARC costs and development times to integrate ARC systems with the MAIP Policy Application.

After an assignment has been processed, the MAIP Policy Application will transmit all of the information needed to calculate the voluntary rate to the ARC's rating application. The ARC will calculate the premium based upon the information received, and return this amount to the MAIP Policy Application. The MAIP Policy Application will compare the voluntary premium to the MAIP calculated premium and reflect the down payment as 30% of the lower premium amount. The determination of the down payment is based upon information collected through the application process. The final policy premium will be determined by the ARC receiving the assignment in accordance with the provisions of Rule 30.B.2.

The following information is necessary to develop this option and modify the MAIP Policy Application:

- Identify and modify the Rules of Operation, ARC and ARP procedures as may be required for the development of this option.
- Develop specifications for the consistent real time return of voluntary rate information to the MAIP Policy Application.
- Upgrade communication lines as a result of increased traffic due to data transfers between MAIP and the ARC.
- Identify the detail on each of the components contained in supplemental applications.
- Establish a direct connection to the RMV to obtain the driving record of each operator, year first licensed and whether driving training applies. Details on foreign or out of state licensed operators is an issue requiring further analysis.
- Acquire and adjust as may be necessary mainframe hardware, servers, and software.
- Further analysis is necessary to address the need for additional staffing.

Estimated CAR Total Cost - \$600,000 to \$700,000

Annual Maintenance Cost - \$250,000 to \$290,000

Estimated Development Time – 12 to 18 months

Estimated ARC Cost to Develop Rating Service – ARC costs not available, further investigation required. However, this is estimated to be at least \$50,000 per ARC, for an estimated total industry development cost of \$850,000.



Option III – Obtain voluntary premium via an ARC designated third party rating service provider

This option requires the ARC to designate a third party web based rating service as the location for obtaining the ARCs voluntary premium for each assignment. Currently 8 of the 17 ARCs from which voluntary rates are needed have a relationship with the two largest vendors providing this service.

Essentially the same parameters described under Option II apply to Option III. However, under Option III, CAR will negotiate the cost for vendor services with these costs identified as an administrative expense for budget purposes. The two vendors contacted were unable to provide an estimate on costs, but did indicate an average development time of 7 to 9 months per company for real-time rating capability.

In light of the costs and timeframes estimated for development of each of the Options analyzed, the Committee many wish to consider other alternatives such as a reduction in the down payment percentage.

APPENDIX B  
ARC Voluntary Rate Survey  
September 2011

<i>Name</i>	<i>1 Available?</i>	<i>2 How?</i>	<i>3 Contract?</i>	<i>4 Assn %</i>
American Automobile Insurance Company				0.25%
Amica Mutual Insurance Company	N	NA	N	3.29%
Arbella Mutual Insurance Company	Y	C	N	11.24%
Citizens Insurance Company Of America	N	NA	Y (V)	1.13%
Commerce Insurance Company, The	Y	A/B	Y	33.05%
Encompass Insurance Company of Massachusetts	Y	A/D	N	1.54%
Government Employees Insurance Company	N	NA	NA	0.00%
Liberty Mutual Insurance Company	Y	B	N	0.01%
Massachusetts Homeland Insurance Company	N	NA	Y (V)	0.80%
Metropolitan Property and Casualty Insurance Com	N	NA	Y (V)	2.25%
NGM Insurance Company	N	NA	Y (V)	2.42%
Norfolk & Dedham Mutual Fire Insurance Company	Y	A	N	2.16%
Occidental Fire and Casualty Company of NC				0.00%
Pilgrim Insurance Company	N	NA	N	7.85%
Plymouth Rock Assurance Corporation	N	NA	N	0.16%
Premier Insurance Company of Massachusetts	Y	A	Y (V)	10.57%
Quincy Mutual Fire Insurance Company	Y	C	Y (V)	2.01%
Safety Insurance Company	Y	B	N	21.28%
Key:				100.00%

1- Does you company make its voluntary rates available to ARPs? Y/N

2 - If #1 is Yes, How are the rates made available to the ARPs?

A - 3rd party rating service

B - Link to ARC's rating software

C - Link to ARC's manual and rates

D - Hard copy of ARC's manual and rates

3- Is a contract required to access theARC's rates?

Yes

Yes (V) - Need a voluntary contract to access rating software

No

4 - Percentage of assignments received October 2010 through September 2011

Notes:

Encompass' hard copy rates are a PDF doc. Available via e-mail

**Summary**

**Not Required to be a voluntary producer for the ARC**

**Assn %**

5 - companies provide access to rating software - ARC's or 3rd party. (3/2)

58.04%

2 - companies provide access to manual rates (link)

13.25%

**Required to be a voluntary producer for the ARC**

5 - companies require the producer to be voluntarily contracted to access rates

17.17%

**Do not provide access to voluntary rates for ARPs**

4 - companies responded that they do not provide their voluntary rates to ARPs

11.30%

**No Responses**

2 - companies failed to respond to the survey

0.25%

**APPENDIX C**  
**MEMORANDUM**

To: Members of the MAIP Steering Committee

From: Pamela Wallace

Date: February 3, 2012

Re: Agenda Item MSC 11.09 – Voluntary Rate Analysis

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At its November 8, 2011 meeting, the Committee voted to require that Assigned Risk Companies (ARCs) provide access to voluntary rates to Assigned Risk Producers (ARPs) at the time an assignment is made. The Committee also acknowledged that additional research and subsequent discussion by the Committee will be necessary to identify potential amendments to CAR's Rules of Operation and the timing of a rate quote, and to establish parameters for access to a company's voluntary rates.

At the January 18, 2012 meeting the Committee reviewed the proposal and continued its discussion of this matter which included the need for compliance by all ARCs, additional information on the timing of the voluntary quote, and potential modifications to the down payment and installment plan.

The draft proposal has been amended, and additional information included which addresses the concerns raised by the Committee. These items have been highlighted in red.

Rule Amendments

Changes to the following Rules of Operation will be necessary to implement a requirement that ARCs provide access to voluntary rates. Modifications to ARP and ARC Performance Standards will be required to monitor compliance. Failure to comply with the Rules of Operation or Performance Standards will be reported to the Governing Committee for corrective action which may include notification to the Division of Insurance.

Rule 28 – Application Process

C. Premium Deposit and Payment Options

1. Amount of Premium Deposit

Modify deposit requirements to reflect 25% of the MAIP premium, or 30% of the voluntary premium if known. (the determination of the deposit is based on the lower of the MAIP total calculated premium or the ARC total calculated quote)

2. Installment Plan

Modify the second paragraph to reflect the deposit requirements as stipulated in 28.C.1.

## Rule 30 – Assigned Risk Company Requirements

### B. Responsibilities

2. The requirement to provide access to voluntary rates could be incorporated in this section while continuing to provide direction on the steps to be taken in the event the original quote is inaccurate.

### 4. General Duties

The requirement to provide access to voluntary rates could alternatively be included in this section with 30.B.2. updated to include reference to the quote process at the point of the assignment.

## Rule 31 – Assigned Risk Producer Requirements

### B. Ongoing Assigned Risk Producer Requirements and Responsibilities

3.j. Modify to include the option of providing a voluntary premium quote. In the event the ARP does provide a voluntary quote, the ARP must inform the Eligible Risk that the final premium for the risk will be determined and billed by the ARC upon receipt of the new business application.

## Parameters for Access to Voluntary Rates

The ARC will be required to provide access to voluntary rates either by providing web based rating capability directly or through a third party vendor, or by providing a dedicated, toll free telephone service for quoting purposes.

### Web Based Application

- After an assignment is made, the Checklist will contain a link to the assigned ARC's rating application. (Note that the MAIP Policy Application will only provide the link, there is no transfer of information between the MAIP Policy Application and the ARC's rating software)
- The ARP will upload or otherwise input to the ARC's rating application all of the information necessary to complete the premium quote, including any additional or supplemental information that is not part of the MAIP application.
- The ARC will return to the ARP, in a printable format, the premium quote which will include the calculation of a 30% down payment based on the voluntary quote provided.
- The ARP will compare the voluntary quote to the MAIP premium calculated at the point of the assignment, and collect the appropriate premium deposit based on the lower total premium.
- The ARP submits the signed application, a copy of the voluntary premium quote and the deposit premium to the ARC.

### Toll Free Telephone Number Service

- After an assignment is made, the ARP will access and complete the supplemental /additional application of the assigned ARC from the Checklist.
- The Checklist will contain the toll free telephone number to the dedicated customer support rating service as designated by the assigned ARC.
- The ARP will provide all of the information necessary to calculate the voluntary quote to the customer support rating service.

- The ARC will respond with the premium quote, which will include a 30% down payment deposit amount based on the voluntary quote provided, and an identification number to be used to match the quote to the new business application upon receipt by the ARC.
- The ARP will compare the voluntary quote to the MAIP premium calculated at the point of the assignment, and collect the appropriate premium deposit based on the lower total premium.
- The ARP includes the voluntary premium quote identification number in the Remarks Section and submits the signed application and the deposit premium to the ARC .

#### Timing of the Rate Quote

After the assignment is made, it will be necessary for the ARP to obtain from the applicant any supplemental or additional information necessary for the ARC to produce the voluntary quote. The supplemental application may be accessed from the assignment Checklist for those ARCs providing telephone service, or direct from the ARC through the link to the rating service as provided by the ARC.

Upon receipt of the information necessary to calculate the premium, the ARC will provide the voluntary quote for assigned risk business utilizing the same timeframes as provided to voluntary market quotes and in all cases, within 48 hours of the assignment.

#### Additional Items for Discussion

##### Rule 28.C.2 – Installment Plan

The Committee should determine the benefits and drawbacks to modifying the installment plan to require that an overpayment of the down payment be subtracted from the first installment in total, rather than equally impacting each installment.

##### Rule 31 – ARP Requirements

As written the proposal suggests that the voluntary quote is obtained at the option of the ARP, at the January 18, 2012 meeting, the Committee briefly discussed whether this should be an ARP requirement. The Committee should be prepared to make this determination at the meeting.

## PROPOSED RULE AMENDMENTS

Rule 28 – Application Process

Rule 29 – Assignment Process

Rule 30 – Assigned Risk Company Requirements

Rule 31 – Assigned Risk Producer Requirements

**A. Submitting an Application to the MAIP**

To obtain MAIP coverage for an Eligible Risk an Assigned Risk Producer (ARP) must submit an electronic application for private passenger motor vehicle insurance coverage to the MAIP.

ARPs must assure that the application for insurance through the MAIP is submitted on the prescribed form and that each application is completed accurately and thoroughly. An application that contains information the MAIP verifies as incorrect or an incomplete application will be returned to the producer for remedy. Once the application for coverage through the MAIP is received and all required information for the assignment of the policy is provided, the MAIP will assign a certification number to the application.

**B. Assignment of Application to a Member**

An application with a certification number will be randomly assigned to a Member based on its Quota Share as specified in Rule 29 – Assignment Process. The MAIP will notify the ARC of the policy assignment. The MAIP will notify the ARP of the identity of the ARC which will issue the policy and the effective date of the coverage.

Once the policy has been assigned to an ARC, after receiving such notice, the ARP is responsible for providing the ARC with the following items within two working days as specified in Rule 31.B.52:

1. The original application form and any supplemental or additional information, signed by the applicant and the ARP, and if applicable, a copy of the voluntary premium quote or voluntary premium quote identification number; and
2. The required deposit premium as specified below in Section C.1.

**C. Premium Deposit and Payment Options**

1. Amount of Premium Deposit

A deposit of the amount noted below in Section C.1.a. shall accompany the application for MAIP coverage. The applicant, at his option, may choose to make a larger deposit payment. The deposit shall be in the form of a personal check, certified check, bank check, money order, premium finance company check or ARP's check made

payable to the ARC. In the event that an ARP submits a dishonored check, issued either by the agency or by the ARP individually, on one or more occasions during a one-year period, future payments for the next 12 months must be submitted by certified check, bank check, or money order.

- a. Prior to September 1, 2012, Aa deposit of 25% of the quoted premium based on the MAIP rates is required with a new business policy application.

Effective September 1, 2012, if a voluntary quote is obtained by the ARP the new business deposit shall be determined based upon the lower of the MAIP quoted premium or the ARC voluntary quoted premium. The applicant will be required to provide a deposit of 30% with the deposit calculated using whichever total premium is less. If a voluntary quote is not obtained, a deposit of 25% of the MAIP quoted premium is required.

However, the applicant will be required to provide a premium deposit of 80% of the MAIP premium, or if known, 100% of the ARC's voluntary premium, if the applicant has during the preceding 24 months been issued a notice of cancellation for non-payment of an automobile insurance premium which resulted in the cancellation of that policy.

The ARC shall send the applicant a notice of any additional or return premium adjustment to the deposit premium at the same time as the issuance of the coverage selections page. The applicant may be required to pay any additional deposit premium within 30 days of the issuance of the coverage selections page, and the ARC may not issue a cancellation notice for non-payment of premium during this 30 day period. Any return premium adjustment to the deposit shall be sent to the applicant within 30 days of the issuance of the coverage selections page.

- b. A deposit of 20% is required for a renewal policy. An ARC may elect to require more than a 20% deposit for a renewal policy if the policyholder during the preceding 24 months has been issued a notice of cancellation for non-payment of an automobile insurance premium which resulted in the cancellation of that policy.



- c. All deposit, installment and additional premium payments shall be submitted gross of any commissions. Commission to the ARP will be paid in accordance with Rule 37 – Commissions.

## 2. Installment Plan

~~For MAIP business with policy effective dates of April 1, 2008 through March 31, 2009, each ARC shall utilize an installment payment plan that has been filed with and approved by the Commissioner, with the following limitations: 1) MAIP insureds must be offered the same flat fee per installment finance charge plans that the ARC uses in the voluntary market, but the fee may not exceed \$6.00 per installment; 2) no fees based on an annual percentage rate ("APR") shall be charged, regardless of those available in the voluntary market; 3) no more than a 25% first or deposit payment based on the MAIP premium may be required on or before the policy effective date; and 4) no fewer than seven monthly payments thereafter must be offered to MAIP insureds who choose to pay in installments.~~

Each ARC will utilize the installment payment plan filed by Commonwealth Automobile Reinsurers for MAIP business with effective dates on and after April 1, 2009. The plan will require an initial deposit payment ~~of 25% for new~~ and renewal business pursuant to Section C.1 and 20% for renewal business. ~~The deposit for new business will be a percentage of the premium calculated using MAIP rates then in effect. Upon receipt of the new business deposit,~~ the ARC will then calculate the balance of the premium owed on the basis of the lower of the MAIP rate or the ARC rate and the insured will pay that premium balance over nine equal monthly installments. The deposit for renewal business will be a percentage of the premium calculated using the lower of the ARC's rate or the MAIP rate. The remaining balance will be paid over nine equal monthly installments. A flat \$6.00 per installment finance charge will ~~apply be charged~~ until the entire balance is paid.

## 3. Dishonored Check Charge

~~An applicant or policyholder that issues a check that is dishonored by the financial institution to which the check is presented for payment will be charged a fee as provided in the plan filed by the ARC and approved by the Division of Insurance for policies with effective dates April 1, 2008 through March 31, 2009.~~

For policies effective on and after April 1, 2009 a dishonored check fee of \$25 will be charged to an applicant or policyholder issuing a check that is dishonored by the financial institution to which the check is presented for payment.

4. Late Fee or Cancellation Fee

~~A policyholder that fails to pay an installment premium by the applicable due date will be charged a late fee or cancellation fee as provided in the plan filed by the ARC and approved by the Division of Insurance for policies with effective dates April 1, 2008 through March 31, 2009.~~

A policyholder who fails to pay an installment premium by the applicable due date will be charged a late fee or cancellation fee of \$25 for policies with effective dates on or after April 1, 2009.

5. Agency Acceptance of Payments

Acceptance of payment by the ARP shall be viewed as a payment to the ARC.

6. Premium Financed Policies

The standards pertaining to premium financing for policies issued through the MAIP must be consistent with state laws and regulations.

**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 12-month period ending June 30, 2007 with CAR ID codes 0 or 1 over the industry written exposures for the 12-month period ending June 30, 2007 with CAR ID 0 or 1. Exposures for motorcycles, snowmobiles, and electric motor vehicles 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 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. Exposures for motorcycles, snowmobiles, and electric motor vehicles will be adjusted by a factor of 0.33.

Exposures of a Clean-in-Three Risk as defined in Rule 22 as of the effective date of its current Private Passenger Motor Vehicle Insurance policy and pursuant to the provisions of Rule 21.D. will be adjusted by a factor of 0.0 provided the following conditions are met:

- (1) The operator was insured by a Member under a Private Passenger Motor Vehicle Insurance policy with an effective date between April 1, 2008 and March 31, 2009 and the producer of record was exclusively assigned to the Member by CAR;
    - (2) The producer of record for the operator has not changed since March 31, 2009.
  - b. For the purpose of establishing the Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30 before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data pursuant to Section C.
  - c. 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 pursuant to 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 pursuant to Section 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 premium Quota Share adjustments.

1. To determine the current premium Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30.A.1. before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data to CAR beginning no later than the 23-month anniversary of the calendar date on which the Member's initial Private Passenger Motor Vehicle Insurance rates and manual become effective. The Member will be required to report private passenger property damage liability car months of exposure by CAR identification code, policy effective month, premium town, classification, and merit rating status as defined in the Massachusetts Private Passenger Automobile Statistical Plan. The initial report will include the 12 consecutive policy effective months that will be used to determine the Member's initial Quota Share. Monthly data will be reported thereafter until the Member commences reporting detailed statistical data to CAR.

An additional adjustment shall be made to the latest rolling 12-month voluntary exposure based market share that is used to determine the current premium Quota Share of a Member(s) when that Member(s) is part of an insurer group that includes any other insurance company that qualifies as a Newly Writing Company, and that Newly Writing Company has elected to be treated as a Member separate from the current Member(s) under these Rules. This adjustment shall continue until the Newly Writing Company become eligible for appointment as an ARC pursuant to Rule 30.

The latest rolling 12-month voluntary exposure based market share used to determine such Member(s) current premium Quota Share shall not be adjusted to reflect any reduction in vehicle exposures that were insured under a Private Passenger Motor Vehicle Insurance policy issued voluntarily by such Member(s) immediately prior to the vehicle's initial policy inception date with such Newly Writing Company.

This adjustment will apply regardless of whether the initial policy inception date with the Newly Writing Company pre-dates the calendar months underlying the latest rolling 12-month voluntary exposure based market share used to determine the Member(s) current premium Quota Share.

2. To determine the current premium Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30.A.2 before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data to CAR. The Member shall begin reporting summary data no later than 45 days after the close of the month of the Member's initial Private Passenger Motor Vehicle Insurance rates and rate manual effective date. The Member will be required to report written private passenger property damage liability car months of exposure by CAR identification code, policy effective month, territory, classification, and merit rating status as defined in the Massachusetts Private Passenger Automobile Statistical Plan. Monthly summary data will be reported thereafter until the Member commences reporting detailed statistical data to CAR.

#### **D. Assignment Period**

1. An Eligible Risk shall be insured by a designated ARC for a period of three consecutive years.

For policies of an Eligible Risk whose assignment period ends March 31, 2012 and prior, the designated ARC may offer to continue an Eligible Risk's assignment beyond the period of three consecutive years by offering to write a third renewal, may offer to write the policy on a voluntary basis, or may non-renew the policy.

For policies of an Eligible Risk whose three year assignment period ends effective April 1, 2012 and subsequent, the designated ARC may offer to write the policy on a voluntary basis, or may non-renew the policy.

2. For policies whose three year assignment period ends effective January 1, 2012 and subsequent, if the designated ARC intends to non-renew the policy at the end of the three year assignment period the following procedures shall apply.

On or about the first business day of the month, the designated ARC will distribute to the ARP a list of policies that the ARC does not intend to renew and which will expire during the month at least 120 days from the distribution date, thereby providing the ARP an opportunity to seek replacement coverage in the voluntary market. If replacement coverage is obtained for the risk, the ARP shall submit a Notice of Transfer of Insurer (2A Form) to the former ARC identifying the new carrier.

No less than 60 days prior to the expiration date, if replacement coverage is not obtained for the Eligible Risk, the ARP shall submit an application to the MAIP. The application will be assigned to a Member such that the designated ARC is different than the former ARC. Upon receiving the assignment, the ARP shall submit a 2A Form to the former ARC identifying the newly designated ARC. A down payment is not required and upon receipt of the application, the newly designated ARC will bill the applicant for 20% of the premium to be charged, which shall be the lower of the MAIP premium or the voluntary premium for which the applicant qualifies. The pre-inspection requirement shall be waived provided that the vehicle(s) to be insured is the same as the vehicle(s) insured under the previous policy.

If no 2A Form is received, the designated ARC will issue a non-renewal notice at least 45 days prior to the expiration date with a copy sent to the ARP.

Upon receipt of the non-renewal notice, the Eligible Risk may reapply for coverage through the MAIP. Such reapplication shall be considered a new business application and the Eligible Risk shall be assigned to a different Member such that the designated ARC is different than the former ARC.

3. In the case of a non-resident military person, pursuant to 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 approval. Any premium credited under this Rule that in aggregate exceeds 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, 2010 and subsequent, a Member shall receive a credit for any exposure that it insures voluntarily in the territory and operator classes pursuant to Sections E.2. and E.3.
- b. Credit shall be applied to the Member's Quota Share pursuant to Section C. for the appropriate premiums pursuant to Sections E.2. and E.3.

2. Amount of Credits

Members shall receive credit for each exposure written voluntarily pursuant to Section E.1.b. in the territory and operator classes listed in Section E.3. 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 appropriate factor as displayed in the policy effective date tables.

For policies with effective dates of April 1, 2012 and subsequent, the factor will be determined based on a review of the three most recent prior years of residual market share data, by territory and operator class. Credit eligible groups will be defined by ranges of residual market shares, and credit factors will be established in accordance with the following criteria:

<b>Residual Market Group</b>	<b>Residual Market Share Range</b>	<b>Voluntary Credit Factor</b>
0	0.0% - 4.9%	0.00
1	5.0% - 7.9%	1.00
2	8.0% - 10.9%	1.00
3	11.0% - 16.9%	1.00
4	17.0% - 22.9%	1.25
5	23.0% - 28.9%	1.50
6	29.0% - 34.9%	1.75
7	35.0% - 40.9%	2.00
8	41.0% - 46.9%	2.25
9	47.0% - 100.0%	2.50



### 3. Credit Factors

The following factors are applicable for policies with effective dates from April 1, 2010 through March 31, 2011.

Operator Class										
Territory	10	15	17	18	20	21	25	26	30	M/M*
01					0.8					
02					0.8					
03					1.5					
04					0.8					
05			0.25		1.5	0.35				
06					1.5					
07			0.25		1.5	0.75				
08			0.25		1.5		0.25			
09			0.7		1.5	0.35	0.25			
10			0.25		1.5	0.75				
11			0.25		1.5		0.25			
12			0.25		1.5	0.75	0.25			0.35
13			0.8		1.5	0.75	0.7			0.35
14			0.7		1.5	0.35	0.7			0.75
15	0.35		0.7	0.35	3.5	1.75	1.5		0.35	0.85
16	0.85		1.5	0.85	3.5	1.75	1.5	1.75	0.75	0.85
17			0.7		1.5		1.5			
18	0.35		0.8		2.5		0.25		0.35	0.75
19			1.5		2.5		0.8			0.75
20	0.35		1.5	0.35	2.5		0.8	0.35	0.35	0.85
21	0.75	0.35	1.5	0.75	2.5	1.75	1.5		0.75	0.85
22	0.85	0.75	1.5	0.35	2.5	0.85	0.8			1.75
23			1.5		3.5	0.75	1.5			0.85
24			0.7		1.5	0.85	0.8			0.75
25			0.8		1.5	0.75				
26	0.35		1.5	0.35	2.5	1.75	0.8			0.85
27					1.5					
40	0.85		1.5		3.5	0.85	1.5			0.85
41	0.35		1.5	0.75	1.5	1.75	1.5	0.35		0.35
42	0.85		1.5	0.75	2.5	1.75	0.8			0.85
43	0.75		0.8	0.35	2.5	1.75	0.8			0.35
44	0.75		0.8	0.75	2.5	0.85	0.8	0.35	0.35	0.85
45	0.75		1.5		2.5	0.85	1.5		0.35	0.85
99										

\* Motorcycle and Miscellaneous Classes

The following factors are applicable for policies with effective dates of April 1, 2011 through March 31, 2012.

Operator Class										
Territory	10	15	17	18	20	21	25	26	30	M/M*
01					0.8					
02					0.8					
03					0.8					
04					0.8					
05			0.25		1.5	0.35				
06					0.8					
07			0.25		1.5	0.35				
08			0.25		1.5	0.35				
09			0.7		1.5	0.35	0.25			
10			0.25		1.5	0.35				
11			0.7		1.5	0.35	0.25			
12			0.7		1.5	0.35	0.25			
13			0.7		1.5	0.75	0.7			0.35
14			0.7		1.5		0.7			0.35
15			0.8	0.35	1.5	1.75	1.5			0.85
16	0.75		1.5	0.85	2.5	0.75	1.5		0.35	0.85
17			0.7		1.5		0.7			
18	0.35		1.5		1.5	1.75	0.8			0.35
19			1.5	0.35	1.5	0.75	0.8			0.35
20	0.75		1.5	0.35	1.5	0.85	0.8	0.85		0.85
21	0.85	0.35	1.5	0.85	2.5	1.75	1.5		0.75	0.85
22	0.85	0.75	1.5	0.35	2.5	0.85	1.5	0.35		0.85
23			0.8		2.5	0.85	1.5			0.75
24			0.7		1.5	0.35	0.7			
25			0.8		1.5	0.85	0.7			
26	0.35		0.8	0.35	2.5	1.75	0.8			0.75
27					0.8					
40	0.85		1.5	0.85	2.5	1.75	0.8			0.85
41	0.35		1.5	0.75	1.5	1.75	0.8			0.35
42	0.85		1.5	0.75	1.5	1.75	0.8			0.85
43	0.75		0.8	0.35	2.5	0.85	0.8			0.35
44	0.75		0.8	0.75	1.5	0.75	0.8	0.35	0.35	0.85
45	0.75		1.5	0.75	2.5	0.85	0.8			0.75
99										

\* Motorcycle and Miscellaneous Classes

The following factors are applicable for policies with effective dates of April 1, 2012 and subsequent.

<b>Operator Class</b>										
<b>Territory</b>	<b>10</b>	<b>15</b>	<b>17</b>	<b>18</b>	<b>20</b>	<b>21</b>	<b>25</b>	<b>26</b>	<b>30</b>	<b>M/M*</b>
<b>01</b>					1.00					
<b>02</b>					1.00					
<b>03</b>					1.00					
<b>04</b>					1.00					
<b>05</b>			1.00		1.00	1.00				
<b>06</b>					1.00					
<b>07</b>			1.00		1.25	1.00				
<b>08</b>			1.00		1.25					
<b>09</b>			1.00		1.25	1.00	1.00			
<b>10</b>			1.00		1.25	1.00				
<b>11</b>			1.00		1.25	1.00	1.00			
<b>12</b>			1.00		1.25	1.00	1.00			
<b>13</b>			1.00		1.50	1.00	1.00			1.00
<b>14</b>			1.00		1.25	1.00	1.00			1.00
<b>15</b>	1.00		1.00	1.00	1.75	1.00	1.00			1.00
<b>16</b>	1.00		1.25	1.00	2.25	1.00	1.50	1.00	1.00	1.00
<b>17</b>			1.00		1.25		1.00			
<b>18</b>	1.00		1.25		1.75	1.00	1.00		1.00	1.00
<b>19</b>			1.00	1.00	1.75	1.00	1.00			1.00
<b>20</b>	1.00		1.00	1.00	1.75	1.00	1.00	1.00		1.00
<b>21</b>	1.00	1.00	1.25	1.00	2.00	1.00	1.00		1.00	1.00
<b>22</b>	1.00	1.00	1.25	1.00	2.00	1.00	1.00	1.00		1.00
<b>23</b>			1.00		2.00	1.00	1.00			1.00
<b>24</b>			1.00		1.25	1.00	1.00			
<b>25</b>			1.00		1.25	1.00	1.00			
<b>26</b>	1.00		1.00	1.00	2.00	1.00	1.00			1.00
<b>27</b>					1.00					
<b>40</b>	1.00		1.25	1.00	2.50	1.50	1.00			1.00
<b>41</b>	1.00		1.00	1.00	1.50	1.00	1.00			1.00
<b>42</b>	1.00		1.25	1.00	1.75	1.25	1.00			1.00
<b>43</b>	1.00		1.00	1.00	2.00	1.00	1.00			1.00
<b>44</b>	1.00		1.00	1.00	1.50	1.00	1.00	1.00	1.00	1.00
<b>45</b>	1.00		1.25	1.00	2.00	1.00	1.00		1.00	1.00
<b>99</b>										

\* Motorcycle and Miscellaneous Classes

#### 4. Take-Out Credit

For policies with effective dates on or after April 1, 2009, a Member shall receive credit for each exposure previously insured through the MAIP or that had been ceded to CAR (CAR ID Codes 4 and 5) that it writes voluntarily at the expiration of that policy. A Member may receive a credit for the first year in which an Eligible Risk is written voluntarily after the expiration of the policy previously issued through the residual market.

The value of a take-out credit shall equal the annual Private Passenger Motor Vehicle MAIP premium pursuant to Section B.1.b., that the risk would have been charged if he had been insured through the MAIP, multiplied by a factor of 1.0. Take-out credits are applied in addition to any voluntary credit(s) pursuant to Section E.

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 90 days;
- c. The kinds and amounts of coverage to be offered to 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.

#### **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. Reassignment to Prior Member

In the case where an applicant or policyholder has been cancelled for non-payment of premium, or has an outstanding premium balance due a Member and is otherwise eligible for placement through the MAIP pursuant to G.L. c. 175, § 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
  - a. Assigned Risk Companies may accrue excess credits.
  - b. As of April 1, 2008, ARCs may sell, transfer, or buy excess credits to or from other ARCs in accordance with the procedures below.
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

Assigned Risk Companies shall report to CAR within 30 days the execution of any agreement by the ARC to purchase, sell or transfer 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.

**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.

1. A Newly Writing Company whose initial Private Passenger Motor Vehicle insurance rates and rate manual become effective prior to January 1, 2011 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.
2. A Newly Writing Company whose initial Private Passenger Motor Vehicle insurance rates and rate manual become effective on or after January 1, 2011 shall be eligible for appointment as an ARC as of the effective date of its initial rates and rate manual. The ARC shall be required to accept assignments through the MAIP on the date that MAIP processes the ARC's initial summary data submission pursuant to Rule 29.C.2.
3. 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.
4. 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. At a minimum the ARC shall provide timely access to billing and claim information which will reflect current premium due, payments made, and if applicable, cancellation status and effective date, claim status and claim payments made.

2. Effective September 1, 2012, an ARC shall, for purposes of quoting an assigned Eligible Risk, provide access to its voluntary rates to ARPs by providing either web-based rating capability directly or through a third party comparative rating vendor, or by providing a dedicated toll-free telephone service for quoting purposes.

If an ARC provides access through a third party comparative rating vendor and an ARP wishes to access an ARC's voluntary rates using a third party comparative rater, (1) the ARP will contract with the third party vendor for access to the ARC's voluntary rates and request access to the voluntary rates from the ARC, and (2) the ARC will not withhold permission for gaining access to its voluntary rates for any third party vendor it supports for its voluntary agents.

After an assignment is made, the ARP will obtain from the Eligible Risk any supplemental or additional information needed by the ARC to produce the voluntary quote. The ARC shall provide the quote using the same timeframes applicable to its voluntary market quotes, but in all cases within 48 hours of the receipt of the information necessary to calculate the voluntary premium.

An ARC providing web-based rating capability shall return the voluntary premium quote to the ARP in a printable format. An ARC providing a toll-free telephone service will respond with the voluntary premium quote and include an identification number to be used to match the quote to the new business application upon receipt by the ARC.

32. An ARC shall bill the premium for a policy assigned 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:
- 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.
  - 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.



The calculation of the premium assigned through the MAIP shall be based on information contained in the application. At the time the assignment is made, the ARC shall provide a form to the Eligible Risk requesting any additional or supplemental information necessary to accurately calculate the premium. The completed form shall be submitted by the ARP to the ARC with the application within two business days. If during the underwriting process an ARC discovers third-party information that appears inconsistent with the information provided on the application for insurance or is inconsistent with any supplemental information, the ARC shall: 1) initiate an inquiry either directly with the insured or through the producer of record to resolve any factual errors; and 2) obtain the insured's consent before issuing a notice of adjustment to the down payment and/or total premium. If the inquiry is made directly to the applicant, the producer of record shall be furnished a copy.

If the resolution of an apparent inconsistency results in a change to information used to calculate premium, the ARC shall charge an appropriate premium based upon the additional or corrected information, and adjust the applicant's next bill accordingly. If, however, the applicant is unwilling to consent to the modification, and the ARC has independent evidence that the applicant had the actual intent to deceive or the material misrepresentation increases the ARC's risk of loss, the ARC may cancel the policy as provided by Massachusetts law.

| 43. 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.

| 54. 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 information contained in the application for insurance and any supplemental information is accurate as to classification,

garaging, discounts, credits, vehicle use, vehicle description, and, to the extent verifiable, other rating factors;

- 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 Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual ~~Manual of Administrative Procedures~~.

#### 65. 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 Assigned Risk Company Procedures Manual ~~Manual of Administrative Procedures~~.

#### 76. 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 sSection.

**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 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

A duly licensed insurance producer, certified to place business through the MAIP, shall own and have an exclusive right, as the insured's producer of records, to use certain insurance information of the insured embodying the records of the insurance agency which shall include but not be limited to, the name of the insured, the policy inception date, the amount of insurance coverage, the policy number and the terms of insurance. An ARC may choose 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, 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. 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.

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. 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 ~~s~~Section it shall notify the Commissioner in writing.

**E. Reporting Credits**

Refer to the Assigned Risk Company Procedures Manual ~~Manual of Administrative Procedures~~ for the procedure outlining the reporting of all credits.

**A. Eligibility Requirements**

In accordance with G.L. c. 175, § 113H, every Assigned Risk Producer (ARP) shall be assigned to each and every Assigned Risk Company (ARC) for the sole purpose of obtaining Private Passenger Motor Vehicle Insurance for applicants who have been unable to obtain such insurance through the method by which such insurance is voluntarily made available.

As of April 1, 2008, any licensed property and casualty producer in good standing shall be deemed to be certified as an ARP. Subject to the provisions of Rule 21.B., these producers shall submit business to the Massachusetts Automobile Insurance Plan (MAIP) as an ARP.

On or after April 1, 2008, all licensed property and casualty producers must meet the following requirements and become certified as ARPs.

1. Have electronic access to the MAIP and the Registry of Motor Vehicles;
2. Have within the preceding 12-month period worked for a minimum of 6 months with a producer licensed by the Division of Insurance, or with a Massachusetts motor vehicle insurer, during which time the applicant's efforts were primarily devoted to the Massachusetts Motor Vehicle Insurance market; and
3. In satisfying the preceding criteria the applicant must conclusively show that he:
  - a. is applying in good faith;
  - b. will operate from an established location properly equipped to meet producer certification requirements;
  - c. will maintain regular business hours;
  - d. has not been convicted of a crime related to his occupation as an insurance producer;
  - e. has not had his license to engage as an insurance producer revoked or suspended;

- f. has not been involved in a material and substantial breach of a contract between an ARC and a producer;
- g. is not in default in the remittance of any motor vehicle premiums due a Member;
- h. agrees to comply with the provisions of the Plan of Operation, the Rules of Operation, the Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual ~~Manual of Administrative Procedures~~, the MAIP's certification requirements, and the applicable regulations of the Division of Insurance;
- i. agrees to notify the MAIP of an agreement to sell the agency 15 days in advance of the proposed closing of any such sale; and
- j. has not had an ARP certification revoked by the MAIP as provided in these Rules, the revocation not having been reversed by the Governing Committee, the Division of Insurance or a court of competent jurisdiction.

**B. Ongoing Assigned Risk Producer Requirements and Responsibilities**

It will be the ongoing responsibility of an ARP to fulfill the following requirements as well as the producer certification requirements in Section A. ~~above~~. Failure to do so will be grounds for revocation of certification.

1. The ARP must use the policy forms, endorsements, new business application and renewal questionnaire that are filed by the MAIP and approved for use by the Commissioner for Private Passenger Motor Vehicle Insurance.
2. The ARP must require that all Eligible Risks applying for insurance coverage by the MAIP complete a new business insurance application in its entirety.
3. The ARP must ensure that the application and any additional or supplemental information for insurance through the MAIP is submitted on the prescribed forms and that each is filled out accurately and in its entirety. An application that contains information the MAIP verifies as inaccurate or an incomplete application will be returned to the



producer for remedy. Steps that the ARP must take in order to complete an application correctly include the following:

- a. The ARP must list all licensed operators in the household, including those not used for classification purposes, on the application;
- b. The ARP must verify through the Registry of Motor Vehicle Inquiry System the driver's license for each listed operator who holds a Massachusetts driver's license. The ARP must submit a photocopy of the license of any operator holding an out-of-state or an out-of-country driver's license with the new business application.
- c. The ARP must supply documentation supporting the deferral for rating purposes of any household member;
- d. The ARP must confirm each licensed operator's driving record for rating and statistical data collection purposes;
- e. The ARP must verify that the Eligible Risk has not been and is not now in default in the payment of any Motor Vehicle Insurance premiums in the past 24 months;
- f. The ARP must certify, pursuant to Rule 26.A.1.a., that the risk has made an attempt to obtain Private Passenger Motor Vehicle Insurance within 15 days of the application to the MAIP and has been turned down for such insurance;
- g. The ARP must include the full and complete address of the Eligible Risk. A post office box will not be accepted for the determination of garaging town;
- h. The ARP must verify eligibility for premium discounts through the Registry of Motor Vehicles or other appropriate sources;
- i. The ARP must order only those coverages from the ARC requested by the Eligible Risk, for which he may be eligible through the MAIP;
- j. The ARP must quote the proper MAIP premium based on information provided by the Eligible Risk for the coverage desired. The ARP must inform the Eligible Risk that the final premium

billed by the ARC may be less than the MAIP premium quoted, but it may not be more;

k. The ARP may quote the voluntary premium of the designated ARC based on information provided by the Eligible Risk for the coverage desired. The ARP must inform the Eligible Risk that the final premium will be determined and billed by the ARC upon receipt of the new business application and any supplemental information necessary to calculate the voluntary premium for comparison to the MAIP premium;

lk. The ARP must notify the Eligible Risk that he has the option of utilizing an installment payment plan;

ml. The ARP must verify that the Eligible Risk has signed the new business application before it is submitted to the MAIP; and

nm. The ARP must sign the new business application before it is submitted to the MAIP.

4. The ARP must submit an electronic application for Private Passenger Motor Vehicle Insurance coverage to the MAIP to obtain MAIP coverage for an Eligible Risk.

5. Once the MAIP has notified the ARP of i) the certification number assigned to the application, ~~of ii)~~ the ARC to which the policy is assigned and ~~of iii)~~ the effective date of the coverage, the ARP is responsible for providing the ARC with the following items within two business days:

a. The original application form, ~~and~~ any additional or supplemental information, and if applicable, a copy of the voluntary premium quote or voluntary premium quote identification number. The application must be signed by the Eligible Risk and the ARP; and

b. The required deposit premium pursuant to Rule 28.

6. The new business application, any additional coverage, and/or modifications in coverage must be submitted to the ARC within two business days of the effective date of coverage.

7. The ARP must remit payments on a timely basis. However, an ARC shall extend the payment period for an additional seven days upon

sufficient notice that all or part of a premium is being financed by a licensed premium finance company where the premium finance company has given its written assurance to pay the full premium financed to the ARC directly. This provision shall not obligate an ARC to provide such additional time if, notwithstanding any written assurances, the premium finance company has failed to perform its commitment previously.

8. The ARP must conduct all monetary transactions with the Eligible Risk and the ARC as required by the Rules of Operation.
9. The ARP must advise the premium finance company and/or the policyholder that checks for premiums for all financed accounts are to be made payable to the ARC.
10. The ARP must report all coverages bound and all registrations/titles certified to the ARC within two business days after binding coverage or certifying a registration.
11. The ARP must forward to the Eligible Risk within 30 days of receipt from the ARC, all policies and endorsements if not mailed directly by the ARC to the Eligible Risk.
12. The ARP must properly order endorsements.
13. The ARP must retain the necessary documentation of ARC transactions in accordance with the Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual ~~Manual of Administrative Procedures~~.
14. The ARP and his employees will be required to receive training on claims reporting and fraud recognition. For current ARPs and employees, such training must be completed within six months of the initial implementation of the MAIP. For new ARPs, such training must be completed within six months of certification by the Governing Committee or its designee to immediately submit Motor Vehicle Insurance policies for placement through the MAIP with an ARC. For new employees, such training must be completed within six months of hire. Any fraud training program that receives three CEU credits from the Massachusetts Division of Insurance will satisfy the claims reporting and fraud recognition training requirement. No other training that an ARC provides to its producers is sufficient to meet the

claims reporting and fraud recognition training requirement set in this Section.

15. The ARP must notify the MAIP and the ARC of any suspected fraud surrounding a loss.
16. The ARP must cooperate with ARC and MAIP personnel during all audits and investigations.
17. The ARP and his employees are prohibited from accepting a fee or any other monetary or tangible property for referring the insured or parties to an accident to any glass, repair or rental facility, or to any legal or medical provider.
18. ARPs shall provide referral information to consumers consistent with company practices under regulations relating to motor vehicle repairs.
19. The ARP must return uncontested unearned commission within 45 calendar days from the date the producer receives notice from the insurer that such commission is due.

**C. Service Fees**

1. G.L. c. 175, § 182, in part, prohibits producers and others in connection with the placing or negotiation of insurance policies or the continuance or renewal thereof from selling or offering to sell anything of value whatsoever not specified in the policy of insurance. See also G.L. c. 176D, § 3(8). The following acts and practices are prohibited:
  - a. Charging a fee in addition to the premium for certifying a registration on behalf of an ARC;
  - b. Charging a fee in addition to the premium for acting as a producer and placing the applicant's Motor Vehicle Insurance business with an ARC;
  - c. Charging a fee in addition to the premium for providing assistance to the insured in the completion of forms which are completed in order for the insured to procure or to continue Motor Vehicle Insurance; and
  - d. Charging a fee in addition to the premium for the sale of a service contract which provides for service or advice relating to the

issuance, continuance, or renewal of an insured's Motor Vehicle Insurance policy.

2. Nothing set forth in the provisions of Section C.1. above is intended to prohibit producers from charging courier fees and other non-insurance related fees if the following requirements are met:
  - a. The producer provides to the applicant a complete description of the non-insurance related services for which the fee, in addition to the premium rate, is being charged;
  - b. The producer advises the applicant that there is no obligation to purchase the non-insurance related service and that the insured may obtain Motor Vehicle Insurance through the producer, notwithstanding the insured's decision not to purchase the non-insurance related services;
  - c. The applicant, after having been apprised of the above information in Sections C.2.a. and C.2.b., agrees to pay the fee; and
  - d. The fee for the services provided is reasonable.
3. The producer may enter into a contract with the applicant, pursuant to which the producer provides non-insurance related services to the applicant if the producer complies with all of the requirements identified in C.1. and C.2. above. In the event the producer and applicant execute such a service contract, the producer shall give to the applicant an executed copy of the contract and shall retain an executed copy in his file that shall be made available to the ARC, Division of Insurance and the MAIP upon request.

#### **D. Certification Ineligibility**

1. Grounds for revoking the certification of an ARP shall be pursuant to Rules 30 and 31. Any licensed property or casualty producer who, within the preceding 24-month period, has had an ARP certification revoked with the said revocation not having been reversed by the Governing Committee, the Division of Insurance, or court of competent jurisdiction, shall be ineligible to place business with the MAIP.
2. For purposes of this Section, the term Assigned Risk Producer includes any licensed producer with whom the ARP whose

certification has been revoked has a direct or indirect material and continuing proprietary or management interest.

An ARP whose certification is revoked in conjunction with these Rules must return all MAIP forms, manuals and certification stamp(s) as well as any materials supplied by an ARC at such time as the revocation becomes effective. The ARP may appeal the revocation in accordance with the procedures pursuant to Rule 40.

3. If an Exclusive Representative Producer's (ERP's) appointment has been terminated by his Servicing Carrier for violations of any obligation(s) delineated in Rule 14, with the exception of Section D. Production Criteria, with said termination not having been reversed by the Governing Committee, the Division of Insurance, or court of competent jurisdiction, the ERP is ineligible for certification or continuation of its residual market certification. The ERP shall be ineligible to reapply for certification as an ARP until such time as the producer is eligible to reapply for appointment as an ERP.