A. Appointments

1. Private Passenger

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

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

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

2. Commercial

    a. For commercial motor vehicle business effective prior to January 1, 2006, each company with reported voluntarily produced commercial written premium equal to or greater than 0.5% of the total market voluntarily produced commercial written premium, will be required to become a commercial motor vehicle Servicing Carrier effective January 1st of the next policy year following notification of eligibility status. A Member will only be required to become a Servicing Carrier when it has met or exceeded the above stated threshold.

    b. For policies effective January 1, 2006 and subsequent, the Governing Committee shall appoint a limited number of Servicing Carriers, for a specified period of time, as authorized in the Plan and Rules of Operation, based on the response of Member Companies to the Request for Proposal for Servicing Carrier for Massachusetts Residual Market Commercial Business.

        (1) A commercial Servicing Carrier may only enter into a contractual agreement for the purpose of servicing its commercial ceded business, if the terms and conditions of that agreement have been fully disclosed in the response of that Member to the aforementioned Request for Proposal.

        (2) A commercial Servicing Carrier, in addition to satisfying the requirements listed in Section 4. hereunder, shall be required to satisfy all criteria contained in the aforementioned Request for Proposal, consistent with the Member's response to the Request for Proposal.

3. For purposes of determining Servicing Carrier eligibility, groups of companies under the same ownership and management will be treated as a single member company.

4. In order to assure the protection of the public interest, the Governing Committee in considering the appointment of a Member as a Servicing Carrier shall require the following:

a. That the company has satisfied the Governing Committee that it, or another entity pursuant to a written agreement reviewed and approved by the Governing Committee or its designee, has the ability to, and it will effectively:

(1) Provide policy issuance and premium collection services for all eligible classes of risks, except for those classes of risks specifically exempted by the Commissioner upon the request of the applicant.

(2) Service insurance claims in every state, the District of Columbia and Canada.

(3) Administer a Direct Bill Program for Private Passenger risks and for Commercial risks.

(4) Provide an Installment Payment Plan which has been filed with and approved by the Commissioner. The Installment Payment Plan shall require no more than a 30% first or deposit payment on or before the policy effective date, and no less than seven monthly payments thereafter. A Servicing Carrier shall cooperate with its Exclusive Representative Producers to assure that policyholders are made aware of their option to utilize an Installment Payment Plan.

(5) Maintain a Special Investigative Unit to investigate suspicious or questionable motor vehicle insurance claims for the purpose of eliminating fraud, and to verify garaging and policy facts on a representative sample of policies.

(6) Report all required information to CAR in an accurate and timely manner.

(7) Adopt and maintain a plan approved by the Commissioner of Insurance providing for direct payment by the insurer to the insured under collision, limited collision, comprehensive, and fire and theft coverages.

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

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

B. Servicing Carrier Responsibilities

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

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

3. Servicing Carriers must provide quality service to CAR policyholders by maintaining the standards established as a condition of appointment under Section A. 4 of this Rule.

4. Policies and Forms

   a. For private passenger business, policies and other forms mailed to policyholders shall be the same as those used for non-Servicing Carrier motor vehicle business. Servicing Carriers shall provide the same level and type of service to policies issued through CAR, as they provide to policies issued voluntarily.

   b. For commercial business, policies and other forms mailed to policyholders shall be the same as those specifically referenced in CAR's Manual of Administrative Procedures.

   c. Servicing Carriers shall provide the same level and type of service to policies issued through CAR, as they provide to policies issued voluntarily.

5. For Private Passenger Motor Vehicles

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

6. General Duties

   The Servicing Carrier shall perform the following general duties:

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

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

   b. Accomplish confirmation of operator driving licenses and records in order to effectively administer the Safe Driver Insurance Plan.

   c. Verify that representations contained in the application for insurance are accurate as to classification, garaging, discounts, credits, vehicle use, vehicle description and experience for those risks eligible to be experience rated.

d. Assure that a policy has been issued for each RMV-1 and/or RMV-3 certificate and that the policy effective date and the certification date are the same.

e. Adopt procedures designed to assure that all assigned Exclusive Representative Producers comply with all provisions of the contract between the Servicing Carrier and the producer.

f. Implement procedures to assure collection of premiums billed.

g. Comply with the terms and conditions of premium finance notes and/or agreements submitted to the Servicing Carrier, on behalf of applicants for insurance, by the producer or by a premium finance company licensed under the laws of the Commonwealth of Massachusetts.

h. Termination

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

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

(a) Failure to maintain a valid agents/brokers license as issued by the Division of Insurance.

(b) Willful misappropriation of premium due a Servicing Carrier in accordance with the provisions of CAR Rules of Operation.

(c) The entry of a finding, by a court of competent jurisdiction that the producer has engaged in fraudulent activity in connection with the business of motor vehicle insurance.

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

(a) Failure to remit payments to a Servicing Carrier on a timely basis in accordance with CAR's Rules of Operation.

(b) Failure to notify the Servicing Carrier of any suspected fraud in the application for insurance or in the underwriting or rating process or in the payment of premium obligations or surrounding a loss.

(c) Failure to assist the Servicing Carrier during any audit or investigation.

(d) Violations of the conditions set forth in the Servicing Carrier contract.

(e) Failure to report all coverages bound within two working days of the effective date of coverage.

(f) Failure to comply with reasonable procedures as supplied by the Servicing Carrier for processing claims, remitting premiums, and requesting coverages.

(g) Failure to adhere to a directive issued by the Commissioner relative to the charging of Service Fees.

(h) Failure to provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data.

(i) Failure to comply with applicable agency requirements and procedures, as prescribed in the CAR Rules of Operation.

(j) Failure to refrain from brokering private passenger business, as defined in Rule 14.B.1.r.

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

(a) Be in writing.

(b) State the specific CAR Rule provision(s) that constitute the basis for the termination.

(c) Include a copy of the CAR Request for Review form, and a copy of the section of Rule 13 entitled "Termination", to advise the ERP of its right to request a review of the termination by CAR.

(d) Be hand delivered or mailed by a method that provides proof of mail to the ERP's principal place of business, with a copy of the termination notice sent to CAR concurrently.

(e) Define changes in operational procedures, if any, that the Servicing Carrier intends to implement concurrent with the ERP's termination effective date.

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

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

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

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

i. Report immediately to CAR and the Division of Insurance any termination of an Exclusive Representative Producer's contract and initiate procedures in a timely manner, including litigation if necessary, to administer a controlled run off of the business from an Exclusive Representative Producer whose agreement has been terminated.

j. Maintain effective communication with Exclusive Representative Producers by scheduling meetings when necessary and conducting whatever educational/training sessions as may be required to assure that Exclusive Representative Producers provide quality service to the motoring public.

k. Verify, prior to contracting and on an ongoing basis, producer eligibility for assignment to a Servicing Carrier as required by G.L. c. 175, §113H.

l. Provide Exclusive Representative Producers with all information and procedures required for them to effectively service policies issued through CAR.

m. Comply with all of the provisions of the Rules of Operation and Manual of Administrative Procedures.

n. Maintain records of infractions of the Rules of Operation of CAR by Exclusive Representative Producers and report such infractions as appropriate and necessary.

o. Provide Exclusive Representative Producers with necessary information from the policy declaration page, to support their servicing of their insureds, in an appropriate and usable format and medium.

p. Provide producers with a list of approved inspection services for conducting pre-inspections.

q. Provide Exclusive Representative Producers, at least quarterly, with premium, production, and experience data on their business.

r. Notify CAR of any new affiliated agency status, or changes in affiliated agency relationships.

7. Reporting Requirements

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

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

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

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

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

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

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

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

8. Continuation of Eligibility as a Servicing Carrier

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

9. Inducements

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

10. Penalties

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

C. ERP Subscription

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

    a. Servicing Carriers will be assigned Exclusive Representative Producers (ERPs) based upon the Servicing Carrier's total market share. The Servicing Carrier's "ought to have" share of ERP exposures will be equal to the Servicing Carrier's percentage of the total market multiplied by the sum of all Servicing Carriers' ERP exposures. Servicing Carrier ERP subscription reports will be developed based upon statistical data reported to CAR for the latest twelve (12) policy effective months. CAR will verify, validate and/or adjust this data for use in the subscription process, including the assignment and reassignment of ERPs and Servicing Carrier oversubscription relief.

    b. A Servicing Carrier's "over or under subscription" position will be determined by comparing its actual number of ERP exposures to its "ought to have" number of ERP exposures and expressing the result as a percentage of the "ought to have" number of ERP exposures.

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

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

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

(2) When one ERP purchases an entire book of automobile business from another ERP, the exposures associated with the purchased ERP will be fully attributed to the successor Servicing Carrier and will be deducted from the predecessor Servicing Carrier at the time of transfer and the selling ERP's appointment will be terminated. Voluntarily contracted ERP transfers will be counted as voluntary agent produced exposures for the successor Servicing Carrier and subtracted from the ERP Servicing Carrier on an "as written" basis.

(3) Companies which have been Servicing Carriers for thirty-six (36) months or less will have their voluntarily written (non-ERP) exposure total "grossed up" using a factor that is based on a three (3) year rolling average of the industry non-ERP cession rate. The factor will be updated annually at the end of June.

(4) The primary consideration for subscription order will be based on a Servicing Carrier's percentage of their "ought to have" ERP share. However, for Servicing Carriers between 75% and 100% of their "ought to have" ERP shares, subscription will be calculated in 5% intervals within which subscription order will be based on exposure counts.

(5) No ERP with greater than 300 exposures shall be assigned to a Servicing Carrier where the assignment will result in the Servicing Carrier exceeding 105% of its “ought to have” ERP share. In the event that an assignment would bring a carrier over 105%, the ERP will be assigned to the next most undersubscribed Servicing Carrier where the assignment complies with this Rule, and the most undersubscribed Servicing Carrier will remain eligible for the next assignment.

d. A Servicing Carrier is prohibited from entering into a two or three party agreement with an ERP for the purpose of a change in assignment.

e. If an ERP receives a voluntary contract from a Servicing Carrier and is subsequently terminated within twenty-four (24) months of the contract date, the canceling Servicing Carrier’s and industry’s exposure totals will continue to include the producer's number of exposures, in force as of the cancellation date, as “produced by a voluntarily contracted producer” for a period of thirty-six (36) months. In addition, actual exposures written will be counted as ERP exposures for the newly assigned ERP Servicing Carrier.

f. If a Servicing Carrier is undersubscribed by 25% and 1,000 exposures or for three (3) consecutive months, CAR will simultaneously notify the Governing Committee and all oversubscribed Servicing Carriers of that circumstance. The Governing Committee will determine whether to order a redistribution of ERPs from oversubscribed Servicing Carriers to the undersubscribed carrier. An oversubscribed Servicing Carrier may notify the Governing Committee of its desire to forego any redistribution of its ERPs. Upon Governing Committee direction, CAR will randomly reassign ERPs from the then most oversubscribed Servicing Carrier until the undersubscribed Servicing Carrier’s subscription approximates its “ought to have” share pursuant to the procedures outlined in C.2.

2. Subscription Relief – Private Passenger

   In order to assure that the subscription relief process is responsive to those Servicing Carriers that become oversubscribed and to further assure that the relief process itself does not cause additional Servicing Carriers to become oversubscribed, the following methodology will be used to provide subscription relief, making every effort to reduce the oversubscribed Servicing Carrier to a level of 100% of its "ought to have" ERP exposures.

   a. A Servicing Carrier may petition CAR for relief if it has been oversubscribed at a level of 110% or more for a period of three (3) or more consecutive months. The petition will be in writing and addressed to the President of CAR.

   b. CAR will confirm the petitioner's eligibility for relief based upon the Servicing Carrier's subscription level at the time of the Servicing Carrier's petition. CAR will verify and validate the petitioning Servicing Carrier's reported data for the applicable three (3) month period. CAR will also review all Servicing Carriers' data reported for the same period, pursuant to C.1.a. Upon completion of the data validation process, CAR will then perform the following subscription relief procedure.

      (1) CAR will randomly select ERPs of the petitioning Servicing Carrier and will reassign those ERPs to the most undersubscribed Servicing Carrier pursuant to C.1. However, if a randomly selected ERP will reduce the petitioning Servicing Carrier's "ought to have" ERP share to below 100%, or, if the reassignment of the ERP causes the most undersubscribed Servicing Carrier's ERP subscription level to go above 100%, the ERP will not be assigned and a new selection will be made.

(2) Following the reassignment of each individual ERP, CAR will recalculate subscription levels for all Servicing Carriers. The process will continue until the petitioning Servicing Carrier's subscription level is as close to 100% as possible without going below 100%. In any event, the petitioning Servicing Carrier's subscription level must be less than 105% of its "ought to have" number of ERP exposures, while assuring that no additional Servicing Carriers become oversubscribed in the process.

(3) If after all of the petitioning Servicing Carrier's eligible ERPs have been reassigned, but subscription relief cannot be completed because the only ERPs left to reassign produce entire books of business that would cause either the petitioning Serving Carrier's subscription level to drop below 100% or the recipient Servicing Carrier's subscription level to exceed 100% of its "ought to have" share, further relief will be granted by reassigning exposures to the most undersubscribed Servicing Carrier by utilizing garaging towns. The supplementary relief process will include the following:

(a) CAR will randomly reassign the garaging towns of a randomly selected ERP to the most undersubscribed Servicing Carrier.

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

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

(c) Each Servicing Carrier writing business with a multiple Servicing Carrier ERP is required to monitor the process by ensuring that the policies it writes are only from the garaging town(s) it has been assigned.

c. ERPs or individual garaging towns so reassigned by CAR will be reimbursed by the petitioning Servicing Carrier at a rate of $15 per exposure based on a count of the ERP exposure as statistically reported to CAR for the most recent twelve (12) month period at the time of reassignment.

d. If an ERP or individual garaging town was assigned or reassigned within the previous thirty-six (36) months, that ERP or individual garaging town of an ERP will not be randomly reassigned, and another random selection shall be made from the oversubscribed Servicing Carrier's remaining ERPs unless this provision precludes an oversubscribed Servicing Carrier from obtaining subscription relief, in which instance an ERP or an individual garaging town of an ERP may be reassigned notwithstanding having been assigned or reassigned within the previous thirty-six (36) months.

3. Subscription Methodology – Commercial

a. For Policies Effective January 1, 2006 and Subsequent

(1) Each producer that has an assignment to a commercial Servicing Carrier on December 31, 2005 shall be assigned to one of the limited number of commercial Servicing Carriers appointed to issue policies effective January 1, 2006 and subsequent. Such assignments will be made to provide equitable distribution among all those carriers based upon CAR's review of premium volume and agency loss ratio by major commercial class, with an effort to minimize market disruption. Subsequent to the original assignments, CAR will perform annual reviews of the distribution of ceded commercial written premium and will make such periodic adjustments to the distribution of commercial business as the Governing Committee determines is necessary to ensure that no individual carrier is unduly burdened.

(2) Two- and three- party agreements with an ERP and a commercial Servicing Carrier will not be permitted.

(3) An applicant for an ERP assignment to a commercial Servicing Carrier will be assigned to a commercial Servicing Carrier on a rotational basis subject to the provisions of section C.3.a (1) of this Rule.

b. For Policies Effective Prior to January 1, 2006

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

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

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

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