

**MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY
PLAN OF OPERATION**
[New Matter; Deleted Matter]

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Sec. 1. PURPOSES

The purposes of the Michigan Automobile Insurance Placement Facility (hereinafter referred to as “the Facility”) are

- A. to provide the guarantee that automobile insurance coverage will be available to any person who is unable to procure that insurance through ordinary methods,
- B. to preserve to the public the benefits of price competition by encouraging maximum use of the normal private insurance system, and
- C. to establish procedures for the equitable distribution of Facility placed risks and Facility produced profit or loss among members.

Sec. 2. EFFECTIVE DATE

The Facility ~~became a joint underwriting association effective January 1, 1981. shall become effective upon approval by the Commissioner of Insurance and shall become operative not less than 90 days and not more than 120 days after rules and rates have been approved by the Commissioner.~~

Sec. 3. ADMINISTRATION

The Facility shall be administered by a Board of Governors (hereinafter referred to as “the Board”).

The Board shall consist of eleven governors:

- A. Seven salaried employee representatives from participating members, at least three of which shall represent domestic insurers. Not more than one representative from a group of companies under the same management shall serve on the Board at the same time.

Annually, on a date fixed by the Board, participating members shall elect the representatives to serve for a period of one year or until successors have been elected. Such election shall take place at an annual meeting to be held within 45 days after the annual determination of participation ratios for the current year and to be called by the Board upon at least 20 days’ notice in writing to all members, which notice shall include a list of at least seven nominees proposed by the Board. Additional nominations, duly seconded, may be made at the annual meeting by the representatives of participating members in attendance. Each participating member shall be entitled to one vote on a weighted basis. Such membership vote shall be weighted, based on the total Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums, and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year.

Vacancies on the Board shall be filled by vote of the remaining members of the Board.

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- B. Two representatives of insurance agents who shall be appointed by the Commissioner of the Office of Financial and Insurance Services (hereinafter the officer and office are referred to as the "Commissioner" and "OFIS", respectively).
- C. Two representatives of the general public who shall be ~~persons not employed by, or otherwise affiliated with, insurers, insurance agents, producers, or other entities of the insurance industry. They shall be~~ appointed by the Commissioner.
- D. Governors appointed by the Commissioner ~~of Insurance~~ shall serve until the next annual meeting of the members and until a successor is appointed or until a resignation. Vacancies shall be filled by the Commissioner.
- E. Reimbursement for expenses: Public and producer members appointed to the Board may be reimbursed, to the extent and in a manner approved by the Board, for their actual and necessary expenses incurred in attending Board meetings and assigned committee meetings. These expenses would be reimbursed by a per diem allowance in an amount approved by the Board.

Sec. 4. COST OF OPERATION AND ADMINISTRATION

Anticipated expenses for operation and administration of the Facility, including funding of a Michigan automobile theft tip program and an Automobile Theft Prosecution Witness Reimbursement Program, shall be assessed on all members who were members in the year when incurred, in the same proportions as for membership voting.

Sec. 5. DUTIES OF THE BOARD OF GOVERNORS

The Board shall meet as often as may be required to perform the general duties of administration of the Facility. Four members of the Board shall constitute a quorum.

The Board shall be empowered to appoint a manager, hire legal counsel, budget expenses, levy assessments, disburse funds, develop Manuals, and exercise all powers relating to the operation of the Facility which are not in this Plan of Operation delegated to others or reserved to the members.

Annually, the manager shall prepare an operating budget in the prescribed manner for submission to the Board. Such budget shall be approved by the Board and furnished to members on request. Any expenditure in excess of, or not included in, the annual budget shall be subject to approval by the Board. The Board shall furnish to the Commissioner ~~of Insurance~~ and all members a written report of operations annually in such form and detail as the Board may determine.

Sec. 6. INDEMNIFICATION

The Facility shall indemnify each individual, insurer, or servicing carrier against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable costs and expenses, including attorney's fees, and any other liabilities (hereinafter, "liability") incurred by, imposed upon, or suffered by such individual, insurer or servicing carrier in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened (hereinafter, "claim") arising out of and in connection with the performance of duties on any committee or on the Board of the Facility or predecessor organization or arising out of and in connection with the performance of duties as an officer or employee of the Facility or predecessor organization, or performance of its duties as a servicing carrier provided such individual, insurer, or servicing carrier:

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- A. acted in good faith;
- B. reasonably believed the performance of duties was in accordance with the objectives of the Facility;
- C. had no reasonable cause to believe the performance of duties was improper or illegal;
- D. shall have promptly notified the Facility of any claim in writing at its main office;
- E. in the case of a servicing carrier, acted in accordance with the standards and requirements of its **Service Carrier Agreement** ~~contract~~ with the Facility.

Indemnification as described in this Section shall be provided whether or not the individual, insurer, or servicing carrier is still serving on the Board or on any committee of the Facility or is still an officer or employee of the Facility or is still acting as a servicing carrier at the time of the commencement of any claim, and whether or not any possible liability is incurred through the performance of duties prior to the adoption of this Section.

Any settlement of any claim must be made with the prior approval of the Board in order for indemnification under this Section to be available.

Whenever an individual, insurer, or servicing carrier seeks indemnification under this Section, entitlement to indemnification shall be determined by the Board which shall also determine the time and manner of indemnification including reimbursement with interest.

The Facility may elect to defend, pay, or otherwise dispose of any claim, at its own cost, and will promptly advise the individual, insurer or servicing carrier seeking indemnification whether it so elects.

The cost of fulfilling the Facility's obligations under this Section shall be a cost of administration as provided in Section 4.

Sec.7. APPLICATION FOR PLACEMENT

Except as provided below, eEach licensed producer authorized to transact automobile insurance business in the state shall have access to placement of business through the Facility.

A producer whose license ~~has been~~ is suspended, ~~or~~ revoked or who is disqualified as in accordance with Section 19 is not authorized to place business through the Facility.

A. Applications for private passenger nonfleet automobile risks shall be submitted

1. electronically using the Electronic Application and Rating System (EARS), or
2. in accordance with the provisions in the Availability, Policy Administration, and Service Standards Chapter of the Facility manual.

~~A=~~ Applications for pPrivate passenger nonfleet ~~vehicles~~ automobiles shall be placed in accordance with Section 8.

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- B. All other applications shall be submitted in accordance with Section 9 and the provisions in the Availability, Policy Administration, and Service Standards Chapter of the Facility manual.

~~All other vehicles shall be placed in accordance with Section 9.~~

“Private passenger nonfleet **automobile**” means a motor vehicle of the following type **with at least four wheels, used for personal, family or household purposes**, not owned or registered by a corporation, partnership, or unincorporated association (unless leased long term to an individual or husband and wife), provided it is registered for highway use and not used as a public or livery conveyance or rented to others ~~without a driver: private passenger, utility vehicle, 2-door, 4-door,~~ motor home, pickup, customized van or station wagon (a vehicle which has one or more seats behind the driver and 2 or more windows on each side; e.g., mini-vans, SUV’s etc.). ~~or Jeep.~~

“Fleet” means five or more vehicles insured under one policy. “All other” means a motor vehicle registered for highway use and not described as a private passenger nonfleet **automobile vehicle**.

Sec. 8. PLACEMENT OF PRIVATE PASSENGER NONFLEET RISKS

- A. Any qualified applicant for private passenger nonfleet insurance shall have the right to request assignment, reject assignment, or request reassignment to any designated participating member (hereinafter referred to as “servicing carrier”), subject to any limitations established to conform with contractual arrangements made by the Facility with its servicing carriers. The opportunity to request assignment and reject assignment shall be provided on the application. The opportunity to request reassignment shall be stated on the policy at the time of issuance and shall be offered in writing to the insured at the time of renewal.
- B. Limitation of Assignments: The Board shall complete a contractual arrangement with each servicing carrier specifying the maximum volume of assignments which is acceptable to that servicing carrier and the period of time for which the contract is in force. Applications for private passenger nonfleet **automobile** insurance on which the qualified applicant has not requested assignment to a specific servicing carrier shall be assigned to servicing carriers in an equitable manner recognizing the established maximum volumes of the servicing carriers. The foregoing distribution method may be modified by the Business Continuity Plan **as provided** in ~~the addendum to~~ the Servicing Carrier Agreement. **Applicants with outstanding premium due to a servicing carrier for a prior Facility policy will be assigned to that carrier and may not request reassignment until the outstanding obligation has been satisfied.**
- C. The Board shall take such steps as may be necessary to assure the preservation of the applicant’s right of free choice as specified in Section 3365 of the Michigan Insurance Code and shall report to ~~the Insurance Bureau~~ **OFIS** any information indicating that the applicant’s free choice of servicing carriers has been frustrated.

Sec. 9. PLACEMENT OF ALL OTHER **AUTOMOBILE RISKS**

- A. The Facility shall distribute those risks which are eligible for coverage in accordance with agreements between the Facility and members which are to service all other applicants. The foregoing distribution method may be modified by the Business Continuity Plan **as provided** in ~~the addendum to~~ the Servicing Carrier Agreement.

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- B. The Facility shall provide additional ~~complete a~~ contractual provisions outlining the responsibilities of ~~agreement with~~ each servicing carrier providing coverage pursuant to this section.

Sec. 10. SERVICING CARRIERS

A. Designation—Private Passenger Nonfleet Automobile

1. The Board shall designate participating members to act on behalf of the Facility for the servicing of insureds as necessary to do all of the following:
 - (a) Assure convenient access to the Facility for all citizens of this state.
 - (b) Assure a reasonable quality of service for persons insured through the Facility.
 - (c) Assure a reasonable representation of the various insurance marketing systems.
 - (d) Assure reasonable claims handling.
 - (e) Assure a reasonable range of choice of insurers for persons insured through the Facility.
2. The members having the five highest participation ratios, as defined in Section 3303(e)(iii) of the Michigan Insurance Code, shall be designated to act on behalf of the Facility and shall be required to maintain the ability to meet the qualifications set forth in this Section and Section 18.
3. The Board shall designate up to a maximum of five other members who have volunteered ~~so to so~~ act and who meet the standards for servicing carriers specified in this Plan of Operation and in the various manuals established by the Board. The Board may limit the total number to less than 10 carriers, if fewer than five volunteer and meet the standards, and provided the assurances above are satisfied.
4. The Board may designate additional members, if necessary, to satisfy the assurances above.

B. Appointment—All Other

1. The Board shall appoint members to act on behalf of the Facility for the servicing of insureds.
2. Such members may, but shall not be required to, serve as carriers in accordance with subsection A.
3. Initial appointments shall be from those members who volunteer. Additional appointments may be made as necessary to provide full service to all types, classes, and size of applicants.

C. Eligibility

To be eligible to serve as a servicing carrier pursuant to subsections A.3 or 4 and/or subsection B, a member

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1. must **be in sound financial condition.** ~~have and maintain a policyholder surplus of \$5,000,000~~
 2. must be licensed and have been writing automobile personal protection, property protection, residual liability, and physical damage insurance for a minimum period of five years in the state of Michigan;
 3. must have the necessary facilities to provide risks with the same level of service rendered to their voluntary market. This will include both policy and statewide claims service. If a servicing carrier normally services its voluntary market from a policy service facility not physically located in Michigan, it is acceptable to service its Facility business from this same policy service facility provided that the same level of service is maintained. If a servicing carrier does not have claim facilities in Michigan, it will be necessary to designate either another insurance company, an independent claims adjusting firm or some other means, subject to the approval of the Board, for the purpose of statewide claims settlement and service. It must be able to service insurance claims in every state and Canada.

D. Performance Standards

In addition to the performance standards for companies in Section 18, servicing carriers shall

1. not assign, transfer, or otherwise dispose of any of its rights under this Plan of Operation or the Servicing Carrier Agreement to any person; provided, however, that the servicing carrier may subcontract portions of its Facility services so long as it provides written notification thereof to the Facility, the Facility consents to the subcontract, and the servicing carrier agrees to remain primarily liable to the Facility for the performance of such subcontracted portions;
2. carry out all subsequent policy transactions on a timely basis;
3. carry out all necessary accounting procedures as outlined by the manuals. These accounting procedures will include but not be limited to
 - (a) billing and collection of premiums;
 - (b) commission payments and statements to producers;
 - (c) operation of a deferred payment system as specified in the manuals.
4. collect the necessary data to disburse commission payments monthly to producers as specified in the manuals and have the ability to store this data and deliver same to the Internal Revenue Service annually;
5. generate the statistical and accounting information in report format required by the Facility. The content and format of these reports will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual;
6. generate on a policy level and overall level the amount(s) of claim reserves in order that the Facility will be in a position to evaluate the proper reserving practices and detect possible over/under reserving. The content and format of these reports will be in accordance with the rules and specifications established by the Accounting and Statistical Requirements Manual.

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7. ~~establish a cancellation date for nonpayment of premium on all private passenger nonfleet policies, including motorcycles, as the equity date computed on the pro rata basis. (Equity date is the date at which all collected premium is earned as computed on the pro rata basis.) Commercial auto policies must be canceled on a pro rata basis;~~ **establish an equity cancellation date for nonpayment of premium on a pro rata basis**
8. at initial issue and each ~~annual~~ **annual** renewal thereafter, accomplish confirmation of driving record of each insured driver through motor vehicle reports, ~~unless the maximum surcharge is indicated or the driver has been licensed less than one year.~~ Servicing carriers must properly price all policies and verify classification and territory through appropriate techniques. The cost of motor vehicle records **and claims exchange reports** must be identified as a separate item, not included in the servicing fee, but assessed back to the members;
9. ~~with respect to private passenger nonfleet risks, satisfy the Board that its system has the ability to report the driver's license number of the principal operator as supplied by the named insured. This information is to be available in a reasonable period of time after request by the Board;~~
10. for the servicing of all other risks, **in addition to the above**, as appropriate:
 - (a) Provide engineering and loss control service equivalent to voluntary market practice including follow-up for compliance with all reasonable safety requirements.
 - (b) Attempt to secure and verify account loss history from the previous carrier/carriers to insure proper application of any applicable premium surcharge or rating plans.
 - (c) Audit following account expiration or cancellation.
 - (d) Make, maintain, and cancel all certificates and filings in accordance with any municipal, state, or federal requirements.

E. Allowances

Servicing carriers shall be compensated for Facility business on a reasonable basis, as determined by the Board from time to time, to fairly compensate for all operating costs as incurred, and the reasonable expense incurred in settling claims. A standing committee, including at least two members that are not servicing carriers, shall recommend the reimbursement method and monitor the results of the method adopted. Incentives may be utilized to secure and maintain high standards of policyholder service and efficient claims administration. The method of compensating servicing carriers approved by the Board shall be stated in the Accounting and Statistical Requirements Manual.

F. Terminations

1. Any servicing carrier voluntarily terminating its association as a contracting servicing carrier for the Facility shall be required to provide advance notice in writing to the Board of the Facility. Such notice shall be directed to the **General** Manager of the Facility at its office. The **General** Manager shall confirm in writing to the sender the receipt of the notice of termination as a contracting servicing carrier.

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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 based on the date of receipt in the Facility Office of the notice.

The terminating servicing carrier will in its letter of termination as a servicing carrier to the Facility affirm its commitment to continue to provide service on all existing policies and those policies written in the notice period until their first renewal following the effective date of termination, unless the parties shall have mutually agreed to other arrangements for the servicing of such policies.

2. In the event that it becomes necessary for the Board to terminate the association of a servicing carrier with the Facility such notice shall be given in writing by the chairman of the board to the chief executive officer of the servicing carrier. Such notice shall specify a future date, which shall be not less than six months hence or such earlier time as the parties shall mutually agree at which time the servicing carrier will no longer be authorized to accept new business on behalf of the Facility.

The notice to the terminated servicing carrier will further stipulate that the servicing carrier will be expected, in good faith, to the best of its ability to continue to provide service on existing policies until the first policy renewal 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.

3. Upon receipt of the notice of termination by a servicing carrier to the Facility or upon notice by the Board of the termination of association with a servicing carrier, the chairman of the board will within 10 days notify 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 insuring public. All servicing carriers are required to respond within 30 days from the date of the request.

Upon receipt of the response from the remaining servicing carriers, the Board of the Facility shall determine if the remaining carriers have adequate capacity to serve the departing servicing carriers' business in accordance with the performance standards for a servicing carrier.

Should the Board find that the remaining servicing carriers are unable to service the departing carriers' customers and agents then the Board shall appoint an additional carrier or carriers it deems can best serve the consumer and producers on behalf of the Facility.

4. 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 Board, at its discretion, may take such action as it may deem appropriate to alleviate the difficulties.
5. Claims—Contingency Procedures
 - (a) Any carrier voluntarily withdrawing from business as a servicing carrier of the Facility shall, unless otherwise agreed, service to a conclusion all claims (including pendings, late reporteds, and reopens) that occurred prior to the renewal, transfer, or termination of the particular policy

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involved subsequent to the effective date of the withdrawal. Such claims will be subject to periodic reviews by **an auditor designated by the Facility.** ~~the Facility's Claim Committee.~~

- (b) Upon receipt of advance notice of termination or insolvency, or if the Board finds it necessary to terminate the association of a servicing carrier, the Board may request a special claim file review of a representative sample of open claim files. The review will enable the Board to determine
- (1) the appropriate action for further handling of Facility claim files;
 - (2) the level of work completed on the files; and
 - (3) estimate future adjustment expense needed for completion of claim file work.
 - (4) if the terminating carrier is meeting and will continue to meet industry claim handling standards, it shall continue the handling of its Facility files to a conclusion;
 - (5) if the terminating carrier has not met industry claim standards, is insolvent, or refuses or is unable to further handle the claims, the Board should consider the following options:
 - a. Allow the carrier to handle to a conclusion all outstanding claims reported to the carrier prior to its withdrawal. All subsequently reported claims to be reassigned by the Facility.
 - b. The carrier will retain only suit files where competent counsel is handling and the carrier is meeting industry standards. All other claims to be reassigned by the Facility.
 - c. Place settlement authority limitations on all claims until reassignment by the Facility. Final settlement authority, until reassignment, is to be vested in the ~~Facility claim manager (if any) or~~ Facility **General Manager.** ~~in conjunction with the Claim Committee.~~
 - d. Return of all claim files and notices to the Facility for reassignment.
 - (6) reassignment of claims should be made to one carrier, if practical, or to as limited a number of carriers as possible. If more than one succeeding carrier is required, the distribution will be under the direction of the ~~Facility claim manager (if any) or the~~ Facility **General Manager.** ~~with the assistance, when necessary, of the Claim Committee.~~
- (c) The succeeding carrier shall be reimbursed for servicing expenses on reassigned claims. The Board may consider payment of
- (1) a flat servicing fee; or
 - (2) a flat fee per file; or
 - (3) actual expenses based on the succeeding carrier utilizing

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- a. independent adjusters (with added increment for supervision); or
- b. its own staff.

(4) such other arrangement as is fair and equitable to all parties.

All previously incurred allocated adjustment expenses not paid by the withdrawing carrier are subject to reimbursement to the succeeding carrier by the Facility.

- (d) The terminating carrier has received a claim service fee which contemplated its bringing the claims to a proper conclusion.

The Board shall consider negotiation of reimbursement to the Facility from Claim service fees previously paid the withdrawing carrier, based on added expenses to the Facility for services not completed. The amount negotiated should be based on the estimated incomplete claim work still to be performed on reported claims and on actuarially determined IBNR claims.

- (e) The records of all reassigned claims indemnity payments expenses incurred must, among other required information, be kept statistically separated. It is the duty of the Facility **General** Manager to notify the statistical and any other interested agency of the withdrawals and reassignments.

G. Audits

1. The books of account, records, reports, and other documents of the Facility shall be open and free for examination to the Commissioner ~~of Insurance~~ at all reasonable hours.

The books of account, records, reports, and other documents of the Facility shall be open to inspection by members at such times and under such conditions and regulations as the Board shall determine.

The Facility shall provide for the making of detailed reports of liability assumed or cancelled, and for the rendering of accounts to each member at least every 12 months during the continuance of membership.

The books of account of the Facility shall be audited at least every 12 months by a firm of independent public accountants designated by the Board.

The books of account of servicing carriers relating to their administration of the Facility business shall be audited in the manner designated by the Board.

The Facility financial controls, processing, and claim records shall be reviewed annually in accordance with the guidelines established by the Board, such as the following:

Self-Audit ~~Internal Audit~~ Guidelines

~~Users'~~ **MAIPF** Manual

Performance Standards for Companies ~~Claim Handling Guidelines~~

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2. The Facility may audit the records of any member relating to the subject matter of the Plan of Operation and may, by rule, establish what policies, records, books of account, documents, and related material it deems necessary to carry out its functions. Such material shall be provided by the members in the form and with the frequency reasonably required by the Facility.

Sec.11. PARTICIPATION RATIOS—ASSESSMENT—RECOUPMENT

- A. Facility losses, expenses, and gains shall be determined on the basis of generally accepted insurance accounting principles as incorporated in the Annual Statement blank.
- B. For purposes of establishing a basis for allocation of Facility expenses plus losses or minus profits, each company licensed to write automobile insurance in Michigan shall permit its statistical agencies to report the statistical information to the ~~Michigan Automobile Insurance Placement~~ Facility.
- C. Each member company will be liable for that proportion of the (1) private passenger nonfleet **automobile** liability experience that its respective voluntary private passenger liability net direct written car years bear to the statewide total of voluntary private passenger liability net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and (2) private passenger nonfleet **automobile** physical damage experience that its respective voluntary private passenger physical damage net direct written car years bear to the statewide total of voluntary private passenger physical damage net direct written car years of all member companies in the state (except as otherwise provided in Section 11.D), and (3) all other automobile liability experience that its respective voluntary all other automobile liability premiums bear to the statewide total of all other automobile liability premiums of all member insurers in the state, and (4) all other automobile physical damage experience that its respective voluntary all other automobile physical damage direct written premiums bear to the statewide total of voluntary all other automobile physical damage direct written premiums of all member insurers in the state.

For purposes of such allocation as described above (1) voluntary private passenger liability net direct written car years, and (2) voluntary private passenger physical damage net direct written car years, and (3) voluntary all other automobile liability direct written premiums, and (4) voluntary all other automobile physical damage direct written premiums shall be as defined below:

1. "Voluntary private passenger liability net direct written car years" shall be the number of private passenger automobile bodily injury liability car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger automobile liability policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger nonfleet **automobile** under the Automobile Liability Statistical Plan in use by the statistical agent designated by the member company.
2. "Voluntary private passenger physical damage net direct written car years" shall be the total of one quarter of the total private passenger nonfleet **automobile** physical damage excluding collision net direct written car years and three quarters of the number of private passenger nonfleet **automobile** collision net direct written car years written by the company in the state for the calendar year ending December 31 of the second prior year of the experience being distributed, regardless of the type of private passenger physical damage policy under which such car years are written, excluding private passenger Facility car years, which are coded as private passenger

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nonfleet **automobile** under the Automobile Physical Damage Statistical Plan in use by the statistical agent designated by the member company.

3. "Voluntary all other automobile liability premiums" shall be the automobile bodily injury and property damage liability, personal protection insurance, and property protection insurance premiums shown on page 15 of each member insurer's Annual Statement, minus the total private passenger nonfleet automobile bodily injury and property damage liability, personal protection insurance, property protection insurance voluntary premiums written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed, and minus the total Facility liability written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such voluntary all other premiums shall exclude the total premiums for death and disability coverage written by the insurer. Such premium shall be gross direct premiums, including policy membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, but including premiums for other than private passenger excess of loss policies, except in the case of an insurer which writes no basic limits automobile liability insurance.
 4. "Voluntary all other automobile physical damage premiums" shall be the automobile physical damage premium shown on page 15 of each member insurer's Annual Statement, minus the total of private passenger nonfleet **automobile** physical damage premium written by the insurer in the state during the calendar year ending December 31 of the second prior year of the experience being distributed and minus the total Facility physical damage written premiums allocated to the insurer for the fiscal year ending September 30 of the corresponding calendar year. Such premium shall be gross direct premiums, including policy and membership fees, less return premium and premium on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded.
- D. Each member company shall be liable for all costs or expenses not chargeable to the allocated experience of any class of business in the proportion of that member company's Michigan automobile insurance gross direct premiums written, including policy and membership fees, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year of the experience being distributed, to the comparable statewide totals for all members.
- E. ~~Allowances will be made for existing debits and credits in the present risk distribution system. Total phase out of these debits and credits will be accomplished over a period of two years from inception of the Plan.~~
- F. All of the data necessary to comply with the foregoing distribution procedures shall be reported to AIPSO by each member company or by the statistical agencies designated by such companies and each company agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its experience.
- G. The Board may periodically, but not less than annually, assess members if necessary to defray operating losses of the Facility arising from the placement of Facility risks. Such assessment shall be filed with the Commissioner and shall be allocated among the members in accordance with this Section.

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- H. Any assessments paid by participating members under this Section or Section 4 may be recouped through a surcharge included in the insurance rates filed with the Commissioner for automobile policies issued by the member and/or on behalf of the Facility.
- I. In the event a member company discontinues writing automobile liability or physical damage insurance in this state, it shall continue to pay assessments until its proportionate share established by its writings prior to discontinuance of business has been determined and paid; provided, however, that if the automobile liability or physical damage business of a company discontinuing the writing of automobile liability or physical damage insurance in this state has been purchased by, transferred to, or reinsured by another company, the latter shall receive the assessments of the former until the proportionate share of the former as established by its writings prior to such transfer has been determined and paid, unless another company has agreed, in manner satisfactory to the Board, to assume such obligation.

No assessments shall be levied nor shall any be made to a member company which has written no automobile liability or physical damage insurance during the period for which the proportionate shares are based. Groups of companies under the same ownership and management must be treated as a single company under these provisions. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single company.

J. Negotiation of Settlement of Balances with Companies in Rehabilitation

On behalf of the ~~Michigan Automobile Insurance Placement~~ Facility, AIPSO shall negotiate the best offer or settlement of balances due for Facility assessments and participation and shall protect the financial interest of the ~~Michigan Automobile Insurance Placement~~ Facility. It is understood that all settlement offers are subject to the approval of the Board of Governors.

- K. Assessments levied under this Section shall be paid in full by members within such period of time as the Board may establish, after the assessment charge is billed by the Facility. Payment shall be made ~~in one of the following ways, at the discretion of the Board:~~

~~(1) in cash; or~~

~~(2) by the deposit of investment securities with the Facility, subject to the conditions that (i) the member agrees to remit cash to the Facility in exchange for the investment securities, at such time or times as may be determined by the Board, (ii) the member agrees to be charged interest, compounded annually at such rate as the Board may establish from time to time, on its assessments not yet paid in cash, (iii) the member is not in default with respect to the payment of assessments or interest theretofore due and payable, (iv) the member shall maintain on deposit with the Facility investment securities having a market value equal to 115% of the amount of the assessments and interest not yet paid in cash, and (v) the member has theretofore entered into a Security and Pledge Agreement with the Facility in a form acceptable to the Board.~~

Sec. 12. COVERAGE

~~Companies Servicing carriers~~ shall make available uniform coverage to persons who are qualified under the Availability, Policy Administration, and Service Standards Chapter, ~~SECTION I~~ of the ~~Users'~~ MAIPF

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Manual. Coverage afforded shall be equivalent to that afforded by policy forms approved from time to time by the Commissioner and as specified in SECTION III of the Users' MAIPF Manual.

Sec. 13. RATES

- A. All risks placed through the Facility shall be subject to the rules, rates, surcharges, minimum premiums, and classifications filed by AIPSO as agent for the Facility.
- B. All of the statistical data required to develop the appropriate rates shall be furnished to AIPSO by each member servicing carrier or by a statistical agency designated by such member servicing carrier. Each servicing carrier agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its Facility experience. All statistical data shall be provided in accordance with the annual AIPSO Statistical Program. It is the responsibility of each servicing carrier to ensure that the above statistical reporting requirements are met if they furnish the data directly or if they utilize a designated statistical agency.

Sec.14. COMMISSION

Each licensed producer authorized to transact automobile insurance business in the state shall be entitled to place business with have access to placement of business through the Facility and is entitled to receive commissions. However, a producer who has been disqualified to place business with the Facility or whose license is has been suspended or revoked is not entitled to place business with the Facility or receive commissions.

The determination of whether a producer is entitled to receive a commission (i.e., the agent is authorized) is made at the time the entitlement to receive the commissions occurs. A producer who is unauthorized at the time of the renewal or endorsement of a policy placed through the Facility may not be paid a commission.

- A. Commission to authorized producers shall be as follows:
1. For long haul trucking risks and public passenger carrying vehicles other than school buses, 5% of the policy premium for commission to a licensed producer designated by the insured;
 2. For other risks, 10% of the policy premium for commission to a licensed producer designated by the insured.

Note: For policies that include vehicles described under both A.1 and 2 above, commission will be based on whichever class in A.1 or 2 generates 80% of the policy premium. For those policies that include vehicles described under both A.1 and 2 above and neither class generates 80% of the policy premium, 5% commission will be paid.

- B. Commission may not be retained by the producer of record under any circumstances.
1. Commission will be based on premiums collected. paid as follows:
 - a. ~~For policies effective prior to July 1, 1993, producer commissions will be based on premiums written.~~

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~~b. For policies effective July 1, 1993, and subsequent, producer commissions will be based on premiums collected.~~

2. New and Renewal Policies

Commissions will be paid by the ~~insuring company~~ **servicing carrier** not less frequently than monthly and will be made within 30 days after the close of the month in which the commission was credited to the producer's account.

3. Endorsements—Additional Premium

Commission may be paid by the ~~company~~ **servicing carrier** at the time the endorsement is issued or in accordance with procedures for new and renewal policies.

C. Unearned commission shall be returned by the producer of record to the insurer under the following circumstances:

1. Cancellation of the policy
2. Downward adjustment of premium because of change in classification, cancellation, or reduction in coverage or substitution of automobile

Sec. 15. DEFERRED PREMIUM PAYMENT

~~In accordance with the Manual,~~ **Except for risks requiring noncancellable, 100% prepaid policies to comply with the registration requirements of Section 22a of the Michigan Vehicle Code, the deferred premium payments plan shall be available to applicants to of the Facility and Facility placed risks.**

Sec. 16. AMENDMENT TO PLAN OF OPERATION

Amendment of this Plan of Operation may be made by a majority vote of the Board subject to the ratification of a majority vote of the membership and subject to the approval of the Commissioner ~~of Insurance~~. Such membership vote shall be in accordance with Section 3 of this Plan.

Sec. 17. RIGHT OF APPEAL

A. Any participating member, applicant, or person insured under a policy placed through the Facility may request a formal hearing and ruling by the Board of the Facility for any of the following:

1. An alleged violation of the Plan of Operation
2. Any alleged improper act or ruling of the Facility directly affecting an assessment, premium, or coverage furnished
3. A participating member's application ~~to be a recipient of distributed assignments or~~ to service risks

B. A request for hearing must be filed within 30 days after the date of the alleged act or decision. Such hearing shall be held within 30 days after the request is received by the Facility.

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- C. A right to a hearing under subsection A shall not apply to any claim arising out of insurance provided by any participating member.
- D. Any formal ruling by the Board may be appealed to the Commissioner by filing notice of appeal with the Facility and Commissioner within 30 days after issuance of the ruling.
- E. The Commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the Board to reconsider the ruling.

Sec. 18. PERFORMANCE STANDARDS FOR ~~COMPANIES~~ **SERVICING CARRIERS**

~~A. The performance standards listed below set forth the specific time periods during which companies must perform in accordance with the rules of the Michigan Automobile Insurance Placement Facility.~~

A. Servicing carriers must meet the following time standards for servicing Facility risks:

1. Issuance of Policy

The ~~company~~ **servicing carrier** must mail an appropriate policy to the insured within 30 calendar days of receipt of the completed application.

2. Acknowledgment

The ~~company~~ **servicing carrier** will act on all requests within 30 days or acknowledge the receipt of such a request.

3. Renewal Policies or Certification

Renewal policies or certification will be issued and mailed within 30 days of ~~the company~~ receipt of renewal premium.

4. Endorsement

Within 30 days of receipt of request for endorsement, the ~~company~~ **servicing carrier** will issue such endorsement or acknowledge receipt of the request.

5. Cancellation

Any request for cancellation of the policy shall be processed and notice mailed within 30 calendar days of the ~~company's~~ **servicing carrier's** receipt of such request.

6. Return Premium

The ~~company~~ **servicing carrier** must mail the return premium check, credit the renewal billing, or apply to any outstanding balance due, within 30 days of a request for cancellation or endorsement resulting in return premium.

7. Commission

Commission ~~for all other business~~ must be **paid mailed** in accordance with Section 14.

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~~Commission for private passenger nonfleet shall be computed on a net monthly basis. Compensation, with a statement of transaction, shall be sent to the producer by the 30th day of the month following the month in which commissions were earned.~~

8. Underwriting

Servicing carriers will underwrite new business and renewal policies according to the Servicing Carrier Agreement.

B. The following standards apply to performance concerning:

1. Producer Information

The ~~company~~ **servicing carrier** must supply producers with

- (a) copy of renewal billing broken down by price per coverage;
- (b) notice of policy changes affecting coverage or premium;
- (c) notice of change of address;
- (d) notice of change in vehicles.

2. Internal Review Procedures

The ~~company~~ **servicing carrier** must comply with Section 2113 of Chapter 21 Michigan Insurance Code.

3. Compliance

All ~~companies~~ **servicing carriers** shall comply with all rules and procedures as outlined in the manuals of the ~~Michigan Automobile Insurance Placement~~ Facility.

4. Claim Handling

- (a) The ~~company~~ **servicing carrier** shall provide policyholders with information on how and where to report claims.
- (b) The ~~company~~ **servicing carrier** is responsible for handling all claims properly and promptly in accordance with the terms of the contract of insurance subject to limits of coverage provided. Claim adjustment practices and procedures of each ~~company~~ **servicing carrier** shall correspond with those followed for the voluntary business. The ~~company~~ **servicing carrier** must comply with any fair claim practices legislation.

Sec. 19. PERFORMANCE STANDARDS FOR PRODUCERS OF RECORD

~~The performance standards listed below set forth the requirements for producers in accordance with the~~

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~~rules of the Michigan Automobile Insurance Placement Facility and the procedures the Board will follow in the event of non-compliance: to effect compliance therewith:~~

Producers must meet the standards listed below for placing and servicing Facility risks:

A. Original Applications

1. Applications shall be fully completed and must include the following:
 - (a) Necessary information to rate and ~~write~~ **issue** the policy, prepare a bill, and make any required financial responsibility or motor carrier filings
 - (b) Name, address, and tax identification number of producer
 - (c) Signature of applicant and producer **and the name of the producer legibly printed or typed**
2. Deposit premiums shall be submitted with the application in accordance with the Facility rules.
3. Applications requiring immediate coverage shall have the immediate coverage section of the application completed and ~~be~~ mailed with adequate postage **within the required time frame** in accordance with the Facility rules.

B. Return Commissions

Return commissions shall be paid within 15 days from the date of notice to the producer.

C. Policy Change Request

When an insured requests a policy change, the producer must report it to the servicing carrier **within the required time frame** using the required form.

D. Claims

When an insured reports an accident or claim to the producer, the producer shall report it to the carrier within one working day in accordance with the instructions of the insurer.

E. Payments

~~1.~~ Producers shall remit all payments received from insureds within one working day.

~~2. Dishonored producer checks shall be reported to the Facility.~~

F. Electronic Application and Rating System (EARS)

1. Producers of record who are authorized to transact automobile insurance business in the state shall have the option to use the Electronic Application and Rating System to complete applications.

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Applications completed by using the Electronic Application and Rating System must be submitted with required documentation and deposit premiums under the rules for original applications outlined in subsection A. Coverage will be effective only when the electronic submission is transmitted under the procedures established and authorized by the Facility and the completed application is delivered to the Facility Office.

2. Retraction Procedure

Following assignment of a confirmation number and prior to the mailing of a completed signed application to the Facility, the producer of record may retract the application in accordance with Facility procedures.

3. If violations pertaining to the use of the Electronic Application and Rating System have occurred, the General Manager may recommend limitation, suspension, or termination of producer access to the System. The Facility shall notify the producer in writing of the limitation or suspension and will provide a written statement of the alleged violations against the producer. A producer may request a hearing before the Board of Governors, or its designee, to appeal suspension of his or her access to the Electronic Application and Rating System. Appeals must be made in writing to the General Manager, who will then schedule a hearing to take place within 20 business days of the request. Within seven days of the hearing, the Facility shall notify the producer, in writing, of the Board of Governors' decision. Any final decision of the Board of Governors under this Section shall be subject to the right of appeal to ~~of~~ the Commissioner ~~of the state~~.

G. Procedures for Compliance with the Performance Standards for Producers

The Facility shall maintain a record of infractions of performance standards and shall bring repeated violations to the producer's attention via telephone and/or a letter to the producer. This contact will include a warning that if violations continue to occur, the producer may be disqualified.

If repeated violations have occurred, the Facility shall determine if a hearing is warranted, and shall so notify the producer. If repeated violations continue after the hearing, the Facility will refer the producer to the Board of Governors, or its designee, with a history of the producer's violations. **Serious and flagrant violations of Facility performance standards, including but not limited to falsified applications and/or certificates, may result in a hearing and the possibility of immediate disqualification.**

The Board of Governors, or its designee, shall determine if the Facility should continue to monitor the producer, or if the producer should be disqualified.

1. Disqualification

If the Board of Governors, or its designee, disqualifies the producer, the following action shall be taken:

- a. The Facility shall send a notice to the producer via certified mail, with a copy to ~~the Michigan Office of Financial and Insurance Services~~ OFIS, indicating that disqualification will go into effect 15 days from the date of the letter. The notice shall include information required by Section 3355(7C).

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- b. If the producer does not respond to the above notice from the Facility, the disqualification shall go into effect, and the Facility shall notify ~~the~~ OFIS.
 - c. The producer may appeal the decision to the Facility, in writing, within 15 days from the date of the notice of disqualification. The producer may, upon written request and payment of a reasonable copying charge, receive any information pertinent to the disqualification.
2. Appeal to the Board of Governors
- a. If the producer appeals the decision in writing, a hearing will be held within 10 business days of the written request.
 - b. The Board, or its designee, will rule within five business days after the hearing.
 - c. During the Board of Governors appeal process, disqualification is suspended until the final ruling by the Board, or its designee.
 - d. If the Board, or its designee, determines that the producer should not be disqualified, the disqualification shall be lifted, and the Facility shall continue to monitor violations.
 - e. If the Board, or its designee, determines that the producer should be disqualified, the Facility shall send a notice to the producer advising
 - the disqualification shall take effect five days from the date of the notice;
 - the date when the producer would be eligible to request that the disqualification be removed and the procedures for such a request;
 - procedures and instructions for the producer to appeal the decision to the Commissioner, including that the request must be made in writing and within 30 days from the date of the Board's ruling.
3. Appeal to Commissioner

Disqualification shall be in effect during the appeal process to the Commissioner. If the producer appeals the decision by the Board of Governors, or its designee, in writing to the Commissioner, the Commissioner will conduct a hearing.

If the Commissioner disapproves the disqualification, the Facility will continue to monitor violations.

The Commissioner may request the Board of Governors to reconsider the disqualification. If requested, the Board, or its designee, shall meet within 10 business days of receipt of the request, and shall issue its decision within five business days after meeting.

4. If the producer does not make an appeal to the Board of Governors or the Commissioner in writing, no further action by the Facility is necessary.

Sec. 20. DEPOSITS OF COLLATERAL

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~~A. Collateral for Security~~

~~Investment securities deposited with the Facility pursuant to Section 11, paragraph K shall be held by the Facility in a separate account or subaccount as collateral to secure the liabilities and obligations of the member to the Facility. The rights and obligations of the Facility and the member with respect to the collateral shall be governed by the Plan of Operation and the provisions of the Security and Pledge Agreement then in effect between the Facility and the member. The Board of Governors may, at its sole discretion, apply any or all such investment securities to satisfy or apply against a member's delinquent liabilities and obligations at any time or times, and the failure or delay to exercise such right shall not constitute a waiver thereof. Notwithstanding the foregoing, however, the Board shall not apply investment securities theretofore deposited as collateral against current assessment charges if and to the extent that prior assessment or interest charges are unpaid.~~

~~B. Type and Quality of Securities~~

~~Investment securities, to be acceptable for deposit under Section 11, paragraph K, must qualify as deposits of cash, certificates of deposit or depository receipts under Section 910 of the Michigan Insurance Code, bonds, other evidence of indebtedness, or government securities of the United States under Section 912 of the Michigan Insurance Code, or Federally guaranteed interest bonds under Section 914 of the Michigan Insurance Code, subject to such further limitations as the Board may adopt regulating (i) the types of investment securities which shall be acceptable for deposit and (ii) the method of deposit.~~

~~C. Reports~~

~~On or before the 20th day following the close of each fiscal quarter (or at such other times as the Board may prescribe), each member (or, if approved by the Board, the custodian or such other person as the Board may direct) shall submit to the Facility, in such form as shall be prescribed by the Board, a list of all investment securities which it has on deposit as collateral, showing the market value as of the end of that fiscal quarter. The Board shall establish, by resolution, the methods of valuation to be used. In any dispute as to the method of valuation to be used or the valuation to be placed on any investment securities deposited with the Facility as collateral, the determination of the Board shall be final and the member shall be bound thereby. If requested by a member, the Facility shall make periodic reports in accordance with procedures established by the Board by resolution, with respect to the investment securities held by it as collateral.~~

~~D. Deficiency in Market Value~~

~~Whenever the market value of investment securities together with cash which a member has deposited with the Facility as collateral is less than 115% of its then unsatisfied liability for assessments not yet paid in cash and interest theretofore charged to the member pursuant to Section 11, the member shall forthwith, upon notice from the Facility, make an additional deposit of cash or investment securities at least equal to the amount of such deficiency.~~

~~E. Excess in Market Value~~

~~Whenever the market value of investment securities together with cash which a member has on deposit with the Facility as collateral is in excess of 115% of its then unsatisfied liability for~~

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~~assessments not yet paid in cash and interest, refund of the excess or any part thereof may be made to such member in accordance with procedures to be established by the Board.~~

~~F. Substitution of Securities~~

~~A member not in default may obtain release of cash or investment securities constituting collateral under this Section against receipt of cash or investment securities having at least an equal market value by giving notice in writing to the Facility. On receipt of such notice, the Facility, or such person or persons as it shall designate, shall forthwith proceed to effect the substitution, provided, however, that cash or investment securities constituting collateral shall be delivered only against receipt of the substitute cash or investment securities.~~

~~G. Interest on Securities~~

~~Interest or other income from investment securities deposited as collateral by a member not in default with respect to its liabilities and obligations to the Facility shall accrue to the account of, and may be paid directly to, the member.~~

~~H. Custodian~~

~~The Facility shall deposit, for safekeeping with any custodian bank or trust company approved by the Board, investment securities deposited with it as collateral. Such investment securities may be co-mingled with other funds and collateral held by the Facility. The Board may delegate to a custodian bank or trust company the authority to receive, hold, and release the investment securities; to receive, review, and evaluate the reports required to be submitted by members under subsection 20.C; and to otherwise act on behalf of the Facility in the exercise of its rights and obligations under this Plan of Operation and applicable Security and Pledge Agreements.~~

~~I. Custodian's Fees~~

~~The fees, charges, and expenses of any custodian bank or trust company shall be charged to and paid by each member who deposits securities with such custodian.~~

[1](#) | [2](#) | [3](#) | [4](#) | [5](#) | [6](#) | [7](#) | [8](#) | [9](#) | [10](#) | [11](#) | [12](#) | [13](#) | [14](#) | [15](#) | [16](#) | [17](#) | [18](#) | [19](#) | [20](#) |

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