

A. Servicing Carrier Responsibilities

In order to successfully fulfill its residual market obligations, a Servicing Carrier is responsible for meeting the requirements of CAR's Rules of Operation, specifically performing the duties identified in Rule 13 – Servicing Carrier Requirements including those relative to rates and policy issuance, data reporting, Exclusive Representative Producers (ERPs), compliance with established claims performance standards and sharing in CAR's administrative expenses and underwriting results. Additional Servicing Carrier responsibilities are described in Sections B. of this Chapter. Section C. provides requirements relative to the termination of an ERP contract including the process for reviewing such termination and associated appeal procedures. Section D. of this Chapter provides information relative to the premium and expense reimbursement procedure a Servicing Carrier must follow when an ERP default occurs.

B. Additional Servicing Carrier Responsibilities

1. Review of Agency Groups and Affiliations

On an annual basis, a Servicing Carrier must provide CAR with information relative to each ERP's affiliation status for commercial Motor Vehicle Insurance. Any contractual relationship or membership in a producer cluster or network that the ERP may have or whether the ERP has a direct or indirect material and continuing proprietary or management interest in another agency or brokerage firm having an ERP appointment to another Servicing Carrier must be identified. Additionally, any new agency affiliations or changes in affiliated agency relationships must be identified. CAR will also perform a review of producer group websites in an attempt to confirm group memberships. Refer to Rule 13.B.5. of CAR's Rules of Operation for additional information.

This information will assist CAR in its evaluation and assessment of the need to redistribute commercial ceded written premium among Servicing Carriers. For additional information relative to redistribution, refer to Chapter II.B. – Servicing Carrier Appointment of this Manual.

2. Commission Payment Requirements

A Servicing Carrier must pay commission to an ERP on ceded commercial business as specified in Rule 18 – Commissions of CAR's Rules of Operation.

3. Additional Commercial Automobile and Taxi and Limousine Program Requirements

In addition to complying with the provisions of CAR's Rules of Operation, a Servicing Carrier is responsible for adhering to the following requirements:

a. Administrative and Account Management Services

- 1) A management level account executive with knowledge of the Program must be assigned and will be responsible for assuring the requirements of the Program, responding to CAR inquiries and meeting with CAR staff and committee representatives.
- 2) Each Servicing Carrier must provide a direct bill program. Servicing Carriers must cooperate with their assigned producers to assure that policyholders are made aware of their option to utilize an installment plan.
 - a) For commercial automobile business, the Servicing Carrier must use an installment payment plan that has been filed with and approved by the Division of Insurance. The plan must include the application of an installment finance charge plan based on an annual percentage rate and no more than a 30% first or deposit payment on or before the policy effective date. The plan must also include that no less than seven monthly payments thereafter must be offered to the insured that chooses to pay in installments.
 - b) For taxi, limousine and car service business, the Servicing Carrier will utilize an installment payment plan that includes a 30% first or deposit payment on or before the policy effective date. Eight subsequent equal installment payments must be offered to the insured. Premium subject to direct billing will be charged a 12% finance charge and premium financed policies will not be eligible for the direct billing payment option. Finance company checks must be made payable to the Servicing Carrier.

b. Underwriting and Technical Services

- 1) A specific taxi, limousine and car service new business and renewal application must be used. Refer to Exhibit III-B-1. The application requires information that is necessary for the proper classification and rating of the policy. A copy of the Hackney License or other municipal document authorizing the operation of a taxi, or license or other municipal document authorizing the operation of a limousine or car service vehicle must be included with the application. For Boston

taxis or any other jurisdiction that utilizes a medallion system, the application must include the taxi medallion number.

- 2) For renewal business, the producer will be required to submit a completed renewal application to the Servicing Carrier within 45 days prior to the policy effective date.
- 3) Within 30 days of the receipt of the application, the Servicing Carrier must mail the policy to the insured. If notified of a dispute relative to the premium charged, reply within 15 days of receiving the notification.
- 4) Assure that all data necessary to properly classify, rate and experience rate ceded policies is reported to CAR in compliance with the Commercial Automobile Statistical Plan and according to approved rules, rates and rating plans as contained in CAR's Commercial Automobile Insurance Manual. Further, to effectively administer the Taxi and Limousine Program, additional data relative to ownership, vehicle, claim, operator and other general information may be required.
- 5) Secure and verify each risk's loss history in order to properly experience rate the risk and distribute the rating calculation and loss information to each eligible policyholder and producer.
- 6) In order to prevent premium leakage, perform pre-audits on risks written on a gross receipts, gross mileage or composite rated basis and on any trucking risk with a cost of hire exposure and five or more power units or the equivalent of exposures if hired by the risk. The audits must be completed within 120 days of the policy effective date. Additional or return premium must be computed in accordance with the results of the audit and with appropriate notification given to the producer and the insured.

c. Claims Management Services

- 1) For risks insured through the Commercial Automobile and Taxi and Limousine Programs, Servicing Carriers must establish claims management procedures in compliance with the provisions of CAR's Rules of Operation and this Manual.
- 2) A Servicing Carrier's Massachusetts claims unit must manage all claims occurring out-of-state.

d. Management Information Systems Services

- 1) Servicing Carriers must provide all data required by CAR's Rules of Operations and this Manual.
- 2) Servicing Carriers must produce any ad hoc reports as may be requested by CAR.

e. Loss Control Services

A Servicing Carrier is expected to provide safety engineering or loss control services as follows:

1) For Commercial Automobile Servicing Carriers

Services must be consistent with best practices and as directed by CAR's Governing Committee. Minimum parameters for the establishment of loss control programs to be made available to qualifying policyholders are as follows:

- a) Program features must include vehicle inspection, driver and equipment evaluation, a review of accident and loss experience, a safety newsletter or other informational mailings.
- b) Upon request, any risk regardless of size will be provided written material concerning loss control. Any risk with five or more power units or the equivalent of such exposure, if hired by the risk, that develops an experience rating debit will be offered a loss control survey.
- c) The results of the loss control survey will include a corrective action plan, safety management feature and, if applicable to the risk, a hazardous material plan.

2) For Taxi Servicing Carriers

For taxi, limousine and car service risks, a Servicing Carrier must:

- a) Offer toll-free phone and fax number to claimants and taxi drivers to encourage the timely reporting of accidents. Establish a toll-free phone number for producers to contact the Servicing Carrier.
- b) Provide self-addressed claim forms to all taxicabs.
- c) Develop a residual market safety program to be made available to any policyholder that requests information on programs designed

to reduce claim frequency. The program must consist of the following:

- i. **Driver Education:** Information regarding safe driving techniques, defensive driving skills, emergency driving skills, inclement weather driving, proper discharge of passengers, and benefits of seat belt usage.
- ii. **Development of Hiring Guidelines:** Instruction on driver selection, performing background and reference checks on potential drivers.
- iii. **Loss Reporting Instructions:** Instruction regarding the timeframes within and procedures by which a claim should be reported, instruction on completion of the claims form, procedures for reporting a bodily injury versus a physical damage claim and coordinating efforts with authorities.
- iv. **Inspection of Vehicles:** Information regarding the performance of a mandatory underwriting inspection on all new business taxicab policies and on their renewal, except that vehicles classified as non-owner operator in the Boston territory are not subject to this requirement. Vehicles classified as limousine or car service are subject to a mandatory inspection at the time a new business policy is written and as necessary thereafter to determine accurate classification and garaging. This type of inspection will assure proper territory and rating classification of each vehicle. Information regarding vehicle pre-inspection, including vehicle safety checks and preventative maintenance will also be included in this program.
- v. **Education on Benefits of Loss Control:** Information regarding the benefits to taxi owners regarding potential future rate reduction due to improved loss experience, upon compliance with the taxi loss control and vehicle safety programs.
- vi. **Audit of Ownership Changes:** Information regarding the mandatory inspection of each new owner's facilities and verification of management control and ownership.

EXHIBIT III-B-1

APPLICATION

Date Completed: _____ Policy Effective Date: _____

PRODUCER INFORMATION:

Producer Name: _____

 Street: _____ City: _____ State: _____ ZIP: _____
 Producer Code: _____ Telephone No: _____

APPLICANT INFORMATION

Named Insured: _____
 Street: _____ City: _____ State: _____ ZIP: _____
 Business Telephone No. _____
 Tax ID No: _____ Social Security No: _____
 Headquarters (if other than above)
 Street: _____ City: _____ State: _____ Zip: _____

OWNERSHIP AND CONTROL OF ORGANIZATION

Named Insured is a; Corporation: _____ Partnership: _____ Sole Proprietor: _____ Other: _____
 State where incorporated: _____ Date of Incorporation _____ Date Operations Commenced: _____

Management, Ownership and Control (list names of Principals and anyone else with 10% or more ownership interest)

	Name	Date in Position	Percent Ownership
President:	_____	_____	_____
Vice President	_____	_____	_____
Secretary	_____	_____	_____
Gen'l. Mgr.	_____	_____	_____
Treasurer	_____	_____	_____
Others	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Affiliated Companies (list all affiliated companies or companies under the same ownership. If more than 5, use Remarks section)

Name	Address
_____	_____
_____	_____
_____	_____

PAYMENT PLAN

Total Estimated Annual Premium \$ _____ Deposit Premium \$ _____
 Full Annual Premium Enclosed Yes _____ Installment Option Yes _____
 Premium Is Financed? Yes _____
 Name and Address of Finance Company _____

EXHIBIT III-B-1
(continued)

OPERATOR INFORMATION

Is vehicle: Owner-Operated? _____ Driven by Employee? _____ Driven by Independent Contractor? _____ Leased? _____
If leased describe conditions of lease: Daily _____ Monthly _____ Other _____ If other, describe the arrangement _____

List all Operators:

Name	Date of Birth	License and State	Hackney License No.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

ACCIDENT INFORMATION

Has applicant or any operator been involved in any motor vehicle accidents in the past 36 months?

Yes _____ No _____

If yes complete the following (if necessary use a separate sheet):

Name of Operator	Accident Date	Place of Accident
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Amount of Loss (Include paid and outstanding amounts)

BI Amount	PD Amount	Physical Damage Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CONVICTION INFORMATION

Has the applicant or any operator had their driver's license or Hackney license suspended or revoked during the preceding 36 months?

Yes _____ No _____

If yes complete the following:

Name	Date	Reason
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Has the applicant or any operator been convicted, paid a fine, or forfeited bail for any moving violation (other than suspension or revocation),

or been assigned to an alcohol education program in the past 36 months?

Yes _____ No _____

If yes complete the following:

Name	Date	Reason
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

PRIOR INSURANCE INFORMATION

Has the applicant failed to pay any automobile insurance premium due or contracted during the preceding 12 months?

Yes _____ No _____

If yes complete the following and provide explanation in the Remarks Section on page 6:

Insurance Company _____ Amount due or in dispute _____

Has any automobile policy or coverage been declined, cancelled or non-renewed during the past three years?

Yes _____ No _____

If yes, explain reason:

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EXHIBIT III-B-1
(continued)

PRIOR CARRIER INFORMATION

List the prior automobile insurance carriers for this company and any affiliated companies for past five years and attach loss statements from the carrier. Use a separate sheet if necessary.

Company Name	Policy Number	Policy Period
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

GENERAL INFORMATION

Explain all 'Yes' responses in the Remarks Section on page 6.

With the exception of Loss Payee are any vehicles not owned solely by the applicant?	Yes _____	No _____
Are there any vehicle owned but not scheduled on this application?	Yes _____	No _____
Does the applicant obtain MVR verifications for listed operators?	Yes _____	No _____
Does the applicant have a specific driver recruiting method?	Yes _____	No _____
Is the applicant subject to the Workers Compensation Act?	Yes _____	No _____
(Include the Company and Policy Number in the Remarks Section on page 6)		
Does the applicant adhere to the specific Safety Program designed for taxi/limo risks?	Yes _____	No _____
Is the applicant object to the Bus Regulatory Act?	Yes _____	No _____
Is an ICC or any other financial responsibility filing required?	Yes _____	No _____
(List all such requirements in the Remarks Section on page 6)		

BUSINESS FUNCTIONS

Indicate the percentage of use for each of the following functions which are applicable to the applicant:

_____ % Street cruising

_____ % Owns and operates radio dispatch service

_____ % Works out of non-owned dispatch service

_____ % Phone calls for general transport

_____ % Regular stand (Train, Bus Station etc.)

_____ % Contract service
(Provide specific details in Remarks Section)

_____ % Transportation to/from Airport(s)
(Provide locations in Remarks Section on page 6)

_____ % Prearranged special events such as Weddings, Proms, etc.

Customers

Indicate percentage of customers which are:

_____ % General Public

_____ % Specialized (Elderly, Children, Special Needs, Package Delivery, etc.)
(Provide Specific details in the Remarks Section on page 6)

EXHIBIT III-B-1
(continued)

VEHICLE DESCRIPTION

No. Year Make, Model, Body Type		VIN		
City(s), State Where Operated	Seating Capacity	Radius of Operation	Cost New	Class Code
City(s) Where Licensed	License or Permit Number	Medallion Number		

No. Year Make, Model, Body Type		VIN		
City(s), State Where Operated	Seating Capacity	Radius of Operation	Cost New	Class Code
City(s) Where Licensed	License or Permit Number	Medallion Number		

No. Year Make, Model, Body Type		VIN		
City(s), State Where Operated	Seating Capacity	Radius of Operation	Cost New	Class Code
City(s) Where Licensed	License or Permit Number	Medallion Number		

No. Year Make, Model, Body Type		VIN		
City(s), State Where Operated	Seating Capacity	Radius of Operation	Cost New	Class Code
City(s) Where Licensed	License or Permit Number	Medallion Number		

No. Year Make, Model, Body Type		VIN		
City(s), State Where Operated	Seating Capacity	Radius of Operation	Cost New	Class Code
City(s) Where Licensed	License or Permit Number	Medallion Number		

Loss Payee/Additional Interests

No.	Name and Address

EXHIBIT III-B-1
(continued)

COVERAGE SELECTION

Coverage Type	Limit of Liability	Vehicle No.
A Compulsory		
A-1 Bodily Injury	\$20,000 each person \$40,000 each accident	_____
A-2 Personal Injury Protection	\$8,000 each person	_____
<hr/>		
B Bodily Injury Other than Statutory	\$ _____ each person	_____
Minimum Limit \$20,000/\$40,000	\$ _____ each accident	_____
<hr/>		
C Property Damage Liability		
Mandatory \$5,000	\$ _____ each accident	_____
<hr/>		
D Medical Payments Optional		
Maximum \$5,000	\$ _____ each person	_____
<hr/>		
E Comprehensive	ACV less \$ _____ deductible Glass Deductible \$100 Deductible Yes _____	_____
<hr/>		
F Loss of Use - Rental Reimbursement		
Maximum \$30 per day	\$ _____ per day	_____
<hr/>		
G Fire	ACV less \$ _____ deductible Glass Deductible \$100 Deductible Yes _____	_____
<hr/>		
H Fire & Theft	ACV less \$ _____ deductible Glass Deductible \$100 Deductible Yes _____	_____
<hr/>		
I Fire, Theft & CAC	ACV less \$ _____ deductible Glass Deductible \$100 Deductible Yes _____	_____
<hr/>		
L Collision		
Waiver of Deductible Yes _____ No _____	\$ _____ deductible	_____
<hr/>		
M Limited Collision		
Waiver of Deductible Yes _____ No _____	\$ _____ deductible	_____
Full Coverage Yes _____ No _____		_____
<hr/>		
U1 Uninsured Motorist Coverage		
Mandatory \$20,000/\$40,000	\$ _____ each person	_____
	\$ _____ each accident	_____
<hr/>		
U2 Underinsured Motorist Coverage		
	\$ _____ each person	_____
	\$ _____ each accident	_____

EXHIBIT III-B-1
(continued)

REMARKS:

The Fair Credit Reporting Act

In connection with your application for insurance and as part of our normal underwriting procedure, an investigative consumer report may be obtained, including, if applicable, information as to character, general reputation, personal characteristics and mode of living. This information is obtained through personal interviews with your friends, neighbors and business associates. Upon written request, received within a reasonable timeframe, additional detailed information concerning the nature and scope of this investigation will be provided.

I hereby declare that I have read all of the statements contained in this application and they are complete and true as of this date. The coverage and limits I requested are as indicated in the application.

Date: _____ Signature of Applicant: _____

The information contained in this application is as told to me by the applicant and is true and complete to the best of my knowledge.

Date: _____ Signature of Producer: _____

C. Termination of Exclusive Representative Producer Contracts

1. Termination by a Servicing Carrier

- a. In accordance with Rule 13.B.6. – Servicing Carrier Requirements, a Servicing Carrier may terminate an ERP contract and authority to bind coverage upon failure of the ERP to meet the eligibility requirements and/or definition of ERP as provided by the Rules of Operation or upon failure of the ERP to fulfill any of the requirements specified in Rule 14.B.1. – Exclusive Representative Producer Requirements.
- b. In order to adequately advise the ERP of the termination and satisfy due process, a notice of termination of an ERP contract must contain sufficient facts and supporting documentation to establish the basis for the termination. At a minimum, a notice of termination of an ERP contract issued by a Servicing Carrier must:
 - 1) Be in writing.
 - 2) State the specific CAR Rule provision(s) that constitute the basis for the termination.
 - 3) Define changes in operational procedures, if any, that the Servicing Carrier intends to implement upon the ERP's receipt of the notice.
 - 4) Advise the ERP of the right to request that the termination be reviewed by CAR, pursuant to Rule 14.H. and include a copy of CAR's "Request for Review/Relief" form.
 - 5) Be hand delivered or mailed by a method that provides proof of mail to the ERP's principal place of business, with a copy of the termination sent to CAR and the Division of Insurance.
 - 6) Identify the specific provision(s) in the ERP contract, if any, that have been violated and constitute the basis for the termination.
- c. If, pursuant to Rules 14 and 20, the ERP requests a review by CAR of the termination, the Servicing Carrier must provide CAR with a copy of any documents and materials referenced in the notice of termination, including, if applicable, the ERP contract. Such documents and materials will become part of the record considered by the reviewing committee(s).

2. Request for Review of a Termination

- a. Pursuant to Rule 14 – Exclusive Representative Producer Requirements, an ERP may request review of a Servicing Carrier’s termination of his or her ERP contract by submitting a completed “Request for Review/Relief” form to CAR. The completed “Request for Review/Relief” form must be received by CAR within 30 calendar days of the delivery of the termination notice.
- b. The receipt by CAR of a completed “Request for Review/Relief” form will stay the ERP’s termination until the ERP has exhausted all appeal rights pursuant to Rule 20 – Review and Appeal. However, any reviewing committee may lift the stay if such stay is not in the best interests of the motoring public.
 - 1) During any stay, Servicing Carriers are not to issue non-renewal notices to the ERP’s customers.
 - 2) During any stay, any operational procedures implemented by the Servicing Carrier pursuant to the notice of termination will remain in effect until they are reviewed by the Market Review Committee.
 - 3) CAR will not decertify the ERP as an Assigned Risk Producer until such time as the ERP has exhausted his or her appeal rights under Rules 14 and 20, or such rights are waived.
- c. The matter will be reviewed initially by the Market Review Committee. Following a decision by the Market Review Committee, a subsequent review by the Governing Committee Review Panel may be requested pursuant to Rule 20 – Review and Appeal. These committees will be convened within 15 business days from CAR’s receipt of the completed “Request for Review/Relief” form, unless the aggrieved ERP waives the 15-day requirement. Each party may, but is not required to, be represented by counsel in connection with the review of the termination.
- d. Any formal ruling of the Governing Committee (including a ruling by the Governing Committee Review Panel as its designee) may be appealed to the Commissioner pursuant to Rule 20 – Review and Appeal by filing a notice of appeal with CAR and the Commissioner within 30 days of the ruling. The ruling of the Governing Committee will remain in full effect unless otherwise directed by the Commissioner.
- e. Written Materials
 - 1) Any written materials to be considered by the reviewing committee must be submitted to CAR’s Docket Clerk no later than 12:00 p.m., 5

business days prior to the scheduled meeting date. Timely submitted materials will be docketed by CAR and distributed to the reviewing committee as soon as practicable.

- 2) Written materials submitted to CAR after 12:00 p.m. on the 5th business day prior to the scheduled meeting date will not be entered on the docket, but the submitting party may petition the reviewing committee directly for consideration of such materials. The reviewing committee has the discretion to determine whether such materials will be considered in its deliberations.
- 3) Parties who petition the reviewing committee for the submission of materials are expected to be prepared to provide a minimum of 25 copies at the meeting. Parties should provide copies of ALL written materials that they wish considered in the matter to the opposing party in concert with their submission(s) to CAR and/or the reviewing committee.

3. Guidance for Reviewing Committees

In the event that an ERP requests that the termination of his or her ERP contract be reviewed, the reviewing committee(s) should be guided by the following principles.

a. Foundation for Review

- 1) Upon receipt of a request for review of the termination of an ERP contract, the matter will be docketed by CAR's Docket Clerk.
 - (a) CAR staff, with the assistance of counsel (if directed by CAR's President), will perform a quality check and review the notice of termination, as well as any documentation and materials submitted by the Servicing Carrier, to ascertain whether the Servicing Carrier has complied with Rule 13 – Servicing Carrier Requirements in issuing the notice of termination. CAR staff will not evaluate the amount of information purportedly supporting the termination or make any determination regarding the merits of the termination, or the credibility or probative value of any information submitted to CAR.
 - (b) During its review of the notice of termination, if CAR staff identifies any deficiencies, CAR staff will inform the Servicing Carrier and the ERP of such deficiencies. However, CAR staff will not review the quantum of supporting documentation.

- 2) CAR staff (or counsel if appropriate), will open the meeting of Market Review Committee (and the Governing Committee Review Panel if there is a subsequent request for review) by framing the issue for review and providing a summary of the procedural history of the matter, including information about the notice of termination and its compliance with the requirements contained in Rule 13 – Servicing Carrier Requirement and the ERP’s request for review.

b. Scope and Standard of Review

- 1) Any operational procedures implemented by the Servicing Carrier pursuant to the notice of termination will be reviewed by the Market Review Committee to determine whether each such operational procedure is in the best interest of the motoring public and should remain in effect during a stay of the termination. Any party aggrieved by the Market Review Committee’s decision with respect to operational procedures may request further review by the Governing Committee Review Panel pursuant to Rule 20 – Review and Appeal.
- 2) The Market Review Committee (and the Governing Committee Review Panel if there is a subsequent request for review) will consider whether the termination should be upheld based on the grounds stated in the notice of termination, and not on any grounds that were not articulated in the notice of termination. The ERP’s conduct in connection with the MAIP or any business other than residual market commercial motor vehicle insurance will not be considered in the review of the Servicing Carrier’s termination of the ERP contract.
- 3) Although CAR staff will perform a quality check and review of the notice of termination and supporting documentation, the reviewing committee is expected to expressly consider the adequacy of the notice of termination and the evidentiary support offered with respect to each claimed basis for termination.
- 4) The Market Review Committee (and the Governing Committee Review Panel if there is a subsequent request for review) is expected to deliberate on each alleged violation that was the basis of the Servicing Carrier’s termination of the ERP contract and, when multiple violations have been alleged, to determine whether each one separately is a valid basis for termination. Pursuant to Rule 20 – Review and Appeal, the reviewing committee should decide whether the termination is an unfair, unreasonable or improper practice.

- 5) In the event that the termination is not upheld, the Market Review Committee (or the Governing Committee Review Panel if there is a subsequent request for review) may defer a finding and establish a probationary period for the ERP and determine which operational procedures, if any, should remain in place during the probationary period. The reviewing committee may establish the probationary period subject to the condition that if any documented transgressions of the same type that formed the basis for the notice of termination or violations of the operational procedures are reported, the termination will be upheld.
- 6) In the event of a request for review of a decision of the Market Review Committee, the Governing Committee Review Panel will review the matter *de novo*. The Governing Committee Review Panel may consider the Market Review Committee's decision but is not bound by it. The Governing Committee Review Panel is entitled to hear statements from the parties and to review additional materials that were not necessarily before the Market Review Committee. If documentation is considered by the Governing Committee Review Panel that was not before the Market Review Committee, the Governing Committee Review Panel should re-examine the action by the Market Review Committee in light of such new documentation.

D. Servicing Carrier Reimbursement of Premium and Extraordinary Expenses as a Result of an Exclusive Representative Producer Default

When an ERP collects premium from an insured, but fails to remit all or part of the premium to the Servicing Carrier, or there is unearned commission due the Servicing Carrier as a result of termination of the ERP, a Servicing Carrier may petition CAR for reimbursement. A petition for reimbursement will only be considered if the premium or unearned commission owed is from an Exclusive Representative Producer that does not have a voluntary contract to write automobile insurance with the petitioning Servicing Carrier.

An advisory committee will be appointed to review a Servicing Carrier's petition for reimbursement and will make a recommendation to CAR's Governing Committee as to whether the Servicing Carrier is entitled to reimbursement. Reimbursement of defaulted premium and extraordinary expenses will be reviewed on an individual case basis.

- 3) In support of its petition for reimbursement, the Servicing Carrier must demonstrate that sound business practices and procedures, particularly those relative to premium collection practices, were in place and that at a minimum, the following procedures were followed:

a) Prior to Default of the ERP:

- (1) An agreement between the Servicing Carrier and the ERP relative to required premium collection and payment procedures was in place;
- (2) The Servicing Carrier had monitored the timely submission of applications by the ERP;
- (3) The Servicing Carrier had maintained communication with the ERP through agency visits, accounting briefings and other means to provide the ERP with an understanding of company procedures;
- (4) If the ERP had a history or evidence of collection and payment problems, procedures had been put in place by the Servicing Carrier to monitor ERP compliance. Such procedures may include, but are not limited to, regular agency visits and the strict monitoring of timely premium remittances.

b) After Default of the ERP:

- (1) The Servicing Carrier had used reasonable premium collection practices including, but not limited to, the following:
 - (a) Providing proof of cancellation or audit letters to all impacted insureds;
 - (b) Submitting a demand notice to the Exclusive Representative Producer;
 - (c) Providing notice to the Commissioner of Insurance and CAR;
 - (d) Taking legal action to recover the premium dollars at issue as well as company supplies;
- (2) The Servicing Carrier had made reasonable provisions to service the policyholders affected.

2. To determine the form and amount of recommended reimbursement, the following should be considered:

- a) Policies for which the insured has presented proof of payment versus cancelled coverage.
- b) Net loss versus gross premium (net of commission).

3. Other Considerations for Reimbursement

Other recommended considerations for reimbursement shall include, but are not limited to, the following:

- a) In some cases, appropriate legal steps to preclude further opportunity for fraud may be required, such as action under G.L. c. 175, §176.
- b) Reimbursement may be made to the Servicing Carrier in the amount requested less the expected amount to be realized from the sale of the agency. The amount of reduction shall be based on:
 - (1) The number of policies/vehicles currently contained in the ERP's book of business.
 - (2) The current market rate of agency sales based on agency size and location

However, if the sale of the agency has not been effected within six months of the approved initial reimbursement, the Servicing Carrier may be reimbursed fully if it can satisfy the Committee that it has diligently pursued a sale.

Prior to any recommendation being made to the Governing Committee, verification that all premium subject to reimbursement has been properly reported to CAR will be made.

4. In instances where an ERP is determined to be in default and the Servicing Carrier incurs extraordinary expenses in handling the default, the Servicing Carrier may subsequently petition CAR for reimbursement of these expenses. Expenses may include: professional services such as attorneys, auditors, serving of legal papers, etc. Prior to contracting these services, the Servicing Carrier must complete the Servicing Carrier Request for Reimbursement of Extraordinary Expenses (Exhibit III-D-1) and obtain approval from CAR.

In support of its petition for reimbursement of extraordinary expenses incurred, the Servicing Carrier must demonstrate that it acted in a timely manner to cure the default and has taken action to attach the assets of the agency. In addition the Servicing Carrier must also ensure that all reasonable precautions have been taken to prevent continued violations by the ERP.

The Servicing Carrier must submit to CAR, the name of any counsel retained for the purpose of litigating a default by an ERP, along with a synopsis of that counsel's experience in handling similar matters for the

purpose of evaluating the reasonableness of any charges or fees to be paid to retained counsel. The Servicing Carrier should further advise CAR of the details of any fee arrangement.

EXHIBIT III-D-1

Servicing Carrier Request for Reimbursement of Extraordinary Expenses
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1. Exclusive Representative Producer

2. Amount of default

3. Date company became aware of default

4. Name of legal firm retained

5. Name of attorney handling default

6. Has this firm and/or attorney previously handled a default?

 If yes, for which company?

 Name of Broker

7. Method of billing by the attorney(s)
 - a. Contingency fee based on recovered premiums and commission
 - b. Per hour or part thereof/principal attorney or paralegal staff
 - c. Estimated total extraordinary expense to be incurred

8. Check action(s) taken:
 - a. License revocation proceedings Yes [] No [] Date: _____

 - b. Have steps been taken to attach assets? (i.e., bank accounts, R.E., etc.)
 Yes [] No [] Date: ____ Court: _____

 - c. Has the company attempted to see the agency?
 Yes [] No [] To whom: _____

 - d. Have steps taken to protect company's interests?

9. Is the Exclusive Representative Producer represented by an attorney?

10. Is the Exclusive Representative Producer still conducting business at the same or another location?

 Yes [] No [] Indicate other location, if applicable