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PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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February 26, 2018

BULLETIN NO. 1047

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of February 14, 2018, the Governing Committee voted to amend the following Rule of Operation by deleting and adding the language as indicated on the attached copy. A copy of the Filing Letter, which contains an explanation of the Rule changes, is attached for your information. The impacted Rule is listed below.

Rule 2 – Definitions

This Bulletin, with a copy of the proposed changes to the Rule listed above, is being furnished to every Member Company, each association of insurance Producers, and the Public Protection Division of the Office of the Attorney General as required in Article X of the Plan of Operation. Any Member Company, association of insurance producers, or the Attorney General may request a public hearing within five days of receipt of this Bulletin and Filing Letter, as provided by Article X of the Plan of Operation.

A proposed Rule shall become effective upon the written approval of the Commissioner or upon the expiration of 30 days after filing, provided the Commissioner has not previously disapproved the Rule in writing.

NATALIE A. HUBLEY
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Attachment



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February 26, 2018

Honorable Gary D. Anderson
Commissioner of Insurance
Massachusetts Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118

Proposed Changes to the Rules of Operation

Dear Commissioner Anderson:

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

Rule 2 – Definitions

Explanation:

Changes are shown by deleting and adding language as reflected on the attached copy. The remainder of the Rule is unchanged.

The size of the Massachusetts commercial residual market has grown steadily from its lowest premium volume in 2011 of \$89 million to more than \$169 million in 2016, and the underwriting results have progressively worsened since that time from a loss ratio of 79.3% for policy year 2011 to 95.2% for 2016. The most recent analysis by CAR's Loss Reserving Committee reflects continued deterioration in 2017, estimating a premium volume of more than \$180 million and a projected deficit of \$27 million.

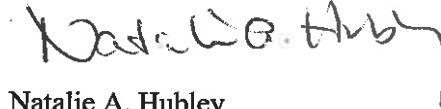
Over the past several months, CAR's Governing Committee, with the assistance of the Commercial Automobile Committee, has discussed the sources of growth in the residual market and has identified interstate truck and bus operations as vehicle types experiencing significant growth and poor results. Servicing Carriers are observing a substantial number of business entities, which otherwise qualify for insurance coverage in other states' residual markets, creating office locations within Massachusetts in order to pursue coverage at favorable Massachusetts rates. In many instances, these office locations are artificially represented as the entity's Principal Place of Business, used to determine eligibility for coverage in the MA residual market.

Some Servicing Carriers report success in employing the nerve center test, which has been upheld by the United States Supreme Court in determining Principal Place of Business. The test refers to an entity's center of direction, control, and coordination as the place where the majority of not only executive but also administrative functions are performed. Accordingly, to address difficulties in validating Principal Place of Business in today's advanced technological marketplaces, and to enhance consistency among Servicing

Carrier procedures, CAR's Governing Committee is proposing amendments to the definition of Principal Place of Business in Rule 2 to incorporate the nerve center test.

A copy of the proposed amendments to Rule 2 is attached hereto, and is being furnished to every Member Company, the two associations of insurance producers, and the Public Protection Division of the Office of the Attorney General, as required by Article X of the Plan of Operation.

Very truly yours,

A handwritten signature in black ink that reads "Natalie A. Hubley". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Natalie A. Hubley
President

Attachments: Rule 2 – Definitions

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

When used in Rules 1 through 20, the following terms shall have the stated meanings:

CAR means Commonwealth Automobile Reinsurers.

COMMERCIAL MOTOR VEHICLE means any insurable motor vehicle not included in the definition of Private Passenger Motor Vehicle contained in Rule 22.

COMMISSIONER means the Commissioner of Insurance of Massachusetts.

ELIGIBLE RISK means any Person who qualifies for a Motor Vehicle Insurance policy pursuant to G.L. c. 175, § 113H and 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 financial responsibility laws.

Pursuant to G.L. c. 175, § 113U, a Person seeking to insure Antique Vehicles does not qualify as an Eligible Risk.

EXCLUSIVE REPRESENTATIVE PRODUCER (ERP) means a Person licensed as a property and casualty insurance producer pursuant to G.L. c. 175, § 162H through § 162X inclusive, who (a) has a place of business (i) in Massachusetts or (ii) in any state contiguous to Massachusetts, and (b) has been appointed by the Governing Committee or its designee to a Servicing Carrier to immediately certify commercial Motor Vehicle Insurance policies.

INACTIVE MEMBER means any Insurer which is licensed to write Motor Vehicle Insurance policies or bonds in Massachusetts, but (a) did not, in fact, issue any commercial Motor Vehicle Insurance policies or bonds in Massachusetts during the most recent calendar year, (b) is not the issuing company on any outstanding commercial Massachusetts Motor Vehicle Insurance policies or bonds, and (c) has no outstanding obligations pursuant to Rule 11.

INSURER means any corporation, association, partnership or individual licensed to write Motor Vehicle Insurance in Massachusetts.

MANUAL OF ADMINISTRATIVE PROCEDURES (MAP) means the Manual of Administrative Procedures of CAR and does not include the Assigned Risk Company Procedures Manual or the Assigned Risk Producer Procedures Manual.

MEMBER means any Insurer which is licensed to write Motor Vehicle Insurance liability policies or bonds in Massachusetts and which is not an Inactive Member. 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.

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

PLAN OF OPERATION or PLAN means the Plan of Operation of CAR prepared pursuant to G.L. c. 175, §113H.

PRINCIPAL PLACE OF BUSINESS, as it applies to the definition of an Eligible Risk, is defined as the chief or usual place of business. It is the ~~head office; corporation's nerve center, its center of direction, control, and coordination,~~ 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 majority of executive and administrative 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.

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 by the Governing Committee, or its designee, as authorized in the Plan and Rules of Operation to issue Motor Vehicle Insurance policies at the request of an Exclusive Representative Producer.