

**COMMONWEALTH AUTOMOBILE  
REINSURERS**

**RULES OF  
OPERATION**

**2002**

**REVISED THROUGH October 21, 2002**

**100 SUMMER STREET  
BOSTON, MA 02110**

**Commonwealth Automobile Reinsurers  
Rules of Operation  
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**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 1 - General Provisions**

These Rules of Operation are adopted in accordance with the Plan of Operation in order to carry out the provisions of the Plan of Operation and shall apply to all motor vehicle insurance policies issued to be effective on and after January 1, 1984.

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**Rule 2 - Definitions**

When used in these Rules and the Plan of Operation, the following words shall have the stated meanings:

**ALL OTHER MOTOR VEHICLE** means any insurable motor vehicle not included in the definition of Private Passenger Motor Vehicle.

**CAR** means Commonwealth Automobile Reinsurers.

**CAR YEAR OF EXPOSURE** means one car insured for twelve months.

**COMMISSIONER** means the Commissioner of Insurance of Massachusetts.

**ELIGIBLE RISK** means (1) Private Passenger - any person who qualifies for a motor vehicle insurance policy under the provisions of Section 113H, and Section 193R of Chapter 175 of the Massachusetts General Laws; (2) All Other - any person which has its principal place of business within the Commonwealth of Massachusetts and which is required by a financial responsibility law as enacted by the legislature of any State or of the United States or by any valid regulation of the Interstate Commerce Commission, United States Department of Transportation, or the Massachusetts Department of Public Utilities to maintain motor vehicle insurance with respect to vehicles owned or leased by it, and registered within or outside of the Commonwealth of Massachusetts. Ordinances or Bylaws, as enacted by any political subdivision of any State, shall not for the purposes of determining eligibility be considered as a financial responsibility law. With respect to both (1) and (2), physical damage coverages are eligible for cession to CAR only when written in conjunction with statutory coverages for the same vehicle. With respect to both (1) and (2), pursuant to Section 113U of Chapter 175 of the Massachusetts General Laws, Antique Vehicles do not qualify as an eligible risk.

**EXCLUSIVE REPRESENTATIVE PRODUCER** means a person licensed as a fire or casualty insurance agent or broker pursuant to G.L., Chapter 175, Section 163 or 166, who has a place of business in Massachusetts and who does not have any existing voluntary agency relationship with a Servicing Carrier of CAR for motor vehicle insurance, and who has been appointed by the Governing Committee or its designee to a Servicing Carrier to immediately certify motor vehicle insurance policies. Nonresident licensed agents or brokers with a place of business in any state contiguous to Massachusetts may apply to CAR for appointment as an Exclusive Representative Producer. For purposes of this definition and for calendar year 1990 only, "Servicing Carrier" shall mean only those carriers which were Servicing Carriers during calendar year 1989.

**INACTIVE MEMBER**, Subject to CAR Rule 3A, "INACTIVE MEMBER" is any insurer which is licensed to write motor vehicle insurance policies or bonds in Massachusetts, but which did not, in fact, issue any motor vehicle insurance policies or bonds in Massachusetts during the most recent calendar year and which is not the issuing company on any outstanding Massachusetts motor vehicle insurance policies or bonds.

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**INSURER** means any corporation, association, partnership or individual licensed to write motor vehicle insurance in Massachusetts.

**MANUAL OF ADMINISTRATIVE PROCEDURES** means the Manual of Administrative Procedures of CAR.

**MEMBER** means any insurer which is licensed to write motor vehicle insurance policies or bonds in Massachusetts and which does not qualify for inactive membership status. Groups of companies under the same ownership and management will be treated as a single Member. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single Member.

**MOTOR VEHICLE INSURANCE** means direct insurance against injury or damage, including the legal liability therefore, arising out of the ownership, operation, maintenance or use of motor vehicles, including but not limited to bodily injury liability insurance, personal injury protection insurance, property damage liability insurance, physical damage insurance, medical payments insurance, uninsured/underinsured motorists insurance and towing and labor insurance.

**NEWLY EMERGING COMPANY** means a company duly licensed by the Commonwealth of Massachusetts for the purpose of insuring against physical damage and liability arising from the ownership of motor vehicle(s); which company, at the time of its licensure to write physical damage or liability coverages in the Commonwealth of Massachusetts has neither: previously written both physical damage and liability coverages for private passenger and "all other" classifications in the Commonwealth of Massachusetts, nor assumed the assets and/or liabilities of another insurer writing motor vehicle insurance in the Commonwealth of Massachusetts, and is not, at any time, a part of, or controlled by, any insurer or group of insurers which has previously written physical damage or liability insurance in the United States or in Canada.

This definition shall apply to companies becoming members of CAR subsequent to the effective date of the Rule change, as approved by the Commissioner of Insurance.

**NEWLY WRITING COMPANY** means any member which does not qualify as a Newly Emerging Company and which did not write physical damage and/or liability coverages for private passenger and/or all other motor vehicles in the Commonwealth of Massachusetts in 1982.

**PERSON** means every natural person, firm, co-partnership, association, corporation, government or agency thereof.

**PLAN OF OPERATION or PLAN** means the Plan of Operation of CAR.

## Rules of Operation

### Rule 2 - Definitions

**PRINCIPAL PLACE OF BUSINESS** as it applies to the definition of an eligible risk, the term "principal place of business" is defined as the chief or usual place of business. It is the head office, the place where the principal officers generally transact business and the place to which reports are made and from which orders emanate. It is also the place where the corporate functions are performed. It is where executive offices are located and corporate decisions are made.

The burden of proof with regard to the location of the principal place of business, consistent with the definition as stated above, lies with the applicant who seeks to qualify as an eligible risk.

#### **PRIVATE PASSENGER MOTOR VEHICLE**

- A. A motor vehicle of the private passenger or station wagon type that is owned or leased under contract for a continuous period of at least twelve months by one or more individuals, excluding partnerships and corporations, and is not used as a public or livery conveyance for passengers nor rented to others.
- B. A motor vehicle with a pick-up body, a sedan delivery, a van, a panel truck, or similar type vehicles with a load capacity of 1,500 pounds or less that is owned or leased under contract for a continuous period of at least twelve months by one or more individuals, excluding partnerships and corporations, not used in the occupation, profession or business of the insured.

**REPRESENTATIVE PRODUCER** means a person licensed as a fire or casualty insurance agent or broker pursuant to Massachusetts General Laws, Chapter 175, Section 163, or Section 166, who has a place of business in Massachusetts and who has been appointed by the Governing Committee, or its designee, to a Servicing Carrier to immediately certify motor vehicle insurance policies and who has executed a contract with the Servicing Carrier. A nonresident licensed agent authorized by a Servicing Carrier to certify Massachusetts motor vehicle policies may apply to the Governing Committee for appointment as a Representative Producer of such Servicing Carrier, provided all requirements of Rule 14 have been satisfied.

**RULES OF OPERATION or RULES or RULE** means the Rules of Operation of CAR or a Rule of CAR.

**SERVICING CARRIER** means a Member which has been appointed pursuant to the Plan and Rules of Operation to issue motor vehicle insurance policies at the request of a Representative Producer. Where a company within a group under the same management writes exclusively private passenger type motor vehicle insurance and another company within that same group writes exclusively all other type motor vehicle insurance, those companies shall be considered as one Servicing Carrier for purposes of this definition.

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**Rules of Operation**

**Rule 3 - Obligations of Members**

- A. Every Member shall be bound by the Plan of Operation and all Rules adopted pursuant to it.
- B. 1. Each Member shall pay an annual fee of \$500, which shall be credited to the expense of operating CAR.
2. Each Member agrees to pay assessments levied against it for losses or expenses or any combination thereof incurred under policies issued through CAR by a Servicing Carrier; to pay assessments levied against it for the operating expenses of CAR; to pay penalties levied against it under the Rules adopted by the Governing Committee; and to submit in a timely and accurate fashion all statistics, records and accountings required by CAR.
3. Each Member, in recognition of the absolute necessity for timely payments of balances owed CAR in order for the Plan to remain solvent as respects balances due to Members from CAR, shall pay late payment fees at the prime rate as established by the First National Bank of Boston compounded monthly for late payment of any assessment or late payment fees levied in accordance with the Plan or Rules of Operation. Each Member shall also compensate CAR for all damages and expenses incurred by CAR as a result of the failure of any Member to pay any balance owed CAR pursuant to the provisions of Rule 3 or 11, which balance remains unpaid as of the tenth calendar day following the invoice due date, written notice of the default having been mailed by certified mail to the company by CAR on or after the first business day following the invoice due date. Damages and expenses as used herein shall include but not be limited to CAR's attorney's fees incurred directly or indirectly with the collection of the balance due, all costs of borrowing incurred as a result of the nonpayment, the cost of all staff time spent in connection with staff efforts to collect the balance outstanding, all financial losses resulting from nonpayment and all other expenses and losses relating thereto.
4. Any Member shall be entitled to appeal to the Governing Committee any assessment, or late payment fees, damages or expenses which were levied in accordance with the Plan or Rules of Operation. However, the Member will be required to pay the amount billed by CAR before such appeals will be considered. If the Governing Committee rules in favor of the Member, a proper adjustment, including interest at the prime rate and any damages and expenses assessed, will be made by CAR to the Member's account. Before exercising any other right of appeal provided pursuant to M.G.L., Chapter 175, Section 113H, the Plan or Rules of Operation of CAR, the Member shall pay all amounts owed to CAR.

With respect to Members which have failed to pay assessments, late payment fees or compensatory damages or expenses within forty-five (45) calendar days of the postmark date of the overdue payment notice, a report will be submitted to the Division of Insurance setting forth the fact of such nonpayment for its consideration and, if it deems appropriate, action.

**Rules of Operation**

**Rule 3 - Obligations of Members**

- C. When a Member is merged or consolidated into another insurer, or another insurer has reinsured a Member's entire motor vehicle insurance business in Massachusetts, such Member and its successor in interest or such other insurer shall be liable for such Member's obligations hereunder.

In the event a Member effects a transfer which results solely in the transfer of its obligations for issuing Massachusetts private passenger motor vehicle insurance policies or bonds to another Member for subsequent policy years, then upon said transfer the transferring Member shall be relieved of any future obligations which would have otherwise arisen as a consequence of the business transferred. Beginning with the policy year in which the transfer takes place, the participation obligations of the Member receiving the transfer shall be determined as specified in Rule 11, B, 1, provided however that the pre-credit "1989-PR" ratio, the minimum allowable exposures from subsection 11, B, 1, b, (2), and the lagged voluntary agent market share from subsection 11, B, 1, b, (3), of the transferring Member shall be added to the corresponding ratio, exposures, and market share of the Member receiving the transfer. For the five (5) policy years subsequent to the year in which such a transfer of obligations is made, only 15% of the private passenger motor vehicle insurance policies or bonds transferred shall be eligible for cession to CAR.

If the transfer of coverages described herein involves a transfer of Exclusive Representative Producers which will either cause or increase Exclusive Representative Producer oversubscription for the Member to which the coverages have been transferred, then the number of Exclusive Representative Producers of the transferring Member that either causes or increases the oversubscription shall be reassigned to other Member companies in accordance with CAR's then approved procedure for such reassignment.

Voluntary agents, Representative Producers or Exclusive Representative Producers who, as of the effective date of transfer, had been authorized to bind Massachusetts private passenger motor vehicle insurance coverages with the transferring Member shall not be subject to contract modification or cancellation of the authority to bind such coverages by the Member to which said obligations have been transferred for a period of five (5) years following said transfer; provided however, that nothing set forth herein shall prohibit the cancellation of an Exclusive Representative Producer pursuant to the provisions of Rule 14 subject to approval by CAR and, where applicable, the Commissioner; and provided further that a representative producer may be canceled for causes approved by the Commissioner.

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**Rule 3 - Obligations of Members**

- D. A Member may terminate its membership in CAR as of the close of CAR's fiscal year upon the surrendering of its license to write motor vehicle insurance policies or bonds in Massachusetts. Terminations of membership shall not discharge or otherwise affect liabilities of the Member incurred prior to the termination of membership or in any way affect the Member's obligation to make payments pursuant to the provisions of CAR Rule 11 - ASSESSMENTS AND PARTICIPATION, and the Member shall be charged or credited in due course with its proper share of all premium, losses and expenses allocable to it under the Rules of Operation.
- E. If any Member is declared insolvent by a court of competent jurisdiction, its membership in CAR shall terminate as of the date it is declared insolvent, but it shall be liable to CAR for all obligations incurred under the Plan or these Rules prior to the date it is declared insolvent. CAR shall compute the amount of such obligations in accordance with these Rules and shall be entitled to offset any liabilities of the Member to CAR against any liabilities of CAR to the Member.
- Any unsatisfied net liability of an insolvent Member shall be assumed by and apportioned among the remaining Members of CAR in the same manner in which underwriting results are apportioned by CAR. CAR shall have all rights allowed by law on behalf of the remaining Members against the estate or funds of such insolvent Member for sums due CAR.
- F. No judgment against CAR shall create any direct liability against the individual Members.
- G. There shall be an annual meeting of the Members of CAR, which shall be held within seventy-five days of the end of the fiscal year at such time and place as is determined by the Governing Committee and specified in the notice of meeting.
- H. Special meetings of the Members of CAR shall be called at any time by the Governing Committee upon the written request of eight members of the Governing Committee.
- I. Written notice of any such meeting of the Members of CAR shall be mailed to each Member at least ten days before the date fixed for such meeting stating the purpose of the meeting.
- J. Minutes of all such meetings of the Members of CAR shall be sent to all Members, the Governing Committee, agent associations, and the Commissioner.

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**Rule 3A - Obligations of Inactive Members**

An Inactive Member shall pay a reduced membership fee of \$100 and will receive those CAR's mailings which are required by Article X of the Plan of Operation or which otherwise emanate from the Massachusetts Division of Insurance. Inactive Members will not be furnished with other CAR Bulletins and will not be assigned reporting numbers. Inactive Members must abide by the Plan of Operation and Rules of Operation of CAR. No Member may become an Inactive Member as defined in these Rules until such time as it has fulfilled all obligations set forth in CAR Rule 11 - ASSESSMENTS AND PARTICIPATION. At such time as an Inactive Member issues a motor vehicle insurance policy or bond in Massachusetts, it must request that a reporting number be assigned to it and at that time, it must fully assume the obligations of a Member.

## Rules of Operation

### Rule 4 - Governing Committee

- A. The Governing Committee shall have responsibility for the administration of CAR, including the preparation and filing of the Plan and Rules of Operation and the adoption and filing of any amendments to the Rules or Plan of Operation.
- B. Any member of the Governing Committee may designate an alternate for any meeting of the Governing Committee by giving notice to the Commissioner and CAR of the name of such alternate prior to the meeting, subject to the approval of the Commissioner. In addition, all members of the Governing Committee shall designate, subject to the approval of the Commissioner, an alternate who may attend one meeting of the Governing Committee during each calendar year without prior approval of the Commissioner for the specific meeting.
- C. The Governing Committee shall have the following powers:
1. To select at the annual meeting a Chairman and Vice-Chairman of the Committee in accordance with the following procedures:

The position of Chairman and Vice-Chairman shall be rotated annually between those chosen from insurance companies and those chosen from producers of insurance, provided the Committee may elect an incumbent Chairman and/or an incumbent Vice-Chairman to a second one year term or, if the incumbent has served for less than a full year, to one new term of one year, regardless of his (her) predecessor. At no time shall the Chairman and Vice-Chairman both be insurer members or producer members of the Committee. No person may serve more than two consecutive terms as Chairman of the Committee. In the event the Chairman is unable to complete his (her) term, the Vice-Chairman shall become Chairman, at which time the Committee shall elect a new Vice-Chairman;

- a. To appoint and remove the officers of CAR, subject to the approval of the Commissioner, and fix their salaries within the ranges established for the position. After an appointment has been approved, the Commissioner may instruct the Governing Committee to remove the officer for cause only. Salary ranges for officers shall be established by the Governing Committee, subject to the approval of the Commissioner, at a level which is consistent with the level of salaries in public sector organizations in Massachusetts.
  - b. To appoint or employ others as is necessary to carry out the business of CAR;
3. To authorize contracts as necessary to provide space, equipment and services for CAR;
4. To appoint standing or temporary subcommittees in consultation with the Commissioner for purposes of assuring that subcommittees fairly represent the Member Companies and producers, with due consideration given to the existence of expertise appropriate for the subcommittee in question. No individual may serve as Chairperson of more than two standing subcommittees.

**Rules of Operation**

**Rule 4 - Governing Committee**

5. To prepare a Manual of Administrative Procedures which shall contain instructions for the statistical recording and reporting of CAR business; auditing and claim review procedures; and other pertinent information;
  6. To levy assessments on the Members as necessary for the operating expenses of CAR;
  7. To assess penalties as provided for in the Rules of Operation or Manual of Administrative Procedures with respect to overdue payment of Member's share of CAR participation;
  8. To appoint Servicing Carriers who meet the eligibility requirements within these Rules;
  9. To apportion the underwriting results of CAR among the Members and to levy assessments or make such distributions as are appropriate for such apportionment in accordance with the Plan and the Rules of Operation;
  10. To distribute an annual report and minutes of the Annual Meeting of the Governing Committee to the Commissioner, to Members and to Producer Representatives serving on any committee;
  11. To file manuals of classifications, rules, rates, rating plans and policy forms with the Commissioner, as may be permitted or required by law;
  12. To initiate or defend legal actions in the name of CAR on behalf of the Members;
  13. To take any other action it deems necessary or appropriate for efficient and effective operation of CAR consistent with the purpose and intent of CAR.
- D. The Governing Committee shall hold an Annual Meeting in conjunction with the Annual Meeting of the Members and shall report a summary of the previous fiscal year's activities at that time.
- E. The Governing Committee shall hold additional meetings as necessary when called by the Chairman, by the Commissioner, or upon written petition of four members of the Governing Committee. No meeting shall be held with less than ten days' notice unless at least eight members of the Committee waive the notice requirement, which waiver shall be entered in the minutes of the meeting.
- F. Agendas for meetings shall be furnished all members of the Governing Committee and to the Commissioner with the notice of such meeting. Only items specifically listed on the agenda will be considered unless two-thirds of the members of the Committee present vote for admission of each additional item.

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**Rule 4 - Governing Committee**

- G. A quorum of the Governing Committee shall consist of eight members, at least two of which are insurer members and two of which are producer members. No vote of the Governing Committee shall be taken unless a quorum is present.
- H. Before the Governing Committee takes final action on a matter that has a direct impact on any member company's subscription level or deficit participation, the final text of the motion to be considered will be provided to all members, at least twenty (20) calendar days prior to the scheduled Governing Committee action, unless ten (10) members of the Governing Committee vote to waive the twenty (20) day requirement. The text of the motion, sent to member companies, will be accompanied by an explanation. Any such action taken by the Governing Committee will not take effect for twenty (20) calendar days, unless ten (10) members of the Governing Committee vote that the action will be effective immediately. Any party aggrieved by the action may appeal to the Commissioner of Insurance pursuant to Rule 20, B.
- I. No member of the Governing Committee shall be permitted to vote by proxy.
- J. All Governing Committee meetings shall be subject to the provisions of Massachusetts General Laws, Chapter 30A, Section 11A1/2. Upon a two-thirds vote of the members of the Governing Committee present and voting, the Governing Committee may meet in executive session, as permitted by said Section 11A1/2.

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**Rule 5 - Commonwealth Automobile Reinsurers Officers**

The officers of CAR shall include a President, a Vice President-Claims, a Vice President-Administration, and Auditor and such other officers as the Governing Committee may authorize. The position description of the above officers will be contained in the Personnel Manual under the jurisdiction of the Governing Committee. The Personnel Manual will also contain information regarding the term of office and salary ranges of the officers.

The President shall preside at all meetings of CAR membership and attend meetings of its committees of which he is a member ex officio, and perform such other duties as may be designated by the Governing Committee.

The President shall be responsible for all property of CAR, shall receive and carefully keep all monies of CAR, disburse the same only for the business of CAR and shall account to the Governing Committee for all such disbursements.

The President, or such other person as the Governing Committee may appoint, may sign and endorse in the name and on behalf of CAR in the transaction of its business, but not otherwise, checks, drafts, notes, and bills of exchange, subject to such countersignature as the Governing Committee may determine.

The President, or such other person as the Governing Committee may appoint, shall make such filings with the Commissioner on behalf of CAR as may be directed by the Governing Committee.

In the absence or inability to act of the President, the Governing Committee shall designate another officer of CAR to act as President, with all the powers and duties conferred upon the President by the Plan and the Rules of Operation.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 6 - Coverages**

Policies of an Eligible Risk as defined in Rule 2 written by a Servicing Carrier of CAR may provide for private passenger motor vehicles, and shall upon request provide for all other motor vehicles, coverage up to the following limits.

- A. For Private Passenger motor vehicles registered in the Commonwealth of Massachusetts, or owned by a person which has its principal place of business in Massachusetts regardless of the state in which the motor vehicles are registered:
1. Bodily Injury Liability: Total policy limits of \$500,000 each person, \$500,000 each accident;
  2. Personal Injury Protection: \$8,000 per person, per accident;
  3. Property Damage Liability: Total policy limits of \$250,000 each accident;
  4. Medical Payments: \$25,000 each person;
  5. Uninsured Motorists: \$500,000 each person, \$500,000 each accident for bodily injury;
  6. Underinsured Motorists: \$500,000 each person, \$500,000 each accident for bodily injury;
  7. Physical Damage Insurance, which shall mean: (a) collision coverage or limited collision coverage, (b) fire and theft coverage, or (c) comprehensive coverage, as those coverages are defined in the Massachusetts Motor Vehicle Insurance Policy. Servicing Carriers must charge the extra risk rate as promulgated by the Commissioner of Insurance or, in the alternative, refuse to issue collision, fire, theft or comprehensive coverage under the following circumstances:
    - a. Comprehensive, fire and theft or collision coverage on a vehicle customarily driven by or owned by persons convicted within the most recent five year period of any category of vehicular homicide, auto insurance related fraud or motor vehicle theft;
    - b. Comprehensive, fire and theft or collision coverage on a vehicle customarily driven by or owned by persons who have, within the most recent five year period, made an intentional and material misrepresentation in making claim under such coverages;
    - c. Collision coverage on a vehicle customarily driven by or owned by persons who have been involved in four or more accidents in which such person has been deemed to be at fault in excess of fifty percent within the three years immediately preceding the effective date of the policy; or

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**Rule 6 - Coverages**

- d. Comprehensive or fire and theft coverages on a vehicle customarily driven by or owned by persons who have had two or more total theft or fire claims within the three years immediately preceding the effective date of the policy;
  - e. Comprehensive, fire and theft or collision coverage on a vehicle customarily driven, or owned by persons convicted one time within the most recent three year period of any category of driving while under the influence of alcohol or drugs;
  - f. Comprehensive, fire and theft or collision coverage on any motor vehicle for which a salvage title has been issued by the Registrar of Motor Vehicles unless a new certificate of title has been issued pursuant to Section 20D of Chapter 90D;
  - g. Comprehensive, fire and theft or collision coverage on a high-theft vehicle which does not have at least a minimum anti-theft or auto recovery device as prescribed by the Commissioner of Insurance. The Commissioner may designate as a "high-theft vehicle" any vehicle, classified according to make, model and year of manufacturer, which has both above average incidence of theft and above-average original sales price, and may prescribe appropriate anti-theft or auto recovery devices for such vehicles;
8. A Servicing Carrier may waive the deductible amount applicable to a payment under comprehensive coverage for glass damage and be reimbursed therefor, where the insured has elected to repair rather than replace damaged glass when permitted by law and where satisfactory proof of the repair has been presented to the Servicing Carrier;
9. Towing and Labor: \$100.00 per disablement;
10. Substitute Transportation: \$100.00 per day, thirty day maximum.

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### Rule 6 - Coverages

#### **B. For All Other Motor Vehicles except those expressly provided for hereinafter:**

1. All coverages eligible to be written for private passenger vehicles as defined in Section (A) above, subject to the limits specified therein, except that for the following coverages, risks eligible under this subsection shall be subject to the following limits:
  - a. Bodily Injury Liability: Total policy limits of \$1,000,000 each person, \$1,000,000 each accident;
  - b. Property Damage Liability: Total policy limits of \$500,000 each accident; or
  - c. Combined Single Limit for Bodily Injury and Property Damage Liability: \$1,000,000 each accident;
2. Coverages requested by the applicant which are required by any financial responsibility law or State or Federal regulation as defined in Rule 2 - Eligible Risk.

#### **C. Garage Insurance**

1. All coverages eligible to be written for private passenger motor vehicles as defined in Section (B, 1) above; provided, however, that no garage policy may be ceded without the pollution exclusion endorsement MC2516 attached to the policy;
2. All coverages required by any financial responsibility law or State or Federal regulation as defined in Rule 2 - Eligible Risk;
3. Operation Hazard Coverage and Premises Coverage both as defined within the Garage Liability Policy as filed and approved pursuant to Massachusetts General Laws, Chapter 175A; provided, however, that these coverages are eligible for cession only when written in conjunction with statutory coverages;
4. Automobile Dealers Physical Damage Supplement coverage as defined in the Garage Liability Policy up to a limit not to exceed \$1,000,000 per named location;
5. Garagekeepers' Legal Liability coverage as defined in the Garage Liability Policy up to a limit not to exceed \$1,000,000;

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**Rule 6 - Coverages**

**C. Garage Insurance (continued)**

6. Drive-Away-Collision coverage as defined within the endorsement to the Garage Liability Policy as filed and approved under the provisions of Chapter 175A, of the Massachusetts General Laws;
  7. Direct Primary Garagekeepers' Liability coverage as defined within the endorsement to the Garage Liability Policy as filed and approved under the provisions of Chapter 175A, of the Massachusetts General Laws, up to a limit not to exceed \$1,000,000;
- D. Taxicab and Public Livery Coverages may be written by Servicing Carriers with Bodily Injury Liability and Uninsured and Underinsured Motorists limits not to exceed \$250,000 per person, \$500,000 per accident. Property Damage Liability limits may not exceed \$50,000 for any one accident.
- E. Policies written on a Gross Receipts basis may be written by a Servicing Carrier.
- F. Policies written on a composite rated basis may be written by a Servicing Carrier.
- G. Non-Ownership and Hired Car, Liability Coverages only, may be written by a Servicing Carrier either as a separate policy or in conjunction with a statutory Massachusetts Motor Vehicle Insurance Policy.
- H. Physical Damage coverage for damage to trailers under a trailer interchange contract may be written by a Servicing Carrier only when written in conjunction with motor vehicle liability coverages.
- I. Physical Damage coverage on repossessed motor vehicles shall not be written by a Servicing Carrier.

The term "accident" as used in the Rule shall mean "occurrence" when the coverage is written on such basis.

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**Rule 7 - Experience Rating All Other Motor Vehicles/  
Private Passenger Motor Vehicles**

Experience rating must be applied to all policies written by a Servicing Carrier of CAR which qualify in accordance with the eligibility Rules contained in the Experience and Schedule Rating Plan for both liability and physical damage coverages filed on behalf of CAR, including the Supplementary Rule effective July 1, 1983.

All Members are required to cooperate with CAR Servicing Carriers by providing data needed to determine the experience modification of a risk.

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**Rule 8 - Statistical Data**

Each Member shall furnish or cause to be furnished all statistical data in connection with policies of insurance which may be required by the Governing Committee, and which is not in conflict with Chapter 365 of the Acts of 1977, including data to be used in conjunction with Merit Rating and/or Safe Driver Insurance Plan. Each Member agrees to permit the Statistical Agent for the Massachusetts Division of Insurance to release statistics requested by the Governing Committee. Statistics shall be furnished at such times and in such form and detail as may be required by the Governing Committee.

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**Rule 9 - Audit Review**

Policies written by Servicing Carriers of CAR shall be subject to a review and audit in a manner and time prescribed by the Governing Committee. Each Member authorizes CAR to audit any portion of its motor vehicle business which has a bearing on any credits or penalties attributable to such Member.

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**Rule 10 - Claim Practices**

The Governing Committee, or its Vice President-Claims, shall establish and supervise procedures for the review of claim practices of Servicing Carriers.

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall:
1. Adopt and implement reasonable standards for prompt investigation of claims;
  2. Affirm or deny coverage of claims within a reasonable period of time;
  3. Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear;
  4. Maintain claim reserving procedures for claims arising out of CAR business commensurate with their procedures for claims arising out of voluntary business;
  5. Conduct internal claim quality audit of a reasonably representative number of claim files on CAR business, commensurate with their procedures for audit of claims on voluntary business, in order to verify compliance with established procedures and standards. With sufficient frequency to reflect reasonable continuity of their quality controls, Servicing Carriers shall prepare internal reports summarizing the efforts and conclusions of their claim department quality audit. Reports may, at the option of each Servicing Carrier, consolidate comments relative to both CAR and voluntary claim adjustment, or cover CAR claim adjustment only. Report format shall be at the discretion of each Servicing Carrier, or as may be requested from time to time on an individual basis by the Governing Committee, or their designee;
  6. Establish complaint handling procedures, and maintain complete records of all complaints received on claims arising out of CAR business, or, at the option of each Servicing Carrier, on all complaints received arising out of all automobile claims related to both CAR and voluntary business. Servicing Carriers shall maintain records reflecting the number of complaints received annually. For purposes of this Rule, the term "complaint" shall mean any written communication initiated by the complainant primarily expressing a grievance;
  7. Acknowledge and act promptly upon communications regarding claims;
  8. Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 10 - Claim Practices**

9. Resolve inter-company subrogation disputes involving Physical Damage and Personal Injury Protection claims through arbitration.
- B. In the handling of CAR claims, Servicing Carriers shall not:
1. Misrepresent pertinent facts or policy provisions relating to the coverage at issue;
  2. Refuse to pay claims without having conducted a reasonable investigation based upon all available information;
  3. Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.
- C. Every Servicing Carrier shall maintain a Special Investigative Unit to investigate suspicious claims for the express purpose of eliminating fraud and shall specifically report to CAR evidence of fraud pertaining to theft or misappropriation of a motor vehicle on policies issued through CAR as provided in the Manual of Administrative Procedures. Special Investigative Units so established shall be organized and operated to investigate claims on any policies which are issued through CAR and on policies issued on a voluntary basis by Servicing Carriers. A claim shall not be investigated by such a unit solely on the basis that such claim arises from a policy issued through CAR.
- D. Failure to meet the standards or requirements described in this Rule may prevent reimbursement of loss or expense or may result in such other penalties as may be imposed by the Governing Committee.
- E. Special Reimbursements**
1. Excess Judgments  

A Servicing Carrier shall notify, in writing, the Vice President-Claims of CAR of any tort liability judgment, for which the Servicing Carrier may be liable, against an insured of a Servicing Carrier policy if the amount of the judgment exceeds the limit of coverage, within 180 days of the entry of judgment. A Servicing Carrier shall also notify, in writing, the Vice President-Claims of CAR of any settlement of a claim against a Servicing Carrier policy if the amount of the settlement, for which the Servicing Carrier may be liable, exceeds the limit of coverage, within 180 days of the execution of any settlement.

**Rules of Operation**

**Rule 10 - Claim Practices**

**E. Special Reimbursements (continued)**

1. Excess Judgments (continued)

Within one year of the entry of judgment or the execution of settlement prior to any entry of judgment, the Servicing Carrier may apply, with adequate supporting explanation and documentation, including the complete claim file and complete underwriting file if requested, to the Vice President-Claims for reimbursement of such amounts; provided however, that if no final judgment has been entered and the Servicing Carrier has so notified, in writing, the Vice President-Claims and has provided notification, the request for reimbursement may be filed within 180 days after the subsequent entry of final judgment or execution of settlement or within one year of the initial notification, whichever occurs later.

The Vice President-Claims shall review the request with the Claims Advisory Committee and shall refer its recommendation to the Governing Committee for consideration. The Governing Committee may authorize reimbursement of all or any part of the amount requested unless it determines that the Servicing Carrier was negligent in the handling of the claim and its negligence was the proximate cause of the excess judgment or settlement, in which event the request shall be denied.

The requirements of this Rule shall apply to all excess judgments entered or excess settlements executed which occur on or after the effective date of the approval of these amendments. For excess judgments entered or excess settlements executed within 179 days prior to the effective date of the approval of these amendments, Servicing Carriers must provide notice and/or a request for reimbursement during the same time periods set forth above, but measured from the effective date of the approval of the amendments. For all other requests for reimbursement on judgments or settlements pre-dating this amendment, the excess judgment or settlement must be reported promptly. In no event will a request for reimbursement be considered if a delay in reporting, by or within the control of the Servicing Carrier, is prejudicial to CAR or its ability to properly evaluate the request.

Failure to comply with any of the requirements set forth above shall preclude any request for reimbursement in connection with such judgment and/or settlement.

Approved reimbursements shall be submitted as separate loss records.

**Rules of Operation**

**Rule 10 - Claim Practices**

**E. Special Reimbursements (continued)**

2. Penalties

The Governing Committee may authorize reimbursements to Servicing Carriers for payments of penalties imposed by Massachusetts Courts in accordance with Section 340 of Chapter 90 and Section 1130 of Chapter 175, of the Massachusetts General Laws, and for the payment of legal expense for the successful defense of actions based on Chapter 93A, of the Massachusetts General Laws.

A request for reimbursement, accompanied by adequate supporting explanation and documentation, shall be sent promptly to the Vice President-Claims, who shall review the request with the Claims Advisory Committee and thereafter present its recommendations to the Governing Committee for consideration.

In cases that do not involve any negligence in the handling of the claim by the Servicing Carrier, which negligence is the proximate cause of the imposition of the penalty, the Governing Committee may authorize reimbursement of all or part of the amount of penalty.

Approved reimbursements shall be submitted as separate loss records.

3. Notice of Reimbursement

The Governing Committee shall give thirty days' written notice to the Commissioner of its intent to consider any request for reimbursement pursuant to this section.

**F. Dishonesty**

Loss or expense resulting from the dishonesty of those employed to handle claims shall be the sole responsibility of the Servicing Carrier.

**Rules of Operation**

**Rule 10 - Claim Practices**

**G. Claim Contingency Procedures**

1. Terminations

A Member which terminates its designation as a Servicing Carrier as provided in Rule 16 shall, subject to the provisions of Rule 10 - Claim Practices, service to a conclusion all claims against all policies issued by it in its capacity as a Servicing Carrier and in effect prior to the date of termination. "Service to a conclusion" shall mean until the claim is properly closed, or until an agreed date.

2. Other Terminations

Upon notice from the Governing Committee of the termination, other than voluntary, of a Member's designation as a Servicing Carrier, the Vice President-Claims shall examine a representative sample of open claim files to determine the amount of work completed, to estimate the future cost of servicing the claims to a conclusion, and to verify compliance with Rule 10 - Claim Practices. He shall review his findings with the Claims Advisory Committee and shall present to the Governing Committee for its consideration the recommendations of the Claims Advisory Committee for the further servicing of said Servicing Carrier claims.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

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

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

**A. Participation -- Expenses**

Expenses, including all costs of operating CAR and all costs, charges, expenses and liabilities and all income, property and other assets which the Governing Committee determine not to be properly chargeable to the profit or loss of risks ceded to CAR by Servicing Carriers, shall be shared by the Members in the proportion that each Member's Massachusetts direct written motor vehicle insurance premiums (excluding Antique Vehicle premium for policies effective November, 1998 and subsequent) which are reported on its Annual Statement for the most recent calendar year bear to the total of such premiums (excluding Antique Vehicle premium for policies effective November, 1998 and subsequent) for all Members.

**B. Participation -- Underwriting Results**

For purposes of establishing a basis for allocation of Servicing Carrier premiums, losses and expense allowances, each company licensed to write motor vehicle insurance in Massachusetts shall report statistical information required by the Rules of Operation to CAR or permit its statistical agencies, designated by the company or appointed by the Commissioner, to report all required statistical information to CAR.

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

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

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

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results (continued)**

1. Private Passenger Motor Vehicles (continued)

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

<b>Policy Year</b>	<b>Exclusion Criteria</b>
2001-2003	Ceded exposures for risks at S.D.I.P. step 20 and above, and ceded exposures for Inexperienced Operators (0-3 years) - Rate Classes 20, 21, 25, and 26.

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

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

- (1) For each company, separately for liability and physical damage, determine the company's voluntary written exposures from voluntary agents or direct written (CAR ID Code 0), voluntary written exposures from Exclusive Representative Producers (CAR ID Code 1), voluntary-ceded written exposures (CAR ID Code 4), and ceded exposures written through Representative Producers with whom the company has no voluntary relationship, (CAR ID Code 5), for the calendar year corresponding to the policy year whose participation ratios are being calculated. Note that if a company has bought out of its Servicing Carrier responsibilities, the exposures serviced on this company's behalf by another entity will be counted as if they were written by the buying-out company. Note also that voluntary-ceded and Exclusive Representative Producer (E.R.P.) ceded exposures meeting the exclusion criteria in paragraph B, 1, above should be separately identified, to enable their exclusion where specified in subsequent paragraphs.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results (continued)**

1. Private Passenger Motor Vehicles (continued)

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

<b>Policy Year 2001-2003</b>	<b>Classification</b>	<b>Adjustment Factor</b>
0400	Electric Cars	.33
0426	Snowmobiles	.33
0483*	Antique Vehicles	.33
0408-0416	Motorcycles	.33
0608-0616	Motorcycles	.33

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

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

For policy years 2001 through 2003 note that all other Miscellaneous Rated as Private Passenger classifications are included in the liability participation ratio calculations without adjustment.

For policy years 2001 through 2003 all Miscellaneous Rated as Private Passenger classifications are included in the physical damage participation ratio calculations without adjustment. However, voluntary and ceded exposures for Antique Vehicles with policy effective dates of November, 1998 and subsequent are not included in either the liability or physical damage participation ratio calculations.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results (continued)**

1. Private Passenger Motor Vehicles (continued)
  - (2) For each company, separately for liability and physical damage, determine the company's minimum allowable written exposures as:

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

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

For a company newly emerging in 1990, the number of 1989 voluntary exposures used in this calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from all sources in calendar year 1990. For a company newly emerging in 1991 through 1992, the number of 1989 voluntary exposures used in this calculation for the company's first year of writing shall equal the company's actual voluntary written exposures from voluntary agents or written direct, in the corresponding calendar year. For the second and third year of writing of a company newly emerging in 1990-1992, the number of 1989 voluntary exposures used in this calculation shall equal the greatest number of voluntary exposures which the company has actually written in any calendar year up to and including the current calendar year. Voluntary exposures written through E.R.P.s will be counted in the calendar year 1990 total, but not in the totals for subsequent calendar years. The number of 1989 voluntary-ceded exposures shall equal the 1989 voluntary exposures determined above, multiplied by a factor equal to the total industry's voluntary-ceded exposures including those meeting the exclusion criteria, divided by the total industry's

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results (continued)**

1. Private Passenger Motor Vehicles (continued)

voluntary exposures for the corresponding calendar year, including E.R.P. voluntary exposures for calendar year 1990, but excluding them for subsequent calendar years, then further multiplied by 20% in the first year, 40% in the second year and 60% in the third year.

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

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

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

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results** (continued)

1. Private Passenger Motor Vehicles (continued)

If the company's minimum allowable exposures are greater than the total of the voluntary and voluntary-ceded exposures including those meeting the exclusion criteria as determined in (1) above, including voluntary exposures from E.R.P.s for calendar year 1990, but excluding them for subsequent calendar years, then the difference will be added to the voluntary-ceded exposures excluding those meeting the exclusion criteria determined in (1) above.

If the company's minimum allowable exposures are less than or equal to this total, then the company's voluntary-ceded exposures excluding those meeting the exclusion criteria as determined in (1) will be used.

(3) For each company and for the industry, determine the following:

- Voluntary retained exposures from all sources, from (1) above.
- Ceded exposures from all sources, from (1), and (2).

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

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

In the above formula, for policy years 1993 through 2003, the value of the K factor will be 4.0.

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

(4) For each company, determine each company's participation credits based on voluntary business from all sources.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**Participation -- Underwriting Results (continued)**

- (5) Determine for each company, "adjusted total voluntary written exposures" by multiplying the total industry voluntary written exposures from all sources from (1) above by the company's pre-credit utilization ratio as determined in (5) above. Determine, then, each company's final utilization ratio by dividing the company's "adjusted total voluntary exposures" minus the company's participation credits from (6) above, by the total industry voluntary written exposures from (1) above minus the total industry participation credits from (6) above.
- (6) To the extent that inclusion of any of the final utilization ratios calculated above causes the sum of the final utilization ratios to differ from unity, an off-balance factor shall be applied to each ratio such that the sum becomes unity.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results** (continued)

2. All Other Motor Vehicles

For policy years 1995 and subsequent, a company's participation ratio shall be determined as a function of the company's utilization of the residual market if the company is a Servicing Carrier for all other motor vehicle business, with a "grossing-up" process to be applied for those companies which are not Servicing Carriers for this business. The utilization ratio will then be adjusted for credits.

For policy years 2001 through 2003, premiums from ceded risks meeting the following criteria shall be excluded from the calculation of the utilization ratio:

Exclusion Criteria	
Classification Description	Statistical Code
Contract Carriers	
Hauling Chemicals	###230
Hauling Petroleum or Petroleum Products	###270
All Other	###290
Waste Disposal	
Garbage	###530
All Other	###590
	(Both Classes excluded for policy years 2001 and 2002 only)
Petroleum Business	###920
Long-Haul Truckers	
Non-fleet	##32##
Fleet	##62##
Emergency Vehicles	
Emergency Ambulances	791300
Fire Department	790800,790900
Law Enforcement	791100, 791200, 794200
School Buses	61##00, 62##00
Buses N.O.C.	53##00, 54##00, 55##00, 58##00

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation – Underwriting Results (continued)**

2. All Other Motor Vehicles

<b>Exclusion Criteria (continued)</b>	
<b>Classification Description</b>	<b>Statistical Code</b>
Limousines	42#900
Car Service	43#900
Truckers Cost of Hire	661300
Chemical Manufacturers	###110
Garage Non-franchised Dealers Repair Shops	735100, 735200 780800, 781000, 781100, 781200, 781300 780900 (This class is excluded for policy years 2001 and 2002 only)
Taxicabs Fleet	418700, 419700, 410700, 418800, 419800, 410800, 418900, 419900, 410900
Non-Fleet	415700, 416700, 417700, 415800, 416800, 417800, 415900, 416900, 417900

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results** (continued)

2. All Other Motor Vehicles

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

The formula for determining the residual market utilization-based participation ratio shall be as follows:

- (1) For each company, separately for liability and physical damage, determine the company's voluntary (CAR ID codes 0 and 1), written premiums and voluntary-ceded (CAR ID code 4), written premiums excluding those statistical classes meeting the exclusion criteria, for the calendar year corresponding to the policy year whose participation ratios are being calculated. Ceded premiums written through Representative Producers with whom the Servicing Carrier has no voluntary relationships, (CAR ID code 5) and ceded and voluntary written premiums for Antique Vehicles with policy effective dates of November, 1998 and subsequent will be excluded.
- (2) For companies which are not Servicing Carriers for all other motor vehicle business, assign a "gross-up" ceded written premium which bears the same relationship to the non-Servicing Carrier's voluntary written premium as the total of all Servicing Carriers' ceded written premium (excluding Exclusive Representative Producer written premium ceded and voluntary written premiums for Antique Vehicles with policy effective dates of November, 1998 and subsequent and voluntary-ceded premium from those statistical classes meeting the exclusion criteria) bears to the total of all Servicing Carriers' voluntary written premium.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results** (continued)

2. All Other Motor Vehicles

(3) Policy Years 2001 and Prior

- a. For each company, determine the company's ceded market share after gross-up by dividing the company's ceded written premiums excluding Exclusive Representative Producer premiums, ceded and voluntary premiums for Antique Vehicles with policy effective dates of November, 1998 and subsequent and voluntary-ceded premiums from those statistical classes meeting the exclusion criteria, as determined in (1) or (2) above by the total industry's ceded written premiums excluding Exclusive Representative Producer premiums, ceded and voluntary written premiums for Antique Vehicles with policy effective dates of November, 1998 and subsequent and voluntary-ceded premiums from those statistical classes meeting the exclusion criteria, as determined in (1) and (2) above.
- b. For each company, determine the company's total market share after gross-up by dividing the company's total voluntary and ceded written premiums as determined in (1) and (2) above by the total industry's voluntary and ceded written premiums as determined in (1) and (2) above.
- c. For each company, determine the utilization ratio by combining 50% of the ratio from (3) above and 50% of the ratio from (4) above.

Policy Years 2002 and Subsequent

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

- a. Voluntary retained written premiums (CAR Identification Codes 0 and 1) from (1) above.
- b. Ceded written premiums (CAR Identification Code 4) from (1) or (2) above.

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

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results** (continued)

2. All Other Motor Vehicles

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

In this formula, for policy years 2002 and 2003, the value of the K factor shall be 12.0. On an annual basis, the value of the K factor will be re-examined based upon existing market conditions.

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**B. Participation -- Underwriting Results (continued)**

3. Companies Electing to Withdraw

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

On approval of this plan, data for the withdrawing company shall be removed from the calculation of participation ratios for the remainder of the industry beginning in the first year following the year of election to withdraw. The participation ratio of the withdrawing company shall remain constant over the three-year period following the year of election to withdraw and shall be applied separately for those three years. The withdrawing company's participation ratio for this period shall be the company's pre-credit utilization ratio as determined in Rule 11, B, 1, (6), for the year of election. Upon request of the company electing to withdraw, CAR may at its option, agree to accept a single payment at any time in settlement of all amounts then outstanding, including those amounts outstanding as a consequence of the calculations specified in this paragraph.

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

- b. Companies electing to withdraw from the Massachusetts commercial automobile market but still maintain their license to underwrite other than automobile insurance in Massachusetts shall file a plan for such withdrawal with the Commissioner of Insurance for his approval. Such a plan shall specify in detail how its risks are to be placed elsewhere. The participation ratio for each of the next eight policy years following the year of election shall remain constant at the value for the election year and be equal to zero for policy years thereafter.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 11 - Assessments and Participation**

**C. Settlement of Balances**

1. CAR will issue quarterly summaries to all Members reflecting their cumulative balances. However, for the current policy year there will be no reimbursement of Members with allowable credits in excess of written premiums, nor reimbursement of CAR by any of the Members until after the close of the third quarter of the calendar year, or at a later date if so determined by the Governing Committee.
2. The Governing Committee, subject to the approval of the Commissioner, may offer or allow a Servicing Carrier reimbursement in whole or in part for specific extraordinary expense incurred in qualifying for, continuing as, or ceasing to be, a Servicing Carrier. Such expense must be explained and supported in such detail as required by the Governing Committee, and must be in its judgment significantly in excess of the normal additional expense expected to be incurred by the Servicing Carrier, and must be actually incurred before reimbursement. The Servicing Carrier must petition the Governing Committee for such relief.
3. The Governing Committee, subject to the approval of the Commissioner, may authorize reimbursement of Servicing Carriers for normal insurance business losses incurred in connection with CAR business. Such normal business losses shall be as defined and designated by the Governing Committee but shall not include any loss or expense incurred as a result of fraud or dishonesty on the part of a Servicing Carrier's claims personnel (including but not limited to independent adjusters and agents), and each Servicing Carrier shall hold CAR harmless from and reimburse it for any such loss or expense charged. The Servicing Carrier must petition the Governing Committee for such relief.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 12 - Credit Provisions**

The basic goal of these credits is to enhance the prospects for a viable voluntary market in all territories and classifications.

**Private Passenger Motor Vehicles**

Each Member shall receive credit for voluntarily writing private passenger business within those territories and those classifications that would otherwise be disproportionately represented in CAR. This credit is applied to the participation units applicable to the Member when determining its share of the underwriting experience of CAR as provided in Rule 11.

**A. Territorial Credits**

For policy effective year 2003, participation credits shall be given as shown below for each participation unit arising from voluntarily retained private passenger business in the following territories:

<b>2003 Territories</b>	<b>2003 Exposure Credit</b>
11	.10
13	.30
14	.80
15	1.90
16	4.50
18	2.80
19	2.30
20	3.10
21	4.20
22	5.80
24	1.20
25	.40
26	1.80

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 12 - Credit Provisions**

**B. Classification Credits**

For policy effective year 2003, participation credit shall be given as shown below for each participation unit arising from voluntarily retained private passenger business in the following rate classes and statistical classes:

Rate Class	Statistical Class	2003 Credits
10: Experienced Operator	20, 40: Young Male Occasional Operator	2.8
	22, 42: Young Male Principal Operator	6.3
	24, 26: Young Female Operator	2.3
17: Inexperienced Principal Operator 3-6 Years	10: Operator $\geq$ 25 Years	4.8
	22, 42: Young Male Principal Operator	5.8
18: Inexperienced Occasional Operator 3-6 Years	10: Operator $\geq$ 25 Years	2.7
	20, 40: Young Male Occasional Operator	1.3
20: Inexperienced Principal Operator 0-3 Years No Driver Training	10: Operator $\geq$ 25 Years	9.0
	22: Young Male Principal Operator	9.0
	24: Young Female Operator	9.0
21: Inexperienced Occasional Operator 0-3 Years No Driver Training	10: Operator $\geq$ 25 Years	2.5
	20: Young Male Occasional Operator	9.0
	24: Young Female Operator	3.5
25: Inexperienced Principal Operator 0-3 Years Driver Training	10: Operator $\geq$ 25 Years	3.5
	15: Operator $\geq$ 65 years	7.8
	26: Young Female Operator	2.2
	42: Young Male Principal Operator	8.0
26: Inexperienced Occasional Operator 0-3 Years Driver Training	10: Operator $\geq$ 25 years	1.1
	40: Young Male Occasional Operator	2.2

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 12 - Credit Provisions**

**B. Classification Credits** (continued)

Adjustments under this entire Rule, which in the aggregate exceed 100% of a Member's participation liability for CAR experience, shall not result in a Member's participation ratio being adjusted below zero.

These credits and percentage ranges shall be reviewed annually and adjustments made so that the basic goal mentioned above will be accomplished.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### A. Appointments

1. The Governing Committee shall appoint Servicing Carriers as authorized in the Plan and Rules of Operation. A Member may be excused from its Servicing Carrier responsibilities for Exclusive Representative Producer business if the Member executes an agreement with another entity for handling its share of private passenger and/or commercial motor vehicle Exclusive Representative Producer business. The agreement must be reviewed and approved by CAR. Nothing in this paragraph shall be construed to affect the rights of any Servicing Carrier to enter into any contractual agreement for the purpose of servicing the Servicing Carrier's voluntary or voluntary ceded business. Nothing in this paragraph shall be construed so as to relieve any Servicing Carrier of its share of the underwriting and/or administrative expenses of CAR nor of its responsibility to provide coverages as required by Chapter 175, 113H, A, 2.
  - a. All member companies are required to be Servicing Carriers provided the company's reported written property damage liability exposures for private passenger motor vehicle insurance business and/or written premium for "all other" motor vehicle insurance business equals or exceeds thresholds as follows:
    - (1) For private passenger business, all companies with 5,000 or more reported written property damage liability exposures for the most recently completed policy year, will be required to become a private passenger Servicing Carrier effective January 1<sup>st</sup> of the next policy year following notification of eligibility status.
    - (2) For all other motor vehicle business, all companies with reported voluntarily produced "all other" written premium equal to or greater than 0.5% of the total market voluntarily produced "all other" written premium, will be required to become an "all other" motor vehicle Servicing Carrier effective January 1<sup>st</sup> of the next policy year following notification of eligibility status.
    - (3) A member company will only be required to become a Servicing Carrier for that pool in which it has met or exceeded the above stated thresholds.
    - (4) For purposes of determining eligibility, groups of companies under the same ownership and management will be treated as a single member company.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### A. Appointments (continued)

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

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

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities

No domestic insurance company shall be denied participation as a Servicing Carrier based solely upon its share of the Massachusetts motor vehicle insurance market.

If a Servicing Carrier has contracted with a third party for performing any of its Servicing Carrier's responsibilities, the Servicing Carrier guarantees said performance by such third party.

1. Servicing Carriers must provide quality service to CAR policyholders by maintaining the standards established as a condition of appointment under Section A, 2, of this Rule. Policies and other forms mailed to policyholders shall be the same as those used for non-Servicing Carrier motor vehicle business. Servicing Carriers shall provide the same level and type of service to policies issued through CAR, as they provide to policies issued voluntarily.

2. For Private Passenger Motor Vehicles

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

3. General Duties

The Servicing Carrier shall perform the following general duties:

- a. Provide a contract signed by an authorized company representative with terms consistent with these Rules to a qualified newly assigned or reassigned ERP within 15 business days of the Servicing Carrier's receipt of the assignment by CAR. If the Servicing Carrier determines that the assigned or reassigned ERP is not duly qualified, the Servicing Carrier will notify CAR within 2 business days of that determination.
- b. Accomplish confirmation of operator driving licenses and records in order to effectively administer the Safe Driver Insurance Plan.
- c. Verify that representations contained in the application for insurance are accurate as to classification, garaging, discounts, credits, vehicle use, vehicle description and experience for those risks eligible to be experience rated.
- d. Assure that a policy has been issued for each RMV-1 and/or RMV-3 certificate and that the policy effective date and the certification date are the same.
- e. Adopt procedures designed to assure that all assigned Exclusive Representative Producers comply with all provisions of the contract between the Servicing Carrier and the producer.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

3. General Duties (continued)
  - f. Implement procedures to assure collection of premiums billed.
  - g. Comply with the terms and conditions of premium finance notes and/or agreements submitted to the Servicing Carrier, on behalf of applicants for insurance, by the producer or by a premium finance company licensed under the laws of the Commonwealth of Massachusetts.
  - h. Termination

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

Those conditions deemed to be cause for immediate termination of an Exclusive Representative Producer contract and authority to bind coverage shall include:

1. Failure to maintain a valid agents/brokers license as issued by the Division of Insurance.
2. Willful misappropriation of premium due a Servicing Carrier in accordance with the provisions of CAR 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.

The following conditions shall be cause for a Servicing Carrier to terminate an Exclusive Representative Producer's authority to bind coverage on behalf of a Servicing Carrier with said Exclusive Representative Producer being entitled to a thirty day written notice of termination

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

3. General Duties (continued)

Those conditions deemed to be cause for termination of an Exclusive Representative Producer's authority to bind coverage on behalf of a Servicing Carrier under the provisions of this section shall be:

1. Failure to remit payments to a Servicing Carrier on a timely basis in accordance with CAR's Rules of Operation.
2. Failure to notify the Servicing Carrier of any suspected fraud in the application for insurance or in the underwriting or rating process or in the payment of premium obligations or surrounding a loss.
3. Failure to assist the Servicing Carrier during any audit or investigation.
4. Violations of the conditions set forth in the Servicing Carrier contract.
5. Failure to report all coverages bound within two working days of the effective date of coverage.
6. Failure to comply with reasonable procedures as supplied by the Servicing Carrier for processing claims, remitting premiums, and requesting coverages.
7. Failure to adhere to a directive issued by the Commissioner relative to the charging of Service Fees.
8. Failure to provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data.
9. Failure to comply with applicable agency requirements and procedures, as prescribed in the CAR Rules of Operation.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

3. General Duties (continued)

All Exclusive Representative Producer terminations issued by a Servicing Carrier, both immediate and thirty (30) day terminations, shall:

1. Be in writing.
2. State the specific CAR Rule 2 and/or Rule 14 provision(s) that constitute the basis for the termination.
3. Include a copy of the CAR Request for Review form, and a copy of the section of Rule 13 entitled "Termination", to advise the ERP of their right to request a review of the termination by CAR.
4. Be hand delivered or mailed by a method that provides proof of mail to the ERP's principal place of business, with a copy of the termination notice sent to CAR concurrently.
5. Define changes in operational procedures, if any, that the Servicing Carrier intends to implement concurrent with the ERP's termination effective date.

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

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

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

##### 3. General Duties (continued)

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

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

- i. Report immediately to CAR and the Division of Insurance any termination of an Exclusive Representative Producer's contract and initiate procedures in a timely manner, including litigation if necessary, to administer a controlled run off of the business from an Exclusive Representative Producer whose agreement has been terminated.
- j. Maintain effective communication with Exclusive Representative Producers by scheduling meetings when necessary and conducting whatever educational/training sessions as may be required to assure that Exclusive Representative Producers provide quality service to the motoring public.
- k. Verify, prior to contracting and on an ongoing basis, agent/brokers eligibility for assignment to a Servicing Carrier as required by Chapter 175, Section 113H, of the Massachusetts General Laws.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

3. General Duties (continued)

- l. Provide Exclusive Representative Producers with all information and procedures required for them to effectively service policies issued through CAR.
- m. Comply with all of the provisions of the Rules of Operation and Manual of Administrative Procedures.
- n. Maintain records of infractions of the Rules of Operation of CAR by Exclusive Representative Producers and report such infractions as appropriate and necessary.
- o. Provide Exclusive Representative Producers with necessary information from the policy declaration page, to support their servicing of their insureds, in an appropriate and usable format and medium.
- p. Provide Exclusive Representative Producers, at least quarterly, with premium, production, and experience data on their business.

4. Reporting Requirements

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

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

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### B. Servicing Carrier Responsibilities (continued)

##### 4. Reporting Requirements (continued)

- c. A Servicing Carrier may elect to cede 100% of the new business of an ERP. This option can be selected for only private passenger new business, for only All Other new business, or for all new business from the ERP. If this option is selected, the Servicing Carrier must cede all eligible new business produced by the ERP, and CAR's obligation for reimbursement for losses will commence as of the new business policy's effective date, regardless of the date that the cession notice is received by CAR.

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

Absent specific notice to CAR of the intention to cede 100% of an ERP's new business, all new business produced by an ERP will be ceded in accordance with Paragraph 4, a above. Regardless of the Servicing Carrier's new business 100% cede election for a particular ERP, all renewal business from the ERP will be ceded in accordance with Paragraph 4, b above.

- d. Servicing Carriers must report on a monthly basis their premiums written, paid losses, allowable expenses and any other information which may be required by the Plan, Rules or Manual of Administrative Procedures.
- e. If a Servicing Carrier elects to cede a policy, all coverages written on that policy which are eligible coverages under Rule 6 must be reported, as ceded, to CAR, by the Servicing Carrier.

**Rules of Operation**

**Rule 13 - Servicing Carrier Requirements**

**B. Servicing Carrier Responsibilities (continued)**

5. Continuation of Eligibility as a Servicing Carrier

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

6. Inducements

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

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### C. ERP Subscription

##### 1. Subscription Share (Ought to Have) and Methodology – Private Passenger

- a. Servicing Carriers will be assigned Exclusive Representative Producers (ERPs) based upon the Servicing Carrier's total market share. The Servicing Carrier's "ought to have" share of ERP exposures will be equal to the Servicing Carrier's percentage of the total market multiplied by the sum of all Servicing Carriers' ERP exposures.
- b. A Servicing Carrier's "over or under subscription" position will be determined by comparing its actual number of ERP exposures to its "ought to have" number of ERP exposures and expressing the result as a percentage of the "ought to have" number of ERP exposures.
- c. A Servicing Carrier's over/under subscription level is arrived at by subtracting its own number of ERP exposures from its "ought to have" number of ERP exposures as defined above.

1. A Servicing Carrier assigned a newly emerging ERP will be credited with the greater of 400 exposures or the actual number of exposures written by that ERP until the third anniversary of the assignment, for purposes of determining the Servicing Carrier's subscription level. Thereafter, the actual number of exposures written by that ERP will be attributed to the Servicing Carrier.

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

2. Exposures written by producers involved in two (2) and three (3) party ERP transfers or exposures written by both ERP's where one has purchased an entire book of automobile business from the other with the consequence that the seller loses its Exclusive Representative Producer appointment, are to be fully attributed to the successor Servicing Carriers at the time of transfer. Voluntarily contracted ERP transfers will be counted as voluntary agent produced exposures for the successor Servicing Carrier and subtracted from the ERP Servicing Carrier on an "as written" basis.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### ERP Subscription (continued)

3. Companies which have been Servicing Carriers for thirty-six (36) months or less will have their voluntarily written (non-ERP) exposure total "grossed up" using a factor that is based on a three (3) year rolling average of the industry non-ERP cession rate. The factor will be updated annually at the end of June.
4. The primary consideration for subscription order will be based on a Servicing Carrier's percentage of their "ought to have" ERP share. However, for Servicing Carriers between 75% and 100% of their "ought to have" ERP shares, subscription will be calculated in 5% intervals within which subscription order will be based on exposure counts.
5. No ERP with greater than 300 exposures shall be assigned or reassigned to a Servicing Carrier where the assignment will result in the Servicing Carrier exceeding 107.5% of its "ought to have" ERP share. In the event that an assignment would bring a carrier over 107.5%, the ERP will be assigned to the next most undersubscribed Servicing Carrier where the assignment complies with this Rule, and the most undersubscribed Servicing Carrier will remain eligible for the next assignment.

#### 2. Subscription Relief – Private Passenger

- a. A Servicing Carrier may petition CAR for relief if it has been oversubscribed at a level of 125% or more (and 1,000 or more exposures) for a period of twelve (12) or more consecutive months. The petition will be in writing and addressed to the President of CAR. Eligibility for relief will be based upon the Servicing Carrier's subscription level at the time of the Servicing Carrier's petition.
- b. CAR will confirm the petitioner's eligibility for relief and present the petition to the Governing Committee for approval within sixty (60) days of CAR's receipt of petition.
- c. Upon Governing Committee approval, CAR will notify the industry of the implementation of relief action and make available to the industry loss ratio data for each of the petitioning Servicing Carrier's ERP's. Undersubscribed Servicing Carriers will then have a ninety (90) day period during which they can enter into two-party agreements with the petitioner's ERP's in order to satisfy their own subscription requirements.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### C. ERP Subscription (continued)

- d. At the end of the ninety (90) day period, if the petitioner remains oversubscribed by more than 10%, CAR will randomly reassign ERP's to the most undersubscribed Servicing Carrier(s) as identified pursuant to the above methodology. If an ERP individually represents more than 110% of the petitioning Servicing Carrier's "ought to have" share, that ERP will not be eligible for the random reassignment of its entire book of business. CAR will recalculate subscription levels for all Servicing Carriers after the reassignment of each individual ERP until the petitioning Servicing Carrier's subscription level is down to 110% or less of its "ought to have" number of ERP exposures.
- e. If after all of the other remaining ERPs have been reassigned, [but] subscription relief cannot be completed because of the need to reassign a relatively large ERP that produces more than 110% of the Servicing Carrier's "ought to have" share, further relief to 110% or less of the petitioner's "ought to have" share will be granted by reassigning exposures to the most undersubscribed Servicing Carrier by utilizing the garaging towns represented in that ERP's book of business. The supplementary relief process will include the following.
  1. CAR will notify the industry of the implementation of multiple Servicing Carrier relief action, and will make available loss ratio data for each of the garaging towns serviced by the ERP. Undersubscribed Servicing Carriers will then have a ninety (90) day period during which they can enter into two-party agreements with the ERP for its individual garaging towns, in order to satisfy their own subscription requirements. The two-party process will be in accordance with that described in Section 2.c. of this Rule, substituting garaging town for ERP agency.
  2. At the end of the ninety (90) day period, if the petitioner remains oversubscribed at a level greater than 110% of its "ought to have" share, CAR will randomly reassign the garaging towns of the ERP to the most undersubscribed Servicing Carrier. The reassignment process will be in accordance with Section 2.d. of this Rule, substituting garaging town in place of an entire ERP as the unit of assignment. CAR will recalculate subscription levels for all Servicing Carriers after the reassignment of each individual garaging town, until the petitioning Servicing Carrier's subscription level is reduced to 110% of its "ought to have" number of ERP exposures.
  3. The individual garaging towns reassigned to a Servicing Carrier through the multiple Servicing Carrier relief process in accordance with Section 2.e. of this Rule will function as an independent ERP assignment on a going forward basis.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

#### C. ERP Subscription (continued)

4. Each Servicing Carrier writing business through a multiple Servicing Carrier ERP is required to monitor the process by ensuring that the policies it writes are only from the garaging town(s) it has been assigned.
- f. ERPs or individual garaging towns so reassigned by CAR will be reimbursed by the petitioning Servicing Carrier at a rate of \$15 per exposure based on a “pre-count” of exposures determined through statistical reportings and provided by CAR.
- g. If an ERP or individual garaging town was assigned or reassigned within the previous thirty-six (36) months, that ERP or individual garaging town will not be randomly reassigned, and another random selection shall be made from the oversubscribed Servicing Carrier’s remaining ERPs unless this provision precludes an oversubscribed Servicing Carrier from obtaining subscription relief, in which instance an ERP or individual garaging town may be reassigned notwithstanding having been assigned or reassigned within the previous thirty-six (36) months.

#### 3. Relief and Ongoing Subscription Modifications – Private Passenger

- a. Two-party agreements with an ERP of a Servicing Carrier which has less than 110% of its "ought to have" exposures will not be permitted. Three-party agreements providing for an ERP to go from an oversubscribed Servicing Carrier to an undersubscribed Servicing Carrier are permitted.
- b. If an ERP is assigned to multiple Servicing Carriers in accordance with Section 2.e. of this Rule, two-party agreements providing for individual garaging towns to go from a Servicing Carrier which has 110% or more of its “ought to have” exposures to an undersubscribed Servicing Carrier will be permitted. Three-party agreements providing for individual garaging towns to go from a Servicing Carrier which has 100% or more of its “ought to have” exposures to an undersubscribed Servicing Carrier will be permitted.
- c. If an ERP receives a voluntary contract from a Servicing Carrier and is subsequently terminated within twenty-four (24) months of the contract date, the canceling Servicing Carrier’s and industry’s exposure totals will continue to include the agency’s number of exposures, in force as of the cancellation date, as “produced by a voluntarily contracted producer” for a period of thirty-six (36) months. In addition, actual exposures written will be counted as ERP exposures for the newly assigned ERP Servicing Carrier.

## Rules of Operation

### Rule 13 - Servicing Carrier Requirements

- d. If a Servicing Carrier is undersubscribed by 25% and 1,000 exposures or more for three (3) consecutive months, CAR will simultaneously notify the Governing Committee and all oversubscribed Servicing Carriers, of that circumstance. The Governing Committee will determine whether to order a redistribution of ERPs from oversubscribed Servicing Carriers to the undersubscribed carrier. An oversubscribed Servicing Carrier may notify the Governing Committee of its desire to forego any redistribution of its ERPs. Upon Governing Committee direction, CAR will randomly reassign ERPs from the then most oversubscribed Servicing Carrier until the undersubscribed Servicing Carrier's subscription approximates its "ought to have" share. If a randomly selected ERP's reassignment causes the undersubscribed Servicing Carrier to exceed its approximate "ought to have" share, or if the ERP has been assigned or reassigned within the previous thirty-six months, that ERP will not be reassigned and another random selection will be made from the oversubscribed Servicing Carriers' remaining ERPs.

#### 4. Subscription Methodology – Commercial

- a. A Servicing Carrier's "ought to have" ERP subscription level will be based upon their voluntarily written (non-ERP) market share. Further defined, a Servicing Carrier's "ought to have" volume of ERP written premium will be equal to a Servicing Carrier's actual percentage of the total Servicing Carrier non-ERP market, multiplied by the sum of all Servicing Carrier's ERP written premium.
- b. A Servicing Carrier's over/under subscription level is arrived at by subtracting its own volume of ERP written premium from its "ought to have" volume of ERP written premium as defined above.
- c. Subscription order will be based on each Servicing Carrier's variance from its "ought to have" ERP written premium dollars.
- d. Two-party agreements with an ERP of a Servicing Carrier which has less than 100% of its "ought to have" written premium will not be permitted. Three-party agreements providing for an ERP to go from its present Servicing Carrier to a less subscribed Servicing Carrier are permitted.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### A. Appointments

1. Representative Producer Appointments

Agents or brokers who have a voluntary agency or brokerage agreement with any Member Company appointed as a Servicing Carrier in accordance with these Rules shall be assigned to represent those Servicing Carriers, as Representative Producers, as defined in Rule 2, for new and renewal private passenger or all other motor vehicle business or both, consistent with such voluntary agency or brokerage agreement. Such Carriers shall service such Representative Producers under substantially the same contractual terms and conditions governing their normal agency relationship.

2. Exclusive Representative Producer Appointments

a. New Appointments

Any licensed agent or broker who does not have a voluntary agency or brokerage agreement for private passenger and all other motor vehicle business with any Member Companies appointed as Servicing Carriers in accordance with these Rules may apply for an appointment to represent a Servicing Carrier, as an Exclusive Representative Producer, as defined in Rule 2 for new and renewal business for that business for which a voluntary agreement does not exist. The producer shall be subject to the provisions of the Eligibility Requirements (Rule 14, A, 2, (e)). If CAR determines the applicant has satisfied these eligibility criteria the applicant will be appointed to a Servicing Carrier as an Exclusive Representative Producer. Such Carriers shall service such Exclusive Representative Producers under substantially the same contractual terms and conditions governing their normal agency relationship.

In the case of an applicant who is applying as a consequence of the involuntary cancellation of a voluntary agency or brokerage agreement, as far as is possible, the appointment shall be made to an insurer other than that which last cancelled a voluntary agreement for motor vehicle insurance business with the applicant.

In the case of an applicant who is applying as a consequence of a voluntary agency or brokerage agreement being terminated because the applicant (1) intentionally withdraws from a voluntary agreement to write motor vehicle insurance business on behalf of a Servicing Carrier, or (2) requests cancellation of a voluntary agreement for motor vehicle insurance business, or (3) engages in conduct which CAR concludes by its nature raises such issues as to the ethical or professional standards of the agent or

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### A. Appointments (continued)

##### 2. Exclusive Representative Producer Appointments (continued)

###### a. New Appointments (continued)

broker that would reasonably cause the voluntary Servicing Carrier to terminate its voluntary agreement, and the voluntary Servicing Carrier as a result of that conduct does so terminate the agreement with the agent or broker, such agent or broker is ineligible for appointment to a Servicing Carrier as an Exclusive Representative Producer.

###### b. Affiliated Producers

If an applicant for an appointment to represent a Servicing Carrier as an Exclusive Representative Producer, or a producer holding an involuntary (Exclusive Representative Producer) appointment, for either private passenger or "all other" motor vehicle business is found to have a direct or indirect material and continuing proprietary or management interest in another agency or brokerage firm which has a voluntary (Representative Producer) or involuntary (Exclusive Representative Producer) appointment to a Servicing Carrier for the same type of business or vice versa, the producer is presumed to be an affiliate of the other agency or brokerage firm and is ineligible for appointment, or for the continuation of an appointment, to a Servicing Carrier as an Exclusive Representative Producer for that type of business insofar as there exists a Servicing Carrier market through the affiliated agency.

An Exclusive Representative Producer that CAR determines has an affiliated voluntary relationship, as described in the preceding paragraph, which existed prior to January 1, 1991, may continue in that status only for so long as such voluntary relationship with the Servicing Carrier(s) is maintained. Business written through the Exclusive Representative Producer will be assigned the same C.A.R I.D. Codes as that written through the affiliated agency and the Servicing Carrier will not be entitled to additional fees as provided in Rule 17, or to the option provided by Rule 13, B, 4, c, regarding cession backdate.

Any applicant aggrieved by staff's determination of its affiliated status may appeal to the Governing Committee and may present evidence to refute that determination. If the applicant is successful in refuting that determination, it will be appointed to a Servicing Carrier under the same terms and conditions as an Exclusive Representative Producer.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### A. Appointments (continued)

2. Exclusive Representative Producer Appointments (continued)

c. Dual Status Producers

An agent or broker which has an Exclusive Representative Producer appointment to a Servicing Carrier and which also has a voluntary agreement(s) with a Servicing Carrier(s) or non-Servicing Carrier to write motor vehicle insurance of the same type may retain such Exclusive Representative assignment until November 16, 1997 for new business and December 31, 1997 for renewal business.

An agent or broker which has an involuntary (Exclusive Representative Producer) appointment to a Servicing Carrier and which subsequent to September 17, 1997 obtains a voluntary contract with another Servicing Carrier or non-Servicing Carrier for the same type of business will retain the involuntary assignment for that type of business for renewal business only, for three months from the date on which the voluntary contract is effective. At the conclusion of said three month period, the assignment for renewal business will be rescinded.

The involuntary assignment will be rescinded for new business on the date on which the voluntary contract is effective.

d. Sale of Exclusive Representative Producer Business

If an agent or broker which has an Exclusive Representative Producer appointment to a Servicing Carrier sells its stock or its book of business to a producer which does not have a motor vehicle insurance relationship with a Servicing Carrier, such appointment will inure to the purchaser subject to the eligibility requirements and production and market need criteria of this Rule, notwithstanding the location of the seller's place of business. If the Exclusive Representative Producer appointment was in a probationary status, as respects the above requirements or criteria, that status will carry over to the purchaser of this business.

If the sale does not result in the continuation of the appointment to the sellers' Servicing Carrier, then that Servicing Carrier shall enter an agreement with the purchaser whereby all risks written by the Servicing Carrier on behalf of the seller, for policies with an effective date as of 90 days subsequent to the date of the sale for renewal business and as of the date of sale for new business, will 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.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### A. Appointments (continued)

2. Exclusive Representative Producer Appointments (continued)

d. Sale of Exclusive Representative Producer Business (continued)

Servicing shall include, but not be limited to, change of existing vehicles, adding insureds, adding named operators onto the existing policy, endorsing coverage limits, providing all notices required by law, claims processing and premium collection. 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.

e. Eligibility Requirements

Prior to any action being taken on an application for an Exclusive Representative Producer appointment, the agent or broker must satisfy the Governing Committee that he or she:

- 1) has completed a course of study, approved by the Commissioner of Insurance, which concentrates on the Massachusetts motor vehicle insurance system;
- 2) has attained a passing grade on a written examination based on material covered in the approved course;
- 3) has within the preceding twelve (12) month period worked for a minimum of six (6) months with an agent or broker licensed by the Division of Insurance, or with a Massachusetts automobile insurer, during which time the applicant's efforts were primarily devoted to the Massachusetts motor vehicle insurance market; and
- 4) will be addressing a market need as determined by criteria to be established by the Governing Committee of CAR.
- 5) Having satisfied the preceding criteria the applicant must conclusively show that he or she:
  - a) is applying in good faith;
  - b) will operate from an established location in Massachusetts, except licensed nonresident agents or brokers if licensed pursuant to Massachusetts General Laws;
  - c) will maintain regular business hours;

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### A. Appointments (continued)

2. Exclusive Representative Producer Appointments (continued)

e. 5) Eligibility Requirements (continued)

- d) has not been convicted of a crime related to his occupation as an insurance agent or broker;
- e) has not had his/her brokers license to engage as an insurance broker/agent revoked/suspended;
- f) has not been involved in a material and substantial breach of a contract between a Servicing Carrier and a producer;
- g) is not in default in remittance of any motor vehicle premiums due a Member company;
- h) agrees to comply with the provisions of the Plan of Operation, the Rules of Operation, the Manual of Administrative Procedures, the contract between the Exclusive Representative Producer and the Servicing Carrier, and the applicable regulations of the Division of Insurance;
- i) agrees to notify C.A.R and the Servicing Carrier of an agreement to sell the agency fifteen (15) days in advance of the proposed closing of any such sale and further agrees to obtain a certification from the Servicing Carrier, which shall be provided to CAR, that the agency does not owe to the Servicing Carrier any past due premium based upon the latest available statement;
- j) has not been declined an Exclusive Representative Producer assignment within the preceding sixty (60) days, said declination not having been reversed by the Governing Committee, the Division of Insurance or a court of competent jurisdiction.
- k) has not had an Exclusive Representative Producer assignment rescinded or cancelled by a Servicing Carrier as provided in Rule 14, G, or been terminated as an Exclusive Representative Producer for failure to meet minimum production criteria or market need criteria as provided in Rules 14, C and D within the preceding twenty-four (24) months, said rescission or cancellation not having been reversed by the Governing Committee, the Division of Insurance or a court of competent jurisdiction.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### B. Ongoing Exclusive Representative Producer Requirements

1. It will be the ongoing responsibility of an agent or broker which has an Exclusive Representative Producer appointment to a Servicing Carrier to fulfill the following requirements as well as the eligibility criteria in Rule 14, A, 2 (e). Failure to do so will be grounds for termination of said appointment.
  - a. Require of all new applicants for insurance that they complete in its entirety a new business application for insurance;
  - b. Report all coverages bound and all registrations/titles certified to the Servicing Carrier within two working days after binding coverage or certifying a registration;
  - c. Verify that the applicant has not been in default in the payment of any motor vehicle insurance premiums in the past twelve (12) months;
  - d. Comply with the reasonable written procedures supplied by the Servicing Carrier for processing claims;
  - e. Forward to the insured within thirty (30) days of receipt from the Servicing Carrier, all policies and endorsements if not mailed directly by the Servicing Carrier to the policyholder;
  - f. Remit payments on a timely basis in accordance with the provisions set forth in the contract between the Servicing Carrier and the Exclusive Representative Producer, 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 to the Servicing Carrier directly. This provision shall not obligate a Servicing Carrier to provide such additional time if notwithstanding any written assurances the premium finance company has failed to perform its commitment previously;
  - g. Notify the Servicing Carrier of any suspected fraud surrounding a loss;
  - h. Cooperate with the Servicing Carrier and CAR personnel during all audits and investigations;
  - i. Properly order endorsements;

**Rules of Operation**

**Rule 14 - Representative Producer and  
Exclusive Representative Producer Requirements**

**B. Ongoing Exclusive Representative Producer Requirements (continued)**

- j. Order only those coverages from the Servicing Carrier requested by the insured, for which he may be eligible;
- k. Quote proper premiums based on information provided by the applicants for the coverage desired;
- l. Conduct all monetary transactions with the insured and the Servicing Carrier as required by the Rules of Operation and the Exclusive Representative Producer contract;
- m. Advise the premium finance company and/or the insured that checks for premiums for all financed accounts are to be made payable to the Servicing Carrier;
- n. Retain the necessary documentation of Servicing Carrier transactions in accordance with the Manual of Administrative Procedures;
- o. Notify the applicant for insurance that he has the option of utilizing an Installment Payment Plan;
- p. Comply with the Automobile Insurance Bureau Form 2-A Procedures relative to the use of the Notice of Transfer of Insurer form.
- q. Develop and maintain a book of business as required in paragraphs C and D.

**Rules of Operation**

**Rule 14 - Representative Producer and  
Exclusive Representative Producer Requirements**

**C. Exclusive Representative Producer Responsibilities – Garaging Town Servicing Carrier Assignments**

1. An Exclusive Representative Producer that has an appointment to more than one Servicing Carrier, as a result of the multiple Servicing Carrier relief process outlined in Rule 13, C, 2, e, will place new and renewal business with the appropriate Servicing Carrier, based on the garaging town of the vehicle(s) on each policy, as follows:
  - a) Stamps, necessary forms and a list of Servicing Carrier garaging town assignments will be maintained in each office location for each Servicing Carrier to which the ERP has been appointed;
  - b) New and renewal business will be placed with the Servicing Carrier based upon the garaging town of the vehicle(s) on each policy;
  - c) For policies insuring multiple vehicles with different garaging towns, the entire policy will be assigned to the appropriate Servicing Carrier based on the garaging town of the first vehicle listed on the policy;
  - d) Policies placed with the incorrect Servicing Carrier will be rewritten immediately and placed with the correct Servicing Carrier retroactive to the original policy effective date;
  - e) For garaging towns that are reassigned to a new Servicing Carrier, the policies will be rewritten with that Servicing Carrier on the policy's next renewal effective date;
  - f) If the policyholder moves to a garaging town that is assigned to a different Servicing Carrier, the policy will be placed with the new Servicing Carrier upon renewal. However, in the case where the policy holder moves within sixty (60) days prior to the scheduled renewal effective date, the policy may be placed with the new Servicing Carrier on the next year's policy renewal date;
  - g) If a new book of business or new office location is acquired, that business will be placed with the appropriate Servicing Carrier based on the garaging town of the vehicle(s) on each policy, upon the policy's next renewal effective date.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### D. Production Criteria

1. All Exclusive Representative Producers whose applications were submitted and who were appointed on or after January 1, 1992, shall be reviewed annually on the anniversary of each Exclusive Representative Producer's contract date. Those Exclusive Representative Producers who within the first twelve (12) months after their contract date fail to develop a book of business of at least 100 motor vehicles, those Exclusive Representative Producers who within twenty-four (24) months following their contract date fail to develop a book of business of at least 250 motor vehicles, those Exclusive Representative Producers who within thirty-six (36) months following their contract date fail to develop a book of business of at least 400 motor vehicles, and those who subsequently fail to maintain a book of business of at least 400 motor vehicles as of their annual evaluation date, will be terminated, unless the Governing Committee or its designee determines particular circumstances that merit a continuation of the assignment. The Servicing Carrier shall be responsible for providing a copy of the evaluation to the Exclusive Representative Producer and to CAR, within fifteen (15) days of the evaluation date. The effective date of termination shall be one year after the evaluation date on which the Exclusive Representative Producer failed to develop or maintain the applicable minimum book of business. If during the twelve (12) month phase out period the Exclusive Representative Producer obtains and maintains the applicable minimum book of business, the termination process shall be suspended but the Exclusive Representative Producer shall continue to be subject to annual evaluations.
2. Annual evaluations of Exclusive Representative Producers whose appointments were effective prior to January 1, 1992, shall commence on and after January 1, 1992. Those Exclusive Representative Producers who fail to develop or maintain a book of business of at least 100 motor vehicles as of the latter of January 1, 1992, or the first anniversary of their appointment, and those Exclusive Representative Producers who fail to develop or maintain a book of business of at least 250 motor vehicles as of the latter of January 1, 1993 or the third anniversary of their appointment and as of each subsequent annual evaluation will be terminated unless the Governing Committee or its designee determines particular circumstances that merit a continuation of the assignment, pursuant to the terms and notification provisions set forth in paragraph 1 above.
3. An Exclusive Representative Producer terminated under the provisions of this section shall be ineligible for appointment to a Servicing Carrier for a period of two (2) years commencing on the effective date of the termination.

For purposes of this paragraph, the term Exclusive Representative Producer includes any licensed broker and any other newly emerging producer with whom or which the terminated Exclusive Representative Producer has a direct or indirect material and continuing proprietary or management interest.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### E. Market Need Criteria

1. Beginning January 1, 1990, CAR shall review the appointment of all Exclusive Representative Producers in order to determine whether there is a market need to be served by the Exclusive Representative Producer. CAR shall conduct such a review of each Exclusive Representative Producer as of the third anniversary of the producer's contract and at least once within each succeeding three year period.

Each Exclusive Representative Producer who does not meet the market need requirement shall be so notified by CAR within forty-five (45) days of the determination. If CAR finds that the Exclusive Representative Producer has: (a) been offered and has refused a voluntary contract to write motor vehicle business of the type covered by its Exclusive Representative Producer appointment with a company that is a Servicing Carrier; or (b) has not made a substantial effort to obtain such a voluntary contract with a Servicing Carrier, that Exclusive Representative Producer appointment shall terminate three years from the date of notification of CAR's finding. For each year during the three year time period, that Exclusive Representative Producer shall receive a dollar commission which is minus ten (10) percent of the dollar commission established by the Commissioner in his annual opinion, findings and decision on automobile insurance rates. Prior to any adjustment in commission paid to an Exclusive Representative Producer pursuant to this section, both CAR and the Servicing Carrier shall notify the affected Exclusive Representative Producer in writing of the commission adjustment.

2. The notification shall advise the Exclusive Representative Producer of the right to a hearing as provided in Rule 20. The Exclusive Representative Producer shall be given an opportunity to demonstrate to CAR that he/she is satisfying a market need based on criteria established by CAR or that he/she has been unable to obtain a voluntary contract to write motor vehicle business of the type covered by its Exclusive Representative Producer appointment during the twelve (12) months immediately preceding the date of notification.
3. If at any time during the three year period referred to in 1 above, the Exclusive Representative Producer satisfies the Governing Committee that he or she has made a substantial effort to obtain such a voluntary contract, such Exclusive Representative Producer shall be entitled, as of the date of the Governing Committee's finding, to full commissions as provided for in Rule 18 and to all other rights conferred by the Rules of Operation.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### F. Change of Assignment

1. Changes of assignment of Servicing Carriers, for reasonable business purposes, may be made upon application to and approval by the Governing Committee, provided there is no significant disruption of the marketplace and no unfair or inequitable apportionment of premiums, losses or expenses.
2. An Exclusive Representative Producer or garaging town currently assigned to an oversubscribed Servicing Carrier may, upon written request, with the written consent of an undersubscribed Servicing Carrier be reassigned to that undersubscribed Servicing Carrier, provided that the Exclusive Representative Producer or garaging town has not been so reassigned within the preceding thirty-six (36) months, and further provided that the Exclusive Representative Producer has not previously had a voluntary relationship for motor vehicle insurance with the undersubscribed carrier or any member of an insurance group to which the undersubscribed carrier belongs where notice of termination of the voluntary agreement was given on or after September 22, 1990 and where the business written with the voluntary carrier by the Exclusive Representative Producer accounted for more than 10% of the total book of motor vehicle insurance business written by that Exclusive Representative Producer.
3. An Exclusive Representative Producer or garaging town, currently assigned to a Servicing Carrier which has filed with the Commissioner of Insurance a plan for withdrawal from the Massachusetts motor vehicle insurance market for private passenger and/or all other business, shall upon written request, with the written consent of an undersubscribed Servicing Carrier be reassigned to that undersubscribed Servicing Carrier, provided that the Exclusive Representative Producer has not previously had a voluntary relationship for motor vehicle insurance with the undersubscribed carrier or any member of an insurance group to which the undersubscribed carrier belongs where notice of termination of the voluntary agreement was given on or after September 22, 1990 and where the business written with the voluntary carrier by the Exclusive Representative Producer accounted for more than 10% of the total book of motor vehicle insurance business written by that Exclusive Representative Producer.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### G. Service Fees

1. Massachusetts General Laws, Chapter 175, Section 182, prohibits agents/brokers 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, and further prohibits said agents and brokers from charging the insured at a rate different from that fixed, established or approved by the Commissioner. See also Massachusetts General Laws, Chapter 176D. The following acts and practices are prohibited:
  - a. Charging a fee in addition to the premium rate fixed, established or approved by the Commissioner for certifying a registration on behalf of a Servicing Carrier;
  - b. Charging a fee in addition to the premium rate fixed, established or approved by the Commissioner for acting as an agent/broker and placing the insured's motor vehicle insurance business with a Servicing Carrier;
  - c. Charging a fee in addition to the premium rate fixed, established or approved by the Commissioner 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 rate fixed, established or approved by the Commissioner 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 paragraph 1 above is intended to prohibit agents/brokers from charging runners' fees and other non-insurance related fees if the following requirements are met:
  - a. The agent/broker provides to the insured a complete description of the non-insurance related services for which the fee, in addition to the premium rate, is being charged;
  - b. The agent/broker advises the insured that there is no obligation to purchase the non-insurance related service and that the insured may obtain motor vehicle insurance through the agent/broker, notwithstanding the insured's decision not to purchase the non-insurance related services;
  - c. The insured, after having been apprised of the information set forth in (a) and (b) above, agrees to pay the fee; and
  - d. The fee for the services provided is reasonable.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 14 - Representative Producer and  
Exclusive Representative Producer Requirements**

**G. Service Fees (continued)**

3. The agent/broker may enter into a contract with the insured pursuant to which the agent/broker provides non-insurance related services to the insured if the agent/broker complies with all of the requirements of paragraph 2 above. In the event the agent/broker and insured executes such a "service contract", the agent/broker shall give to the insured an executed copy of the contract and shall retain an executed copy in his or her file which shall be made available to the Servicing Carrier, Division of Insurance and CAR upon request.

## Rules of Operation

### Rule 14 - Representative Producer and Exclusive Representative Producer Requirements

#### H. Appointment Ineligibility

1. Any licensed fire or casualty agent or broker who within the preceding twenty-four (24) month period has had an Exclusive Representative Producer assignment rescinded or cancelled by a Servicing Carrier with the said rescission or cancellation not having been reversed by the Governing Committee, the Division of Insurance, or court of competent jurisdiction shall be ineligible for an appointment to represent a Servicing Carrier as an Exclusive Representative Producer.

Any licensed fire or casualty agent or broker whose Exclusive Representative Producer assignment rescission or cancellation has not been reversed pursuant to the preceding paragraph and who, after a hearing by the Governing Committee or its designee, has been found to have committed a subsequent material and substantial breach of a contract with a Servicing Carrier, said finding not having been reversed by the Division of Insurance or a court of competent jurisdiction, shall be ineligible for an appointment to represent a Servicing Carrier as an Exclusive Representative Producer.

A material and substantial breach of contract will be deemed to have occurred where a finding has been made that the Exclusive Representative Producer has on three distinct occasions committed any of the following acts or omissions or on any one occasion has committed a combination of any three or more of the following acts or omissions:

- a. Failure to remit payments to a Servicing Carrier on a timely basis in accordance with CAR Rules of Operation and those prescribed by the Servicing Carrier.
- b. Failure to forward to any insured within thirty (30) days of receipt from the Servicing Carrier policies and endorsements (if not mailed directly by the Servicing Carrier).
- c. Failure to notify the Servicing Carrier of any suspected fraud, known to the Exclusive Representative Producer surrounding a loss.
- d. Failure to assist the Servicing Carrier during any audit or investigation of the motor vehicle business of the Exclusive Representative Producer.
- e. Failure to report to the Servicing Carrier all coverages bound, all registrations/titles certified within two working days after binding coverage or certifying a registration.
- f. Failure to comply with reasonable procedures as supplied by the Servicing Carrier for processing claims.

**Rules of Operation**

**Rule 14 - Representative Producer and  
Exclusive Representative Producer Requirements**

**H. Appointment Ineligibility (continued)**

2. If a voluntary agent has been terminated by his or her voluntary Servicing Carrier as a consequence of any of the above acts or omissions, that former voluntary agent will be ineligible for appointment as an Exclusive Representative Producer for a period of two (2) years commencing on the effective date of the termination.
3. An Exclusive Representative Producer terminated for failure to meet minimum production criteria as provided in Rule 14, C or to meet market need criteria as provided in Rule 14, D shall be ineligible for appointment to represent a Servicing Carrier as an Exclusive Representative Producer for a period of two (2) years commencing on the effective date of the termination.
4. For purposes of this section, the term Exclusive Representative Producer includes any licensed broker and any other newly emerging producer with whom or which the terminated Exclusive Representative Producer has a direct or indirect material and continuing proprietary or management interest.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 15 - Premium Collection Standards**

The Exclusive Representative Producer shall remit premium payments in accordance with the contract signed with the Servicing Carrier. In no event shall the required premium deposit on new or renewal business be greater than 30% of the premium for the coverages ordered. Any eligible risk that had been cancelled for nonpayment of insurance premiums during the preceding twenty-four (24) months may be required to pay 100% of the policy premium before insurance is bound, provided, however that no insurance company shall be required to issue such policy or execute such bond if the applicant or any person who usually drives the motor vehicle has an uncured default in the payment to an insurance company of any motor vehicle insurance premiums due or contracted during the preceding twelve months.

All premiums collected by the Exclusive Representative Producer on behalf of the Servicing Carrier as a result of a direct bill invoice must be forwarded to the Servicing Carrier within two working days after receipt by the Exclusive Representative Producer of the premium.

In the event of a default resulting in a termination of an Exclusive Representative Producer, a Servicing Carrier may petition CAR for reimbursement on account of the default of that Exclusive Representative Producer. The Governing Committee, after reviewing the recommendations of the Defaulted Brokers Committee, will determine if the Servicing Carrier is entitled to reimbursement in accordance with criteria established in the Manual of Administrative Procedures.

## Rules of Operation

### Rule 16 - Terminations

#### A. Servicing Carrier Terminations

##### 1. Voluntary Terminations

Any Servicing Carrier may petition the Governing Committee requesting termination as a Servicing Carrier for CAR. The Servicing Carrier shall be required to provide advance notice in writing to the Governing Committee of CAR. Such notice shall be sent to the Chairman of the Governing Committee in care of the CAR office. The President of CAR shall confirm in writing to the sender the receipt of the notice of termination as a Servicing Carrier.

The advance notice of termination shall specify a period of time, no less than six months hence or such earlier time as the parties shall mutually agree when the terminating Servicing Carrier will cease accepting new applications. The effective date shall be the date such notice is received by CAR.

The terminating Servicing Carrier will in its letter of termination of association as a Servicing Carrier for CAR affirm its commitment to continue to provide service as required by the Plan, Rules, and Manual of Administrative Procedures, on all existing policies and those policies written in the notice period until the expiration following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies.

##### 2. Servicing Carrier Terminations by CAR

In the event that it becomes necessary for the Governing Committee to terminate the association of a Servicing Carrier with CAR, such notice shall be given in writing by the Chairman of the Governing Committee to the Chief Executive Officer of the Servicing Carrier. Such notice shall specify a period of time no less than six months hence or such earlier time as the parties may mutually agree, at which time the Servicing Carrier will no longer be authorized to accept new business on behalf of CAR. The notice to the terminating Servicing Carrier will further stipulate that the Servicing Carrier will be expected, in good faith, to the best of its ability continue to provide service on existing policies as required under the Rules of Operation until the expiration date following the effective date of the termination notice unless the parties shall have mutually agreed to other arrangements for the service of such policies.

## Rules of Operation

### Rule 16 - Terminations

#### A. Servicing Carrier Terminations (continued)

##### 2. Servicing Carrier Terminations by CAR (continued)

Upon receipt of the notice of termination of association by a Servicing Carrier to CAR or upon notice by the Governing Committee of the termination of association with a Servicing Carrier, the Chairman of the Governing Committee will notify within ten days all the Servicing Carriers of the action and solicit from them such information as is needed to make a determination of the remaining Servicing Carriers' capacity to serve the segment of the insuring public and those Representative Producers served by the terminating carrier. All Servicing Carriers are required to respond within thirty days from the date of the request.

Upon receipt of the response from the remaining Servicing Carriers, the Governing Committee shall determine if the remaining carriers have adequate capacity to serve the departing Servicing Carrier's customers and Representative Producers in accordance with the performance standards for a Servicing Carrier.

Upon determining that adequate capacity does exist among the remaining Servicing Carriers, the Governing Committee may direct the President of CAR to proceed with the process of reassignment of Representative Producers.

Should the Governing Committee of CAR find that the remaining Servicing Carriers are unable to service the departing Servicing Carrier's customers and Representative Producers then the Governing Committee shall, from the companies which have met all of the standards for a Servicing Carrier, appoint that carrier or carriers it deems can best serve the consumer and Representative Producers on behalf of CAR.

The Governing Committee, if it deems it necessary, may extend a general invitation to all insurers who believe they can meet the requirements for a Servicing Carrier as outlined in the Rules of Operation, to so apply for appointment.

Upon determination of new eligible candidates as Servicing Carriers and upon determination of those existing carriers with additional capacity by the Governing Committee, a complete list of those Servicing Carriers shall be utilized in the carrying out of those activities required to facilitate a reappointment of Representative Producers assigned to the departing Servicing Carriers. However, the Plan requires that there shall be no fewer than twenty Servicing Carriers participating in the Plan at all times.

**Rules of Operation**

**Rule 16 - Terminations**

**A. Servicing Carrier Terminations (continued)**

2. Servicing Carrier Terminations by CAR (continued)

In the event any Servicing Carrier experiences unanticipated or unusual operational difficulties that would impair its ability to continue to meet the established Servicing Carrier performance standards, the Governing Committee, subject to the approval of the Commissioner, may take such action as it may deem appropriate to alleviate the difficulties. Such actions by the Governing Committee shall be taken when it is evident the interest of the insuring public and the industry would be better served.

Nothing in this section shall in any manner be deemed to act to modify or reduce a Servicing Carrier's responsibility or obligation under the Plan, Rules of Operation, or Manual of Administrative Procedures.

3. Approval by the Commissioner of Voluntary Terminations and Terminations by CAR.

No termination of a Servicing Carrier will become effective until approved by the Commissioner. In granting his approval, the Commissioner will consider the impact of such termination on policyholders, agents and brokers, and the market for motor vehicle insurance.

4. Terminations by the Commissioner

The Commissioner may terminate any Servicing Carrier which he determines to have violated the standards established for Servicing Carriers in these Rules or the Plan or if he finds that the operation or financial stability of such Servicing Carrier presents a danger to the interests of policyholders or the continued operation of CAR or will create substantial market disruption.

**Rules of Operation**

**Rule 16 - Terminations**

**B. Representative Producer Terminations**

1. Voluntary Terminations

Any Representative Producer requesting termination as a Representative Producer of a Servicing Carrier of CAR shall be required to provide thirty (30) days advance written notice to the Servicing Carrier and CAR.

The terminating Representative Producer shall return all Servicing Carrier forms, manuals and certification stamp(s) as well as all materials supplied by a Servicing Carrier at such time as the termination becomes effective.

2. Termination by a Servicing Carrier

Grounds for termination of a Representative Producer shall be as provided in Rules 13 and 14.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**A. Private Passenger Ceding Expense Allowances**

1. For ceded business written for calendar years 1994 and later, Servicing Carriers shall receive credit against their premiums written account (excluding ceded premium for Antique Vehicles with policy effective dates of November, 1998 and subsequent) for expenses as follows:
  - a. For all private passenger motor vehicle business, Commission and Brokerage expenses, Direct Writer Selling expense, and Premium Taxes shall be reimbursed on an actual incurred basis, but in no case can they be greater than the allowance provided in the Commissioner's annual Decision on Private Passenger Automobile Insurance Rates.
  - b. For all private passenger motor vehicle insurance business, Unallocated Claim Adjustment Expenses, Other Acquisition, including Field Supervision and Collection Expenses, and General Expenses shall be reimbursed at the actual allowance provided in the Commissioner's annual Decision on Private Passenger Automobile Insurance Rates. Each Servicing Carrier's expense allowance shall be adjusted by the ratio of its claim frequency and other appropriate factors for ceded business to the claim frequency and other appropriate factors for all ceded business.

Each Servicing Carrier's expense allowance shall be determined as a percent of its ceded premium written, based upon the percent of the statewide average rate which is represented by the aforementioned expense components.

Separate computations shall be made for the liability pool and for the physical damage pool.

Interim ceding expense allowances for each Servicing Carrier for a particular calendar year will be determined using the procedure outlined above utilizing the applicable expense components provided in the Commissioner's annual Decision on Private Passenger Automobile Insurance Rates, in conjunction with exposures and the adjustment based on claim frequency and other appropriate factors described in (b) above for the most recent calendar year available.

Annually, interim expense allowances will be trued-up to reflect the actual incurred expenses for that calendar year as described in (a) above, and to reflect the exposure and adjustment for claim frequency and other appropriate factors described in (b) above for that calendar year.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**B. Other Than Private Passenger Ceding Expense Allowance**

1. For ceded business written for calendar years 1994 and later, (except for taxi, limousine and car service business written through CAR's Taxi and Limousine Program), Servicing Carriers shall receive credit against their premiums written account (excluding ceded premium for Antique Vehicles with policy effective dates of November, 1998 and subsequent) for expenses as follows:
  - a. For all other than private passenger motor vehicle business, for calendar year 1994, Commission and Brokerage expenses, Direct Writer Selling Expenses and Premium Taxes shall be reimbursed on an actual incurred basis, but in no case can they be greater than the industry average expenses for these rate components, as contained in the Massachusetts Automobile Insurance Expense Plan.

An off-balance factor shall be applied to each Servicing Carrier's aforementioned rate components in order to disburse all of the expenses reported by the industry on average.

For all other than private passenger motor vehicle business, for calendar years 1995 and subsequent, Commission and Brokerage expenses, Direct Writer Selling Expenses and Premium Taxes shall be reimbursed on an actual incurred basis, but in no case can they be greater than the allowance provided in the Commissioner of Insurance's annual Decision on the CAR Commercial Rate Filing.

An off-balance factor shall be applied to each Servicing Carrier's aforementioned rate components in order to disburse all of the expenses provided for by the expense components contained in CAR's Commercial Automobile Rates.

- b. For all other than private passenger motor vehicle insurance business, for calendar year 1994, Unallocated Claim Adjustment Expenses, and Company Expenses, including Other Acquisition, Field Supervision and Collection Expenses, Other Taxes Licenses and Fees and All Other General Expenses shall be reimbursed at the industry average allowance provided in the Annual Expense Call, adjusted by each Servicing Carrier's ratio of its claim frequency and other appropriate factors for ceded business, to the claim frequency and other appropriate factors for all ceded business.

To distribute all available expense dollars as provided for in the Annual Expense Call, an off-balance procedure shall be applied to the above adjusted expense components.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**B. Other Than Private Passenger Ceding Expense Allowance (continued)**

For all other than private passenger motor vehicle insurance business, for calendar years 1995 and subsequent, the above noted expenses components shall be reimbursed at the allowance provided in the Commissioner of Insurance's annual Decision on the CAR Commercial Rate Filing, adjusted by each Servicing Carrier's ratio of its claim frequency and other appropriate factors for ceded business, to the claim frequency and other appropriate factors for all ceded business.

To distribute all available expense dollars as provided for in CAR's Commercial Automobile Rates, an off-balance procedure shall be applied to the above adjusted expense components.

- c. Each Servicing Carrier's expense allowance shall be determined as a percent of its ceded premium written, based upon the percent of the average rate which is represented by the expense components aforementioned in (a) and (b).

Separate computations shall be made for the liability pool and for the physical damage pool.

- d. For calendar year 1994 interim ceding expense allowances for each Servicing Carrier for a particular calendar year shall be determined using the procedure outlined above. The applicable expense components provided in the latest available Massachusetts Automobile Insurance Expense Plan, in conjunction with the claim frequency and off-balancing adjustments described in (a) and (b) above for the most recent calendar year available shall be utilized.

For calendar years 1995 and subsequent, the applicable expense components provided in the Commissioner of Insurance's Annual Decision on CAR's Commercial Rate Filing, in conjunction with the claim frequency and off-balancing adjustments described in (a) and (b) above for the most recent calendar year available shall be utilized. Note that taxi, limousine and car service business written through CAR's Taxi and Limousine Program are excluded from this calculation.

Annually, interim expense allowances will be trued-up to reflect the actual incurred expenses, capped and off-balanced for that calendar year as described in (a) above, and to reflect the claim frequency and off-balancing adjustments and other appropriate factors described in (b) above for that calendar year.

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**B. Other Than Private Passenger Ceding Expense Allowance (continued)**

2. For taxi, limousine and car service business written through CAR's Taxi and Limousine Program, expense allowances will be reimbursed to Servicing Carriers as follows:

a. Premium Tax and Commission

Servicing Carriers will be reimbursed for premium tax and commissions according to the approved Commonwealth Automobile Reinsurers' rate filing for each class for the corresponding policy year. Expense allowances will be credited to the Servicing Carrier as a percentage of written premium through the Commonwealth Automobile Reinsurers' quarterly settlement of balances procedure. For policy years where a CAR rate filing is not filed and/or approved, the premium tax and commission allowance will remain unchanged from the prior year.

b. Unallocated Loss Adjustment Expenses (ULAE), Company and General Expenses

Servicing Carriers will be reimbursed for ULAE expenses; other acquisition, including field supervision and collection expenses; and general expenses according to the per unit allowance for each classification for each policy year of appointment, determined through the bid review and selection process and approved by the Governing Committee.

Interim expenses will be based on the ratio of the agreed upon per unit allowance for each policy year of the Servicing Carrier's appointment, separately for taxi and limousine premium as approved in CAR's commercial rate filing for the corresponding policy year.

Interim expenses will be credited to the Servicing Carrier as a percentage of written premium through the Commonwealth Automobile Reinsurers' quarterly settlement of balances procedure.

Interim expenses will be trued-up based on the agreed upon per unit allowance multiplied by the ceded property damage liability exposures statistically reported for the corresponding policy year.

3. In order to maintain a viable voluntary market, there will be a cession limitation applied to "All Other Motor Vehicle" insurance written during a policy year by a Servicing Carrier. For policy years 2001 through 2003, business written through involuntarily assigned Representative Producers and ceded to CAR will be excluded from the cession limitation. Additionally, voluntary and ceded premium for Antique Vehicles with policy effective dates of November, 1998 and subsequent will be excluded from the cession limitation calculations. The limitation will be stated as a percentage of the written premium reported to CAR by the Servicing Carrier, for All Other Motor Vehicle insurance classifications rated pursuant to manuals approved by the Commissioner of Insurance pursuant to M.G.L., Chapter 175E (Competitive Rating).

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**B. Other Than Private Passenger Ceding Expense Allowance (continued)**

For policy years 2001 through 2003, ceded premiums for the following classifications will be excluded from the calculations:

Classification Description	Statistical Code
<u>Contract Carriers</u> Hauling Chemicals Hauling Petroleum or Petroleum Products All Other	###230 ###270 ###290
<u>Waste Disposal</u> Garbage All Other	###530 ###590  (Both classes excluded for policy years 2001 and 2002 only)
Petroleum Business	###920
<u>Long-haul Truckers</u> Non-fleet Fleet	##32## ##62##
<u>Emergency Vehicles</u> Emergency Ambulances Fire Department Law Enforcement	791300 790800, 790900 791100, 791200, 794200
School Buses	61##00, 62##00
Buses N.O.C.	53##00, 54##00, 55##00, 58##00
Limousines	42#900
Car Services	43#900
Truckers Cost-of-Hire	661300
Chemical Manufacturers	###110
<u>Garage</u> Non-franchised Dealers Repair Shops	735100, 735200 780800, 781000, 781100, 781200, 781300 780900 (This class is excluded for policy years 2001 and 2002 only)
<u>Taxicabs</u> Fleet  Non-fleet	418700, 419700, 410700, 418800, 419800, 410800, 418900, 419900, 410900  415700, 416700, 417700, 415800, 416800, 417800, 415900, 416900, 417900

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**B. Other Than Private Passenger Ceding Expense Allowance (continued)**

If a Servicing Carrier's ceded premium (excluding ceded premium for Antique Vehicles with policy effective dates of November, 1998 and subsequent) for the policy year exceeds the limitation for that policy year, a reduction in expense allowances will be applied as follows:

1. Premium up to the cession limitation; the expense allowance as otherwise determined will be granted.
2. For policy years 2001 through 2003, premium in excess of the cession limitation, but less than or equal to 40%; no expense allowance will be granted except for taxes, commissions, or comparable selling expenses of direct writing companies. For premium in excess of 40%, no expense allowance will be granted.

The following limitations will apply:

<b>Policy Year</b>	<b>Cession Limitation</b>
2001	30%
2002	30%
2003	30%

**Commonwealth Automobile Reinsurers**

**Rules of Operation**

**Rule 17 - Expense Allowance to Servicing Carriers  
on Representative Producer Business**

**C. Miscellaneous Expense Allowances**

1. In order to offset the expenses associated with the start-up costs for the newly assigned Representative Producer, a Servicing Carrier shall receive a fee of \$1,000 for each newly assigned non-voluntary Representative Producer, so assigned on or after June 1, 1987, with which the Servicing Carrier has not within the twelve months preceding the assignment had a voluntary agreement for motor vehicle insurance business.
2. A Servicing Carrier shall receive an annual fee of \$1,500 to offset the costs of processing business produced by each newly assigned non-voluntary Representative Producer, so assigned on or after June 1, 1987, with which the Servicing Carrier has not within twelve months preceding the assignment had a voluntary agreement for motor vehicle insurance business. This annual processing fee shall be paid to the Servicing Carrier on the Representative Producer's assignment anniversary date until such time as the Representative Producer has attained a minimum volume of one hundred motor vehicles pursuant to Rule 14, C.
- D. Each Servicing Carrier shall receive a credit against its premium written account for losses paid on all policies written as a Servicing Carrier, less recoveries received. Allocated claim adjustment expenses paid will be treated as loss payments. For purposes of this paragraph "Allocated Claim Adjustment Expense" shall be those expenses as defined in the Massachusetts Statistical Plans.
- E. For all policy years prior to the current policy year, CAR shall issue quarterly summaries to all Members reflecting each Member's cumulative balances. CAR shall reimburse those Members with allowable credits in excess of written premiums, and shall submit a statement to those Members with premiums in excess of allowable credits. A Member billed by CAR shall pay the balance within fifteen working days after the date of the cover letter, subject to interest charges at the prime rate as established by the Bank of Boston on the date payment is due for late payment. Payment date for the purpose of determining penalty interest charge eligibility under this Rule shall be established as the date such payment is received by CAR.
- F. A Servicing Carrier which in any month reports allowable credits substantially in excess of premiums written shall be entitled to request reimbursement for such excess. Unless the Governing Committee determines otherwise, CAR shall reimburse the Servicing Carrier for such excess within thirty days after approving such request.

## Rules of Operation

### Rule 18 - Commissions to Representative Producers

#### A. Private Passenger

The commission paid to Representative Producers, who are independent insurance agents or brokers operating under the American Agency System, on private passenger motor vehicle insurance written on behalf of CAR shall be equal to the average percentage commission paid for risks not insured through the Plan for agents by companies which do business through independent insurance agents pursuant to the American Agency System, as determined in the rate filed by the Servicing Carrier, and such rate being approved by the Commissioner. For those Representative Producers who are not independent insurance agents or brokers operating under the American Agency System, the commission paid on business written on behalf of CAR shall be determined by the Servicing Carrier, such commissions may not exceed the average percentage commission paid for risks not insured through the Plan to agents by companies which do business through independent insurance agents pursuant to the American Agency System.

#### B. All Other

The commission paid to Representative Producers, who are independent insurance agents or brokers operating under the American Agency System, on all other motor vehicle insurance written on behalf of CAR shall be equal to the average percentage commission paid for risks not insured through the Plan for agents by companies which do business through independent insurance agents pursuant to the American Agency System, as determined in the rate filed by the Servicing Carrier, and such rate being approved by the Commissioner, provided, however, that for those risks rated in accordance with the rates filed by Commonwealth Automobile Reinsurers and approved by the Commissioner, the commission paid to Representative Producers shall be equal to the average percentage as determined in the approved filing.

For those Representative Producers who are not independent insurance agents or brokers operating under the American Agency System, the commission paid on business written on behalf of CAR shall be determined by the Servicing Carrier. Such commissions may not exceed the average percentage commission paid for risks not insured through the Plan to agents by companies which do business through independent insurance agents pursuant to the American Agency System. For those risks rated in accordance with the rates filed by Commonwealth Automobile Reinsurers and approved by the Commissioner, the commission may not exceed the average percentage as determined in the applicable filing.

**Rules of Operation**

**Rule 19 - Indemnification**

- A. Any person or Member made or threatened to be made a party to any action, suit or proceeding, because such person or any officers, employee or representative of such Member served on the Governing Committee or on any committee of CAR or was an officer or employee of CAR, shall be indemnified by CAR against all judgments, fines, amounts paid in settlement, reasonable costs and expenses including attorneys' fees, and any other liabilities that may be incurred as a result of such action, suit or proceeding, or threatened action, suit or proceeding, except in relation to matters as to which he or it shall be adjudged in such action, suit or proceeding to be liable by reason of breach of duty involving gross negligence, bad faith, dishonest, willful misfeasance or reckless disregard of the responsibilities in the performance of his or its duties or obligations to CAR and, with respect to any criminal actions or proceedings, except when such person or Member had reasonable cause to believe that his or its conduct was unlawful. Such indemnification shall be provided whether or not such person or Member is a Member or is holding office or is employed at the time of such action, suit or proceeding and whether or not any such liability is incurred prior to the adoption of this Rule. Such indemnification shall not be exclusive of other rights such person or Member may have and shall extend to the successors, heirs, executors or administrators of such person or Member. In the event of settlement or other termination of a matter before final adjudication, indemnification shall be provided only if the Governing Committee determines with the advice of independent counsel that the person or Member to be indemnified did not in counsel's opinion commit such a breach of duty.
- B. In each instance in which a question of indemnification arises, entitlement thereto, pursuant to the conditions set forth in the first paragraph of this Rule, shall be determined by the Governing Committee which shall also determine the time and manner of payment of such indemnification; provided, that a person or Member who or which has been wholly successful, on the merits or otherwise, in the defense of a civil or criminal action, suit or proceeding of this character described in the first paragraph on this Rule shall be entitled to indemnification as authorized in such paragraph. Nothing herein shall be deemed to bind a person or Member who or which the Governing Committee has determined not to be entitled to indemnification, or to preclude such person or Member from asserting the right to such indemnification by legal proceedings. Such indemnification as is herein provided shall be considered an operating expense apportioned among all Members, including any named in any such action, suit or proceeding, according to that Participation Ratio deemed by the Governing Committee to be most appropriate.

**Rules of Operation**

**Rule 20 - Hearings, Review**

- A. Any person, including any Member, licensed agent or licensed broker, aggrieved by any unfair, unreasonable, or improper practice of CAR or a Member with respect to the operation of CAR may request a formal hearing and ruling by the Governing Committee on the alleged practice. The request for hearing must be made within thirty days after the date such person knew of the alleged practice. The hearing shall be held within fifteen days after the receipt of the request. Except as may be otherwise provided by the Governing Committee, the hearing shall be held by a panel appointed by the Governing Committee, consisting of three Governing Committee members entitled to vote. The decision of this panel or any committee sitting at the request of or under the authority of the Governing Committee shall be rendered within fifteen working days of the hearing. The ruling of the majority of the panel shall be deemed to be the formal ruling of the Governing Committee unless the full committee on its own motion shall modify or rescind the panel's action.
  
- B. Any formal Governing Committee ruling may be appealed to the Commissioner by filing notice of appeal with CAR and the Commissioner within thirty days after the date of the ruling's issuance. The Commissioner may approve, modify, amend or disapprove the ruling or direct the Governing Committee to reconsider the ruling. In addition, the Commissioner may issue any other appropriate order, including granting the aggrieved party a new hearing.

**COMMONWEALTH AUTOMOBILE REINSURERS**

**REQUEST FOR REVIEW/RELIEF**

(pursuant to Rule 20, CAR Rules of Operation)

Please complete in type or print in ink.

**Requestor's Name/Title:**

**Signature:**

**Date:**

**Agency or Company Name:**

**Address:**

**City/Town:**

**State:**

**ZIP Code:**

**Telephone #:**

**Fax #:**

**Representation:**

If represented by counsel or other party please complete the following:  
(Representation by counsel is not required):

**Name of Rep:**

**Firm:**

**Address:**

**City/Town/St/ZIP:**

**Telephone #:**

**Fax #:**

**1**

**Reason For Review:** A. Concisely summarize the reason(s) for your request for review identifying the nature of your aggrievement or request for relief.)  
B. Identify the specific relief sought.

**2**

**Details of Aggrievement(s):** (Provide specific detail for each reason cited above including references to violations of CAR Rules, the agency contract, or established practices of CAR or one of its members. Include historical reference, where appropriate. (Attach supporting documentation.)



**documentation that they wish considered in the matter to the opposing party in concert with their submissions to CAR and/or the Committee.** A request for a continuance on a review of the matter will be granted upon the agreement of all parties. All other requests for continuances must be physically presented to the assigned Committee for approval.

**15 Day Waiver (CAR Rule 20): Initial if waiving the need for a review within 15 days:**

**I waive the 15 day review window pursuant to CAR Rule 20: (Initial): \_\_\_\_\_**

**PLEASE NOTE: THIS FORM MUST BE COMPLETED AND RETURNED TO CAR  
PRIOR TO THE INITIATION OF A FORMAL REVIEW PURSUANT TO  
RULE 20, CAR RULES OF OPERATION**

**FOR COMPLETION BY CAR OFFICE – DO NOT WRITE BELOW**

<b>4</b>	<b>Assigned Docket Number:</b>
<b>5</b>	<b>Related Docket Number(s):</b>
<b>6</b>	<b>Assigned Review Forum:</b>  <b>CAR COMMITTEE:</b> _____  <b>Scheduled Review Date:</b> _____
<b>7</b>	<b>Disposition:</b>