

Commonwealth Automobile Reinsurers

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NOTICE OF MEETING

COMMERCIAL AUTOMOBILE RESIDUAL MARKET STANDARDS SUBCOMMITTEE

A meeting of the Commercial Automobile Residual Market Standards Subcommittee will be held at the Automobile Insurers Bureau Conference Center at 101 Arch Street, 7th Floor, Boston, on

WEDNESDAY, MAY 30, 2018 AT 10:30 A.M.

MEMBERS OF THE SUBCOMMITTEE

Mr. John Olivieri, Jr. – Chair J.K. Olivieri Insurance Agency, Inc.

Ms. Sarah Clemens Ms. Sheila Doherty Ms. Mayre Hammond Mr. Coleman Johnson Mr. Brian Lam

Mr. Thomas Skelley, Jr. Mr. Barry Tagen MAPFRE U.S.A. Corporation Doherty Insurance Agency, Inc. Arbella Insurance Group

The Hanover Insurance Company

Safety Insurance Company

Deland, Gibson Insurance Associates, Inc.

Pilgrim Insurance Company

AGENDA

CRMS

18.01 Records of Previous Meeting

The Records of the Commercial Automobile Residual Market Standards Subcommittee meeting of May 9, 2018 should be read and approved.

CRMS

18.03 CAR Conflict of Interest Policy

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

Standards Subcommittee

CRMS

18.04 Commercial Residual Market Issues

Staff will provide a status report on current efforts. The list of issues has been updated to reflect the Subcommittee's discussions. (Docket #CRMS 18.04, Exhibit #6)

CRMS

18.08 Standards for Validating Non-Fleet Private Passenger Type Risks

Updated standards for Servicing Carriers and Exclusive Representative Producers to use in validating Non-Fleet Private Passenger Type risks, including the certification form, endorsement, and rating manual rule amendment are attached for the Subcommittee's consideration. (Docket # CRMS 18.08, Exhibit #3)

CRMS

18.09 Producer Requirements

Proposed modifications to Rule 14 – Exclusive Representative Producer Requirements of the Rules of Operation pertaining to the submission of certification forms and required producer work experience are attached for the Subcommittee's consideration. (Docket #CRMS 18.09, Exhibit #2)

CRMS

18.10 Information Sharing

Proposed modifications to Chapter III – Servicing Carrier Responsibilities of the Manual of Administrative Procedures relative to the reporting requirements for the Ineligible Risk database will be distributed as additional information prior to the meeting.

CRMS

18.11 Covered Autos

An outline of potential impacts to the Rules of Operations, Manual of Administrative Procedures, and Commercial Automobile Rating Manual relative to the restriction of ceded coverage to specified autos written on the Business Auto Coverage Form will be distributed as additional information prior to the meeting.

Other Business

To transact any other business that may properly come before this Subcommittee.

Executive Session

The Commercial Automobile Residual Market Standards Subcommittee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, $\S~21$.

WENDY BROWNE Vice President – Business Operations May 30, 2018

Attachments

Boston, Massachusetts May 17, 2018

Commonwealth Automobile Reinsurers

Commercial Automobile Residual Market Standards Subcommittee

Commercial Residual Market Issues – Status as of May 17, 2018

The Subcommittee has compiled and prioritized a list of issues identified in its deliberations for continued discussion. The Subcommittee will formulate recommendations to the Commercial Automobile Committee for each item.

1. Standards for Determining and Substantiating Principal Place of Business

At the December, 2017 and February 2018 meetings, discussion took place relative to the determination or substantiation of a risk's Principal Place of Business in order to confirm eligibility for placement in the MA commercial residual market. To address difficulties in substantiating Principal Place of Business arising from technological advances in today's marketplace, the Subcommittee recommended changes to Rule 2 - Definitions of CAR's Rules of Operation to include the nerve center test. The Subcommittee will next consider developing standards for substantiating the principal place of business for companies and producers to utilize.

STATUS: The changes to Rule 2 – Definitions were deemed approved by the Division of Insurance on March 29, 2018 and a notification of this approval was furnished to the industry on that day as well.

At the May 9, 2018 meeting, the Subcommittee unanimously voted to recommend approval to the Commercial Automobile Committee of the standards, including the certification form, for use by Servicing Carriers and Exclusive Representative Producers in determining and substantiating Principal Place of Business. The Commercial Automobile Committee is scheduled to meet on June 12, 2018.

2. Non-Fleet Private Passenger Types

The Subcommittee has discussed difficulties in confirming eligibility for risks classified as non-fleet private passenger types. The Subcommittee will continue discussing potential enhancements including, but not limited to:

- Improvement of underwriting standards to encourage consistency among Servicing Carriers
- Validation of business entity
- Collection of Business Owner/Operator Information
- Sharing of Information

STATUS: The Subcommittee will continue its discussions at the May 30, 2018 meeting to develop standards for use by Servicing Carriers and Exclusive Representative Producers. Staff has updated the draft standards, certification form and exclusion endorsement as directed by the Subcommittee and has drafted proposed changes to the rating manual for consideration (separate attachment).

3. Program Oversight and Auditing

At its March 29, 2018 meeting, the Subcommittee recommended approval of CAR's Focus Audit plan that will gather information to assist in the development of underwriting standards for use by Servicing Carriers to determine eligibility, classification, and rating of commercial residual market risks.

<u>STATUS:</u> At the April 2018 meetings, the Commercial Automobile and Governing Committees approved the focus audit plan. CAR had distributed the sample of policies to be reviewed to each Servicing Carrier and will begin the audit process the week of May 21, 2018. The review of policy information for all four Servicing Carriers is expected to progress throughout the upcoming months. Upon completion, the results of the focus audit will be provided to the Commercial Automobile and Compliance and Operations Committees.

4. Producer Requirements

At the May 9, 2018 meeting, the Subcommittee discussed potential changes to the requirements for Exclusive Representative Producers.

STATUS: Based on the results of that discussion, staff has developed proposed changes to Rule 14 – Exclusive Representative Producer Requirements that reflect updated requirements relative to prior work experience as well as new requirements developed as part of the Standards for Principal Place of Business and Non-Fleet Private Passenger Types for the Subcommittee's consideration (separate attachment).

5. Information Sharing

The Subcommittee has discussed opportunities to share information that may not be proprietary in nature or in conflict with statute and/or regulation, but that would be beneficial to the administration of the program, particularly as related to declinations, non-renewal, and cancellation for ineligibility. Staff has proposed developing a web-based online system for this function

STATUS: At the May 9, 2018 meeting, the Subcommittee unanimously voted to recommend to the Commercial Automobile Committee that staff move forward on the development of the information sharing system. As part of that process, staff is developing proposed changes to Chapter III - Servicing Carrier Responsibilities of the Manual of Administrative Procedures relative to the reporting requirements for the Ineligible Risk database for the Subcommittee's consideration.

6. Covered Automobiles

Staff is proposing to limit ceded risks to policies written on a specified car basis only. While this change would have a minimal impact, as very few ceded policies are rated on a composite or gross receipts basis, it would eliminate a potential for duplicate exposure in certain circumstances.

STATUS: The Subcommittee will continue discussing this item at the May 30, 2018 meeting. Staff is in the process of developing proposed modifications to the Rules of Operations, Manual of Administrative Procedures and Commercial Automobile Rating Manual.

7. Radius of Operations for Truck and Bus Classifications

The Subcommittee noted that the radius of operation for truck and bus classes are not consistent. Pursuant to Rules 52 and 72 of CAR's Commercial Automobile Manual, radius for trucks is determined

using the street address of principal garaging, and for buses using the motor vehicle's registration. The Subcommittee should discuss whether a change to either manual rule should be recommended.

STATUS: Staff is in the process of researching the genesis of revisions to the determination of radius class for bus classes, as well as the procedures of other states' residual markets, and will report on its research at a future meeting.

8. Rating Territory for Non-Zone Rated Public Classes

The Subcommittee noted that Rule 72.C.2. sets forth the determination of rating territory for public automobile classes. For non-zone rated risks, the rating territory is defined as the highest rated territory through or in which the public vehicle operates. However, the language does not specifically address the determination of territory for those risks that travel outside of Massachusetts. The Subcommittee should discuss whether an amendment to the determination of rating territory is recommended.

STATUS: Staff is researching the plans of other states to develop amendments for Subcommittee consideration at a future meeting. As part of this effort, staff is reviewing Servicing Carrier procedures for determining and documentation accepted to substantiate radius class, including the application of the 80/20 rule for intermediate radius classes, in order to draft standard procedures for Subcommittee consideration.

9. Non-Ownership Liability Coverage

Staff has observed consistently high loss ratios for the non-ownership liability classifications. The Subcommittee will be asked to review different approaches to improve the residual market results for these risks.

10. Miscellaneous Risk Classification Issues

At a future meeting, the Subcommittee will discuss whether the language in the rating manual should be clarified to ensure consistency among Servicing Carriers in classification of risks. Examples raised to date include:

- Buses Social Service vs. School vs. NOC
- Garage Dealer Risk with some Repair vs. Repair Risk with some Dealer

11. Cancelled Risks being placed on other policies to avoid owed premium

The Subcommittee should further discuss this issue to determine whether strengthened controls are feasible and beneficial to the residual market.

12. Supplemental Application

The Subcommittee has discussed the possibility of developing a supplemental application that will incorporate the different certifications, as well as address the need for any other necessary information not presently captured in the policy application. Accordingly, the Subcommittee will discuss the need for a supplemental application after the various issues have been discussed and concluded.

13. Zone Rated for Truck and Bus Classifications

Subcommittee members noted that the use of garaging and/or registration location in the determination of radius class has enabled some risks to qualify for zone rating, even if the vehicles rarely, if ever, travel to that location. In addition, the Subcommittee noted that there are different rating methodologies for the physical damage coverages of the intermediate and long distance radius classes.

STATUS: In conjunction with its next rate filing, staff is in the process of a thorough analysis of zone rates, including primary rating factors and physical damage rating procedures. The Subcommittee will postpone its discussions of this topic until staff has completed its efforts in this regard.

Servicing Carrier Standards for Non-Fleet Private Passenger Type Classifications

Standards for the Review of Non Fleet Private Passenger Type Commercial Automobile Risks: In determining whether a non-fleet private passenger type risk is eligible for placement in the commercial automobile residual market, Servicing Carriers are required to validate the information provided by the risk and writing producer. If the application asserts/suggests a business entity/operation the Servicing Carrier must validate that a commercial automobile business entity/operation exists.

Servicing Carriers will require and receive a signed Non-Fleet Private Passenger Type Certification Form attesting to the information submitted on the application for insurance pursuant to the insured's business entity. The certification must be signed and dated by the insured and writing producer. The certification form may be used for renewal business at the discretion of the Servicing Carrier.

Underwriting Tools and Opportunities: Servicing Carriers should take advantage of, but not limited to, the following options in determining risk eligibility relative to determining the business entity:

1) Proof of Business Entity:

- a) Use the Secretary of Commonwealth's Corporations Division website to determine:
 - o If the risk and/or the risk's Federal Employer Identification Number (FEIN) is registered with the Corporations Division
 - o Date of Origination, Current Status
 - The identity of the risk's officers, directors, partners and/or managers ownership and address information
 - o Who signed the organizational documents for the risk
- b) Use an Internet search engine to determine if the risk has a website for its stated business entity/operation.
- c) Use an Internet mapping site to assess business address, public and street presence.
- d) Use the RMV systems to verify whether the risk's officers, directors, partners and/or managers have a Massachusetts address/operator's license and to determine if the risk previously was insured with a Massachusetts carrier. Verify that the vehicle registration(s) is in the name of the business entity/operation. Confirm all operator information listed on the application and certification document.
- e) Assess whether there was prior insurance coverage provided for the business entity/operation and the history of that coverage (i.e. cancellation/non-renewal reason, etc.)
- f) Obtain one or more of the following:
 - a. Contract for services with a customer relative to the listed business entity/operation
 - b. Tax filing information for the business (Schedule C if filing an individual return)
 - c. Workers Compensation Insurance Policy
 - d. General Liability Insurance Policy
 - e. If prior insurance coverage, copy of declarations page
 - f. Copies of leases and utility bills
- g) Request SIU investigation when necessary to determine if risk is a business entity

Pursuant to Rule 10 – Claims of CAR's Rules of Operation, Servicing Carriers are required to conduct audits on representative samples of policies to verify garaging and policy facts. However, market conditions may warrant increased awareness and focus on specific classifications of business due to suspected fraud, increased loss experience, or other negative impacts on the commercial automobile residual market during the Servicing Carrier contract period. If such occasions occur, the specific classifications will be identified, through CAR's committee process, for mandatory Servicing Carrier SIU investigations involving the eligibility of the business entity/operation.

Exclusive Representative Producer Standards for Non-Fleet Private Passenger Type Classifications

Exclusive Representative Producers (ERPs) will be responsible for:

- 1) Obtaining a completed and signed Non-Fleet Private Passenger Type (NF-PPT) Certification Form for each NF-PPT risk submitted to their Servicing Carrier for placement in the commercial auto residual market.
- 2) Listing all permissive operators of the vehicle(s) on the application for insurance and note any operator listed on the application with a valid license from a country or territory approved by the Massachusetts RMV, on the Non Fleet Private Passenger Certification Form.
- 3) Obtaining a completed Driver Exclusion Form if the owner(s) does not have a valid driver's license and is/are not listed on the application as an operator(s).
- 4) Reiterating to the insured that the Certification Form requires the insured's cooperation in notifying the insuring carrier of any change to information presented in the application, including information pertinent to the ownership and permissive operators of the vehicle(s), during the policy period.

The ERP will also be responsible for assisting in the verification and confirmation of information regarding the risk's eligibility for commercial automobile residual market coverage including, but not limited to:

1) Proof of Business Entity:

- a) Corporate Documentation Use of the Secretary of Commonwealth's Corporations Division website to obtain:
 - Validation of the risk and/or the risk's Federal Employer Identification Number (FEIN) being registered with the Corporations Division and includes, the Date of Origination, Current Status, the identity of the risk's officers, directors, partners and/or managers – ownership and address information and who signed the organizational documents for the risk
- b) Use of an Internet search engine may be used to reflect that the risk has a website for its stated business entity/operation.
- c) Vehicle usage: Use the RMV systems to determine if the registration of the vehicle(s) is consistent with the name of the business entity/operation.
- d) Operators of the Vehicle(s): List all operators and associated license information. If the owner is not listed as an operator, please explain. Note: a Drivers Exclusion Form will be required to be signed by the owner(s), if not listed.
- e) Provide prior insurance coverage for the business entity/operation and the history of that coverage (i.e. cancellation/non-renewal reason, etc.)
- 2) The ERP/risk will be required to provide *at least one*, or at the request of the Servicing Carrier, more of the following documentation with the application:
 - a. Contract for services with a customer relative to the listed business entity/operation
 - b. Tax filing information for the business (Schedule C if filing an individual return)
 - c. Workers Compensation Insurance Policy
 - d. General Liability Insurance Policy
 - e. If prior insurance coverage, copy of declarations page
 - f. Copies of leases and utility bills

NON FLEET PRIVATE PASSENGER TYPE (NF-PPT) CERTIFICATION FORM

TO BE CERTIFIED BY ALL NF-PPT APPLICANTS PRIOR TO PLACEMENT IN THE COMMERCIAL AUTOMOBILE INSURANCE RESIDUAL MARKET (CAR)

NAME OF BUSINESS:	
DESCRIPTION OF BUSINESS:	
	the Servicing Carrier, more of the following documentation
 with the application: Contract for services with a customer relation. Tax filing information for the business (Structure). Workers Compensation Insurance Policy. General Liability Insurance Policy. If prior insurance coverage, copy of declar. Copies of leases and utility bills. 	Schedule C if filing an individual return)
VEHICLE USAGE:	
VEHICLE OPERATORS:	
ONE OR MORE OF THE VEHICLES M APPLICATION FOR INSURANCE (A LICE	Part Time: DANY OTHERS WHO HAVE PERMISSION TO DRIVE SUST BE LISTED ON, OR INCLUDED WITH THE NSE NUMBER, STATE OR COUNTRY OF ISSUANCE
	ICATION <u>WITH A VALID LICENSE FROM A COUNTRY</u> ACHUSETTS RMV, THE FOLLOWING MUST ALSO BE
1.) OPERATOR NAME:	
LICENSE #	STATE/COUNTRY:
DATE OF ARRIVAL IN THE U.S	
2.) OPERATOR NAME:	
LICENSE #	STATE/COUNTRY:
DATE OF ARRIVAL IN THE U.S	
For additional operators that meet this cri	iteria attach information listing the above information

NON FLEET PRIVATE PASSENGER TYPE (NF-PPT) CERTIFICATION FORM

OWNER(S) NOT LISTED AS AN OPERATOR(S) OR NOT LICENSED

If the owner(s) of the business does not have a valid driver's license and is/are not listed on the application as an operator(s), a Driver Exclusion Form must be signed and submitted with the application. In addition, the/those owner(s) will sign the following:

I have voluntarily chosen not to list myself as a driver on the application. I understand and agree that if an unlisted owner is involved in a claim, there may be no coverage under my policy because of the Material Misrepresentation provision of the policy. Owner(s) Signature(s):

SIGNED CERTIFICATION OF BUSINESS ENTITY AND VEHICLE USAGE:

The application I submitted herewith represents that my vehicles are used to further my business objectives. I understand and agree that the Company is entitled to examine books and records as they relate to the premium for this policy at any time during the policy period. This may include verification of actual business use of the vehicles. I certify that I have listed on the application all my employees, family members and others who have permission to drive one or more of the vehicles listed in my application. I understand that I am required to cooperate with and notify the insuring carrier of any change to information presented in the application, including information pertinent to the ownership and permissive operators of the vehicle(s), during the policy period. I understand that, if found responsible for fraud or material misrepresentation in the application or any extension or renewal of the policy, the insurance company can cancel or rescind all or part of the insurance and/or deny coverage of a claim pursuant to the provisions of the policy and applicable law. By signing below, I hereby certify that all information provided herein and all other information submitted with the company's application is true and accurate.

Signature of Owner/Applicant's Authorized Representative:	
Printed Name of Owner/Applicant's Authorized Representat	ive:
Title:	
Date:	
Witness to the Signator and Signing above:	
Signature of Producer:	
Printed Name of Producer:	
Agency Name:	
Date:	

MA Fraud Warning: "Any person who knowingly and with the intent to defraud any insurance company or another person files an application for insurance or statement of claim containing any material false information, or conceals for the purpose of misleading information concerning any fact material thereto, may be committing a fraudulent insurance act, which may be a crime and may subject the person to criminal and civil penalties."

⁻⁻⁻Documentation to be submitted to the insuring Servicing Carrier, copy to be retained by Producer---

MASSACHUSETTS ENDORSEMENT – CR XX XX XX XX

Operator Exclusion Form

It is agreed by the insurance company, the policyholder and the person named below (the Excluded Operator), that the Excluded Operator will not operate the vehicle(s) described below, or any replacement thereof, under any circumstances whatsoever.

Named Insured:	
Excluded Operator:	
Vehicles (Complete Section A <u>OR</u> Section B):	
A(Check if applicable) Any ar policy term	nd All Vehicles Listed or Covered on the policy during the
	OR
B. Specific Vehicle(s)	
Vehicle Description:	
	lerstand and agree that the insurance company will not pay licy for any injury or damage arising out of the operation or Excluded Operator.
·	lerstand and agree that this Operator Exclusion Form will quent renewal or replacement of the policy until the hdraw this form in writing.
 Date	Policyholder/Authorized Representative Signature
Date	Excluded Operator's Signature
(ed. XX-18)	

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- B. For zone rated risks, refer to Zone Rating Tables.
- C. For garage risks, refer to Rule 89 Medical Payments Insurance in Section VI Garage Dealers of this Manual.

No charge shall be made for service or utility trailers.

RULE 31. OPERATOR EXCLUSION FORM RESERVED FOR FUTURE USE

The Servicing Carrier will attach the Operator Exclusion Form, CR XX XX XX XX, to the policy in regard to any owner of the business who is not listed as an operator on the application and does not have a valid license, or in other circumstances as requested by the insured. A separate endorsement should be completed for each excluded operator.

RULE 32. PARTNERSHIP AS THE NAMED INSURED – NON-OWNERSHIP LIABILITY (CLASS CODE 70000)

- A. When Non-Ownership Liability is afforded, the Business Auto Coverage Form provides coverage to a partnership for the use of automobiles owned by individual partners which are used in the business of the partnership.
- B. Multiply the private passenger type rates by .10 for each active or inactive partner for the territory in which the partnership is located. Apply this rating base regardless of the type of automobile being used.

RULE 33. RENTAL REIMBURSEMENT (COVERAGE CODE 083)

- A. Do not write Rental Reimbursement Coverage for less than 30 days or for a limit of less than \$15 per vehicle per day.
- B. Refer to the Rate Section for premium development.

RULE 34. INDIVIDUAL AS THE NAMED INSURED

Endorse a Business Auto Coverage Form covering an individually owned private passenger automobile with the appropriate individual named insured endorsement.

- A. Drive Other Car Coverage is provided at no additional charge if the policy covers:
 - 1. A private passenger automobile not used for public transportation or rented to others without a driver.

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be fully serviced through the purchaser until the policy expiration date of each risk, as noted on the declaration page of each policy in force as of these respective dates. "Servicing" shall include, but not be limited to, changing existing vehicles, adding additional insureds, adding named operators onto the existing policy, endorsing coverage limits, providing all notices required by law, processing claims and collecting premium. All other obligations of both Servicing Carrier and producer as set forth pursuant to the Plan and Rules of Operation shall remain in force during the term of this agreement.

4. Eligibility Requirements

Prior to any action being taken on an application for an ERP appointment, the producer must satisfy the following requirements:

- a. Complete a course of study, approved by the Commissioner of Insurance, which concentrates on the commercial Massachusetts Motor Vehicle Insurance system;
- b. Attain a passing grade on a written examination based on material covered in the approved course;
- c. Within the preceding 12 24 month period, work for a minimum of 6 12 months with a producer licensed by the Division of Insurance, or with a Member, during which time the applicant's efforts were primarily devoted to commercial automobile insurance in the Massachusetts Motor Vehicle Insurance market; and
- d. Has an existing commercial relationship with a Member other than a Servicing Carrier or can provide letter(s) of intent from insureds identifying commercial policies expected to be written as of the first year of appointment that would satisfy the production criteria pursuant to Section C.1. Continued eligibility is dependent upon compliance pursuant to the provisions of Section C.1.

Having satisfied the preceding criteria the applicant must conclusively show that such applicant:

(1) is applying in good faith;

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B. Ongoing Exclusive Representative Producer Requirements

- 1. It will be the ongoing responsibility of an ERP to fulfill the following requirements and maintain eligibility pursuant to Section A.4.
 - a. Maintain a valid producer's license as issued by the Division of Insurance.
 - b. Collect, process and remit premium due a Servicing Carrier in accordance with the provisions of the Rules of Operation.
 - c. Refrain from engaging in fraudulent activity in connection with the business of Motor Vehicle Insurance.
 - d. Submit for all applicants a new business application for insurance with appropriate certification form(s), completed in its their entirety, and a signed premium finance application/agreement, if applicable within two business days;
 - e. Provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data;
 - f. Report all coverage bound and all registrations certified to the Servicing Carrier within two business days after binding coverage or certifying a registration;
 - g. Verify that the applicant has not been in default in the payment of any Motor Vehicle Insurance premiums in the past 24 months;
 - h. Comply with written procedures supplied by the Servicing Carrier for processing claims, remitting premiums and requesting coverage;
 - i. Forward to the insured within 30 days of receipt from the Servicing Carrier, all policies and endorsements if not mailed directly by the Servicing Carrier to the policyholder;
 - j. Forward all premium payments to a Servicing Carrier within two business days of receipt. However, a Servicing Carrier 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