

COMMONWEALTH OF VIRGINIA

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August 27, 2002

Administrative Letter 2002 -11

TO: All Companies Licensed under Article 9 (§ 38.2-1358 et seq.) of Chapter 13 of Title 38.2 or Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2 of the Code of Virginia

RE: Licensing of Managing General Agents

The provisions of this administrative letter, effective September 1, 2002, replace the provisions of Administrative Letter 1992-14.

Effective September 1, 2002, Article 6 (§ 38.2-1858 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia (requiring the licensing of managing general agents) is repealed and replaced in its entirety by Article 9 (§ 38.2-1358 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia. All references in this letter to a section, chapter or title shall be to the cited portion of the Code of Virginia.

Definitions

The following terms as used in this letter shall have the following meanings:

- A. **Managing general agent** means any person (individual, partnership, limited partnership, limited liability company or corporation) who:
1. **manages** all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office; **and**
 2. acts as an agent for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, **produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or exceeding five percent of the surplus of policyholders of**

the insurer as reported in the last annual statement of the insurer in any one quarter or year **together with one or more of the following:**

- a. adjusts or pays claims in excess of \$1,000; or
- b. negotiates reinsurance on behalf of the insurer.

B. Insurer means any person duly licensed in Virginia pursuant to Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2.

C. Underwrite means the authority to accept or reject risk on behalf of the insurer.

The following persons shall **not** be considered a managing general agent:

1. An employee of the insurer;
2. A United States manager of the United States branch of an alien insurer;
3. An underwriting manager who, pursuant to a contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, subject to Article 5 (§ 38.2-1322 et seq.) of Chapter 13 or Article 2 (§ 38.2-4230 et seq.) of Chapter 42 of Title 38.2, and whose compensation is not based on the volume of premiums written; or
4. The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer.

Managing General Agent License Requirements

The following persons (individuals, partnerships, limited partnerships, limited liability companies, and corporations) are required to be licensed as a managing general agent:

1. A managing general agent who represents domestic insurers.
2. A managing general agent who represents foreign or alien insurers, unless the managing general agent is licensed in another state under a law substantially similar to Virginia law.

Section 38.2-1361 specifies the duties of insurers utilizing managing general agents, and § 38.2-1360 sets forth the minimum provisions that must be contained in the contract between the insurer and the managing general agent. An insurer is subject to the provisions set forth in §§ 38.2-1360 and 38.2-1361 even if its managing general agent is not subject to licensing in Virginia.

Managing General Agent Licensing Procedures

Any insurer that uses the services of a managing general agent who is subject to licensing in Virginia **is responsible for notifying each of its managing general agents that they must request a licensing application package** from the Bureau of Insurance (the "Bureau") and be licensed.

A license issued to a managing general agent will be good for up to two years and will expire every other June 30. A renewal application and a renewal fee of \$500 must be submitted between May 1 and June 1 of the year in which the license will expire. The following items must be submitted to the Bureau as part of the initial application:

1. A \$500 nonrefundable application fee;
2. A completed application form;
3. A completed biographical affidavit for each individual to be authorized to act as a managing general agent under the license pursuant to § 38.2-1358;
4. A current audited financial statement certified by a certified public accountant;
5. A certified copy of the managing general agent's organizational documents;
6. A certification or attestation of a fidelity bond for the protection of each insurer the managing general agent represents in an amount equal to at least 10% of the annual gross direct written premium produced by the managing general agent;
7. A certification or attestation of an errors and omissions policy with limits set at \$1,000,000 or 25% of the annual gross direct written premium produced by the managing general agent, whichever is greater; and
8. A copy of any appointments or contracts the managing general agent has with any insurer.

Agent Appointment Procedure

In order for a managing general agent to be authorized to appoint **agents** (as such term is defined in Chapter 18 of Title 38.2 of the Code of Virginia) on behalf of an insurer, an insurer must submit a PIN1100 (Individuals Authorized to Appoint Agents in Virginia) Form. You may obtain the PIN1100 Form by calling the Bureau's Interactive Voice Response (IVR) number, (804)371-9631, or accessing the Bureau's website at: <http://www.state.va.us/scc/division/boi/webpages/formsapplications.htm>.

Contact Information

A copy of Article 9 may be obtained from the Virginia Legislative Information System's website at: <http://leg1.state.va.us/lis.htm>. Questions regarding the contents of this letter, and requests for a copy of Article 9 and for managing general agent application packages should be directed to the attention of:

Janis R. Bunce
Financial Regulation Division, Bureau of Insurance
State Corporation Commission
P.O. Box 1157
Richmond, VA 23218 (804) 371-9063

Sincerely,

A handwritten signature in cursive script, appearing to read "Alfred W. Gross".

Alfred W. Gross
Commissioner of Insurance