

effect had previously been approved by the Commissioner. If, after a hearing held upon not less than ten days' written notice to the rating organization or insurer, the Commissioner finds that the rates or any part thereof, or the method of setting the rates [on] OR any part thereof, are not in compliance with subsection (c) hereof, he may pass such order or orders as he deems appropriate to (i) require that the rates or parts thereof, or the method of setting the rates or any part thereof, be so adjusted as to comply with subsection (c) and (ii) require any such insurer whose rates or part thereof are found to be in violation of subsection (c) to reimburse any insured who, during the period of time such rates were in effect, not exceeding one year, paid a higher premium than the Commissioner finds should have been charged had the rates been in compliance with subsection (c), an amount equal to the difference between the premium paid and the premium which the Commissioner finds should have been charged during such period; provided, however, that no order of reimbursement shall be made prior to one year after January 1, 1973.

243M.

(f) Each member of the association shall apply and collect any assessment surcharge pursuant to subsections (d) and (e). Each member of the association shall report quarterly to the association pursuant to [§]§ 243A and [243M] THIS SECTION. An officer of each member shall certify, in the manner required by the association's board of directors, that any amounts collected and paid are a true and accurate accounting of its policy surcharges.

(g) All insufficiency assessment moneys received by the Fund during the applicable calendar year shall be considered as a direct contribution to surplus for annual statement purposes. In the event that the aggregate amount of surcharges received by any association member company during the applicable recoupment year is less than that member's assessment contribution for which the surcharges were collected, the member's authorized surcharge under [§ 243M(e)] SUBSECTION (E) OF THIS SECTION shall be increased accordingly for the next appropriate recoupment year. In the event that the aggregate amount of surcharges received by any association member company during the applicable recoupment year is greater than that member's assessment contribution for which the surcharges were collected, the member shall deposit the excess as provided in § 243N(b) and shall receive a credit for the amount deposited against the next appropriate assessment under § 243A and [§ 243M] THIS SECTION.

394A.

(a) [(1)] In this section, "published monthly average" means:

(1) Moody's corporate bond yield average - monthly average corporates as published by Moody's [Investor's] INVESTORS Service, Inc. or its successor; or