

#### **A. Appointment of Carriers to Service the Residual Market**

##### **1. General Information**

In order to control the size of and to establish equitable access to the residual market for all classes of commercial automobile business, Commonwealth Automobile Reinsurers (CAR) employs a specialized program for handling ceded commercial risks. The Commercial Automobile Program is designed to enhance the effectiveness of loss control and underwriting practices by consolidating the servicing of the business to a limited number of Servicing Carriers appointed for a specific term. Every producer is assigned to a single Servicing Carrier. The number of Servicing Carriers and the appointment term are determined by CAR's Governing Committee.

##### **2. Eligibility**

The Commercial Automobile Program applies to all classes of commercial automobile business.

##### **3. Request for Proposal**

To solicit proposals for servicing ceded commercial business, CAR invites prospective participants to respond to the Commercial Servicing Carrier Request for Proposal (RFP). Solicitation of proposals is made via a CAR Bulletin. At the time proposals are being solicited, the RFP is also posted to the home page of CAR's website.

The RFP provides information necessary to enable the submission of a proposal for consideration as a carrier to service Massachusetts ceded commercial automobile business. The RFP identifies the schedule of events, the expectations for the Program, Servicing Carrier performance requirements, requirements for the content of the company's proposal and the term of the appointment.

The RFP requests proposers to provide information relative to administrative and account management services, underwriting and policy processing, claims management services, management information systems, and loss control services and how each of these would be handled if the company is selected to serve as a Servicing Carrier. The RFP further requests proposers to identify any additional services that they may offer to control claims and service costs, to specify an implementation plan which will provide a smooth transition and minimal service disruption for both producers and insureds and to identify residual market depopulation strategies which will assist CAR in its efforts to control the size of the commercial residual market.

Finally, the RFP requests proposers to provide a detailed cost projection and price proposal to service commercial automobile business. The selected price, as approved by CAR's Governing Committee, will be uniformly applicable to each company selected to serve as a Servicing Carrier for the Program. For additional price information, refer to Chapter VI – Allowances to Servicing Carriers of this Manual.

#### 4. Servicing Carrier Requirements

Specific requirements and responsibilities for those Members appointed to serve as commercial automobile Servicing Carriers including those responsibilities relative to Exclusive Representative Producers (ERPs) may be found in Rule 13 – Servicing Carrier Requirements of CAR's Rules of Operation which is available on CAR's website under the Manuals tab, and in Chapter III – Servicing Carrier Responsibilities and Chapter X – Servicing Carrier and Exclusive Representative Producer Standards and Forms of this Manual.

The RFP for the Commercial Automobile Program provides further information and requirements relative to the servicing of specific aspects of the Program.

#### 5. Withdrawal/Termination

If an appointed Servicing Carrier withdraws from the Program or is terminated by CAR or the Division of Insurance, the provisions of Rule 16.A. – Terminations of CAR's Rules of Operation will apply. At least 45 days prior to the policy renewal date the withdrawing Servicing Carrier must notify the insured and the producer of record that coverage will be non-renewed.

## B. Appointment of Exclusive Representative Producers to Servicing Carriers

### 1. Appointment Process

Servicing Carriers will receive appointments of newly applying producers on a rotational basis. However, pursuant to Rule 14.A.2. – Exclusive Representative Producer Requirements, a producer applying for appointment as an ERP that has a contractual relationship or membership in a so-called producer cluster or network, or a direct or indirect material and continuing proprietary or management interest in another agency or brokerage firm which also has an ERP appointment to a Servicing Carrier is considered to be an affiliate of the other agency or brokerage firm. Such a producer will be appointed to the same Servicing Carrier as all members of the affiliated group.

New ERP appointments to Servicing Carriers will be made as follows:

#### a. Applicant with a Voluntary Commercial Automobile Contract

An applicant who has a current voluntary commercial automobile agency contract with an active Massachusetts commercial automobile insurer will be appointed to a Servicing Carrier when the applicant has satisfied the eligibility requirements of Rule 14.A.4. For purposes of this section, brokerage agreements and memberships in a group do not constitute a voluntary contract with an active Massachusetts commercial automobile insurer.

#### b. Applicant without a Voluntary Commercial Automobile Contract

On an annual basis, the Governing Committee, or its designee, will assess whether a market need exists for new ERP appointments to service the commercial residual market. The determination will be made following a review of current residual market data and the committee's evaluation of whether access to producers that have experience servicing all classes of commercial automobile risks throughout the Commonwealth is available to applicants for insurance.

##### 1) Market Need Exists

If the committee determines that a market need exists and that access to the residual market is not currently being served by producers with existing ERP appointments, the committee will determine the conditions under which a new appointment will be made to an applicant without a voluntary commercial automobile contract. This may include an adjustment to the number of

appointments available and modification to the schedule for re-evaluating market access.

2) Market Need Does Not Exist

If the committee determines that a market need does not exist for a new appointment to an applicant without a current voluntary contract, no such new appointment will be made. However, the applicant may petition for a review of its application before a CAR committee and must demonstrate that a market need exists that will be uniquely served by the applicant's appointment.

c. Applicant Who Purchased of a Book of Business

Notwithstanding an existing voluntary commercial automobile contract with an active Massachusetts commercial automobile insurer, an applicant purchasing the book of business of an ERP or former ERP who has been terminated pursuant to CAR Rules, or has withdrawn from an appointment where grounds for termination were previously issued, must petition the committee for a Servicing Carrier appointment. The applicant must satisfy the committee that the conditions for termination are not present in the purchase and must demonstrate that a market need exists that would be uniquely served by the applicant's appointment.

d. CAR Committee Review of Applicants

Committee reviews of applicants petitioning for an appointment will be held on a quarterly basis, depending upon the need for such reviews.

The Servicing Carrier must provide service to its ERPs under substantially the same contractual terms and conditions governing its voluntary producer relationships.

To maintain an appointment, the ERP must maintain the minimum commercial written premium volume as specified in Rule 14.C. – Exclusive Representative Producer Requirements of CAR's Rules of Operation.

2. Premium Redistribution Process

A producer applying for an ERP appointment must identify any affiliated relationships relating to commercial business. An existing ERP must notify its Servicing Carrier and CAR of any new affiliated relationship within 30 days of such change.

Annually, upon request by a Servicing Carrier, an ERP must furnish updated information relative to its affiliated relationships or change in affiliated status. This information will assist CAR in its evaluation and assessment of the need to redistribute commercial ceded written premium among Servicing Carriers.

On a quarterly basis, CAR will perform a review of the distribution of ceded commercial written premium and, if necessary, may perform a redistribution of residual market books of business to maintain equity among Servicing Carriers. Any such distribution will occur no sooner than 60 calendar days from the date of review. If a redistribution is performed, any subsequent redistribution will not occur for at least 12 reporting months after the effective date of the previous distribution.

Routine changes in group membership will not affect changes in Servicing Carrier assignments until a subsequent redistribution review takes place. However, all other affiliation changes, including private agency affiliations or agency purchases and sales will result in immediate reassignment, if warranted.

A Servicing Carrier may terminate an ERP's contract for failure to provide the requested affiliated agency disclosure information. For additional information relative to the termination of ERP contracts by a Servicing Carrier, refer to Rule 14 – Exclusive Representative Producer Requirements of CAR's Rules of Operation, or Chapter III – Servicing Carrier Responsibilities of this Manual.

### 3. Termination

- a. If a producer requests termination as an ERP of a Servicing Carrier, the provisions of Rule 16.B. – Terminations of CAR's Rules of Operation will apply.
- b. If an ERP is terminated by a Servicing Carrier, the termination provisions contained in Rule 13 – Servicing Carrier Requirements and Rule 14 – Exclusive Representative Producer Requirements of CAR's Rules of Operation apply.
- c. An ERP appointment, whether made to a Servicing Carrier with which the producer has a voluntary relationship or a Servicing Carrier with which the producer does not have a voluntary relationship, terminates with the sale of the agency.

If the purchaser of the agency has a voluntary market and has been assigned to a Servicing Carrier as an ERP, consideration may be given to rewriting the automobile business in the voluntary or involuntary market(s) of the purchaser.