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BULLETIN NO. 1055

Principal Place of Business Standards and Certification Form

Servicing Carrier Standards for Validating the “Nerve Center” Principal Place of Business

Exclusive Representative Producer Standards for Determining the “Nerve Center”
Principal Place of Business

Principal Place of Business Certification Form

At its June 20, 2018 meeting, the Governing Committee unanimously voted to approve standards for validating the “nerve center” Principal Place of Business of a commercial automobile residual market risk. The attached standards apply to all commercial automobile Servicing Carriers and Exclusive Representative Producers and require the validation of a risk’s principal place of business, securing a certification by the risk, and conducting audits pursuant to Rule 10 of CAR’s Rules of Operation. The standards identify items that are intended to be used as underwriting opportunities and to serve as evaluation tools to assist Servicing Carriers in ascertaining a risk’s eligibility in the commercial residual market and in validating the risk’s declared principal place of business.

The Governing Committee also unanimously voted to approve a Principal Place of Business Certification Form. The Certification Form was placed on file by the Division of Insurance on June 28, 2018. Exclusive Representative Producers must provide a signed Principal Place of Business Certification Form for all risks to their Servicing Carrier, attesting to the information on the application for insurance relative to the insured’s principal place of business. The Certification Form must be signed and dated by the insured and the writing producer to confirm that the risk meets the definition of Principal Place of Business in CAR Rule 2. Submission and use of the Certification Form will be required as of August 1, 2018.

To access the form on CAR’s website, click on the Manuals tab and then the Commercial Automobile link.

JOHN METCALFE
Director – Residual Market Services

Attachments

Servicing Carrier Standards for Validating the “Nerve Center” Principal Place of Business

Standards for the validation of Principal Place of Business (“Nerve Center”): In determining whether a risk is eligible for placement in the commercial automobile residual market, Servicing Carriers and Exclusive Representative Producers are required to validate whether or not the risk’s declared principal place of business meets the “nerve center” test. As such, operations taking place in the corporation’s “nerve center” would include, but not be limited to:

- Computer/monitoring systems that track the location of the vehicles
- Scheduling systems for vehicle operations and corresponding routes
- Systems for responding to vehicles requiring roadside or emergency assistance
- Payroll systems
- Depending upon the business operation, commensurate hours of operation
- Telephone systems to handle customer service, driver assistance, maintenance and repair, vendor and/or employee communications
- Treasury management systems for disbursing and collecting funds
- Administrative activities to support business operations

Note that a mail drop box, a bare office with a computer, or a location where executives only occasionally meet, does not qualify as Principal Place of Business for the purpose of determining eligibility for cession to the MA residual market.

Servicing Carriers should require and receive a signed Principal Place of Business Certification Form attesting to the information submitted on the application on all risks for insurance pursuant to the insured’s principal place of business. The certification must be signed and dated by the insured and writing producer.

Underwriting Tools and Opportunities: Servicing Carriers should take advantage of, but not limited to, the following options in determining risk eligibility relative to the principal place of business and “nerve center”:

1) Proof of Principal Place of Business

- a) Use of the Secretary of Commonwealth’s Corporations Division website to determine:
 - If the risk and/or the risk’s Federal Employer Identification Number (FEIN) is registered with the Corporations Division
 - Date of Origination
 - The identity of the risk’s officers, directors, partners and/or managers
 - The location of the risk’s principal office in Massachusetts
 - The state in which the risk was organized
 - Who signed the organizational documents for the risk
- b) Use of an Internet search engine to determine if the risk has a website for Massachusetts and/or other state operations and to verify office location(s) or if there is information relative to any of the corporate officers
- c) Use of the RMV systems to determine if the risk’s officers, directors, partners and/or managers have a Massachusetts address/operator’s license and to determine if the risk previously was insured with a Massachusetts carrier
- d) Review of loss runs, if available, to determine if the risk’s operations are in Massachusetts
- e) Review of FMCSA filings, if applicable, to verify address on the risk’s new business application

The Servicing Carrier may also request the risk and/or Exclusive Representative Producer to provide additional information as noted, but not limited to the Exclusive Representative Producer Standards for Determining the “Nerve Center” Principal Place of Business. An SIU investigation may also be requested. As part of the underwriting process and/or SIU investigation, the risk’s principal/owner will be required to corroborate information collected by the writing Exclusive Representative Producer.

Pursuant to Rule 10 – Claims of CAR’s Rules of Operation, Servicing Carriers are required to conduct audits on representative samples of policies to verify garaging and policy facts. However, market conditions may warrant increased awareness and focus on specific classifications of business due to suspected fraud, increased loss experience, or other negative impacts on the commercial automobile residual market during the Servicing Carrier contract period. If such occasions occur, the specific classifications will be identified, through CAR’s committee process, for mandatory Servicing Carrier SIU investigations involving the principal place of business. **At its March 29, 2018 meeting the Commercial Automobile Market Standards Subcommittee directed that Servicing Carriers be notified of an expectation to enhance their focus on validating principal place of business for intermediate and long distance TTT and bus classifications.**

Exclusive Representative Producer Standards for Determining the “Nerve Center” Principal Place of Business

Standards for the validation of Principal Place of Business (“Nerve Center”): In determining whether a risk is eligible for placement in the commercial automobile residual market, Exclusive Representative Producers and Servicing Carriers are required to validate whether or not the risk’s declared principal place of business meets the “nerve center” test. As such, operations taking place in the corporation’s “nerve center” would include, but not be limited to:

- Computer/monitoring systems that track the location of the vehicles
- Scheduling systems for vehicle operations and corresponding routes
- Systems for responding to vehicles requiring roadside or emergency assistance
- Payroll systems
- Depending upon the business operation, commensurate hours of operation
- Telephone systems to handle customer service, driver assistance, maintenance and repair, vendor and/or employee communications
- Treasury management systems for disbursing and collecting funds
- Administrative activities to support business operations

Note that a mail drop box, a bare office with a computer, or a location where executives only occasionally meet, does not qualify as Principal Place of Business for the purpose of determining eligibility for cession to the MA residual market.

***** Exclusive Representative Producers must provide a signed Principal Place of Business Certification Form on all risks to their Servicing Carrier attesting to the information submitted on the application for insurance pursuant to the insured’s principal place of business. The certification form must be signed and dated by the insured and the writing producer to confirm that the risk meets the definition of Principal Place of Business as specified in CAR Rule 2.**

Risk Evaluation Tools and Opportunities: Exclusive Representative Producers should ascertain the following in determining risk eligibility relative to the principal place of business and “nerve center” prior to submitting a risk to their Servicing Carrier for placement in the commercial auto residual market:

- 1) **Proof of Principal Place of Business**
 - a) Whether the company is headquartered in Massachusetts and meets the definition of Principal Place of Business as specified in Rule 2 – Definitions of CAR’s Rules of Operation
 - b) Whether company reports, documentation and financial records originate in the Massachusetts office
 - c) How long has the company been at the Massachusetts location
 - d) Whether the company has officers, directors, partners and/or managers residing in other states, and, if so, where
 - e) Whether business/corporate decisions and orders solely emanate from the Massachusetts principal place of business of the company, and if not, describe the corporate communications
 - f) Whether the principal owner, officers, directors, partners and/or managers all reside in Massachusetts and if not, describe residency of each.
 - g) The number of employees working out of the Massachusetts principal place of business. In Massachusetts? Out of state?
 - h) Identify the registration of all vehicles. Registered in Massachusetts? Other states?
 - i) Operators/Drivers for the company licensed/hired in Massachusetts
 - j) How often the principal/owner of the company is in the company’s Massachusetts headquarter office
 - k) Whether the payroll for the company is handled through the Massachusetts principal place of business location
 - l) Hours of the Massachusetts principal place of business location of the company
- 2) The ERP/risk will be required to provide, at the Servicing Carrier’s request, information included but not limited to the following:
 - a) Pictures of the MA location and garaging locations if different from MA mailing address
 - b) Name and location of shop providing repair and maintenance on the vehicles
 - c) Percentage of revenue derived from MA operations versus other states
 - d) Tax returns
 - e) A copy of the risk’s lease and/or other documents pursuant to the establishment of an operational office location in Massachusetts (utility bills, bank statements, tax documents, payroll records, workers comp. policy, etc.)
 - f) A list of any other address locations from which the business operates and what type of activities occur at those locations

PRINCIPAL PLACE OF BUSINESS CERTIFICATION FORM

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

By submitting this application, I represent that the applicant's principal place of business is located in Massachusetts. 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 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 the place where the majority of executive and administrative functions are performed*. I understand that I am required to cooperate with and notify the insuring carrier of any change to information presented in the application, including information pertinent to the identified principal place of business, during the policy period. **I also understand that, if found responsible for fraud or material misrepresentation in the application or any extension or renewal of the policy, the insurance company can cancel or rescind all or part of the insurance and/or deny coverage of a claim pursuant to the provisions of the policy and applicable law.** By signing below, I hereby certify that all information provided herein and all other information submitted with the company's application is true and accurate.

Name of Business: _____

Address of Principal Place of Business: _____

Printed Name of Applicant's Authorized Representative: _____

Signature of Applicant's Authorized Representative: _____

Title: _____

Date: _____

Witness to the Signator and Signing above:

Signature of Producer: _____

Printed Name of Producer: _____

Agency Name: _____

Date: _____

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

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

* Commonwealth Automobile Reinsurers Rules of Operation, Chapter 2 – Definitions

(ed. 08-18)