

E. EXPERIENCE TO BE USED IN A RATING

1. Experience Period

The experience period represents the total amount of past exposure and loss data used in an experience rating. The calculation of a risk's modification must include all eligible experience that occurred during the experience period.

- a. A risk's rating effective date determines its experience period. Experience for each of a risk's policies is included if the policy effective date is:
 - i. Not less than 21 months before the rating effective date; and
 - ii. Not more than 57 months before the rating effective date.
- b. A risk's experience period cannot contain more than 45 months of data. The 45-month limitation is a maximum period of time between the expiration date of the most recent policy and the effective date of the oldest policy. While the experience period may not exceed 45 months, a modification may be produced with less than 12 months of data. The amount of data included in a risk's experience period may be impacted for reasons including, but not limited to:
 - Short-term policies
 - Cancellations
 - Gaps in coverage
 - Changes in ownership or combinability status
 - Rating effective date changes
 - Multiple policy effective dates
 - Policies longer than one year and 16 days
 - Wrap-up policies
- c. If both the recent and oldest policies fit within the experience period, and the inclusion of both policies would exceed 45 months, the oldest policy is not used.
- d. Based on a risk's rating effective date:
 - i. A risk's most current data, excluding 4th through 10th reports, is used to calculate modifications. Refer to the Statistical Plan for valuation date information.
 - ii. An individual policy's 1st, 2nd, and 3rd report data may be used in more than three modifications. However, the policy must be eligible for inclusion according to Section (E)(1)(a)(b) and (c) of this Rule.

2. Experience Period Reference Table

The following table provides an illustration of the policies that need to be included in the experience for a respective rating effective date and can be used as a reference.

EXPERIENCE PERIOD REFERENCE TABLE					
Rating Effective Date	Oldest Policy Effective Date	Most Recent Policy Effective Date	Rating Effective Date	Oldest Policy Effective Date	Most Recent Policy Effective Date
01/01/23	04/01/18	04/01/21	01/01/24	04/01/19	04/01/22
02/01/23	05/01/18	05/01/21	02/01/24	05/01/19	05/01/22
03/01/23	06/01/18	06/01/21	03/01/24	06/01/19	06/01/22
04/01/23	07/01/18	07/01/21	04/01/24	07/01/19	07/01/22
05/01/23	08/01/18	08/01/21	05/01/24	08/01/19	08/01/22
06/01/23	09/01/18	09/01/21	06/01/24	09/01/19	09/01/22
07/01/23	10/01/18	10/01/21	07/01/24	10/01/19	10/01/22
08/01/23	11/01/18	11/01/21	08/01/24	11/01/19	11/01/22
09/01/23	12/01/18	12/01/21	09/01/24	12/01/19	12/01/22
10/01/23	01/01/19	01/01/22	10/01/24	01/01/20	01/01/23
11/01/23	02/01/19	02/01/22	11/01/24	02/01/20	02/01/23
12/01/23	03/01/19	03/01/22	12/01/24	03/01/20	03/01/23
01/01/25	04/01/20	04/01/23	01/01/26	04/01/21	04/01/24
02/01/25	05/01/20	05/01/23	02/01/26	05/01/21	05/01/24
03/01/25	06/01/20	06/01/23	03/01/26	06/01/21	06/01/24
04/01/25	07/01/20	07/01/23	04/01/26	07/01/21	07/01/24
05/01/25	08/01/20	08/01/23	05/01/26	08/01/21	08/01/24
06/01/25	09/01/20	09/01/23	06/01/26	09/01/21	09/01/24
07/01/25	10/01/20	10/01/23	07/01/26	10/01/21	10/01/24
08/01/25	11/01/20	11/01/23	08/01/26	11/01/21	11/01/24
09/01/25	12/01/20	12/01/23	09/01/26	12/01/21	12/01/24
10/01/25	01/01/21	01/01/24	10/01/26	01/01/22	01/01/25
11/01/25	02/01/21	02/01/24	11/01/26	02/01/22	02/01/25
12/01/25	03/01/21	03/01/24	12/01/26	03/01/22	03/01/25
01/01/27	04/01/22	04/01/25	01/01/28	04/01/23	04/01/26
02/01/27	05/01/22	05/01/25	02/01/28	05/01/23	05/01/26
03/01/27	06/01/22	06/01/25	03/01/28	06/01/23	06/01/26
04/01/27	07/01/22	07/01/25	04/01/28	07/01/23	07/01/26

05/01/27	08/01/22	08/01/25	05/01/28	08/01/23	08/01/26
06/01/27	09/01/22	09/01/25	06/01/28	09/01/23	09/01/26
07/01/27	10/01/22	10/01/25	07/01/28	10/01/23	10/01/26
08/01/27	11/01/22	11/01/25	08/01/28	11/01/23	11/01/26
09/01/27	12/01/22	12/01/25	09/01/28	12/01/23	12/01/26
10/01/27	01/01/23	01/01/26	10/01/28	01/01/24	01/01/27
11/01/27	02/01/23	02/01/26	11/01/28	02/01/24	02/01/27
12/01/27	03/01/23	03/01/26	12/01/28	03/01/24	03/01/27
01/01/29	04/01/24	04/01/27	01/01/30	04/01/25	04/01/28
02/01/29	05/01/24	05/01/27	02/01/30	05/01/25	05/01/28
03/01/29	06/01/24	06/01/27	03/01/30	06/01/25	06/01/28
04/01/29	07/01/24	07/01/27	04/01/30	07/01/25	07/01/28
05/01/29	08/01/24	08/01/27	05/01/30	08/01/25	08/01/28
06/01/29	09/01/24	09/01/27	06/01/30	09/01/25	09/01/28
07/01/29	10/01/24	10/01/27	07/01/30	10/01/25	10/01/28
08/01/29	11/01/24	11/01/27	08/01/30	11/01/25	11/01/28
09/01/29	12/01/24	12/01/27	09/01/30	12/01/25	12/01/28
10/01/29	01/01/25	01/01/28	10/01/30	01/01/26	01/01/29
11/01/29	02/01/25	02/01/28	11/01/30	02/01/26	02/01/29
12/01/29	03/01/25	03/01/28	12/01/30	03/01/26	03/01/29

3. Experience Period Examples

For the examples below, consider the following scenario:

A risk's rating effective date determines its experience period. The experience period contains policies with effective dates ranging from 21 to 57 months before the rating effective date, not exceeding 45 months of data.

To determine the maximum 45-month time period included in the experience period, refer to the Experience Period Reference Table or apply the following procedure:

- a. List the modification effective date 1/1/23
- b. Add 3 months to the date in (a) 4/1/23
- c. Subtract 2 years from the date in (b) 4/1/21
- d. Subtract 3 years from the date in (c) 4/1/18

The maximum experience period of a 1/1/23 modification includes policies with effective dates on or after 4/1/18, through policies with effective dates on or before 4/1/21.

The examples below clarify the experience period used in a rating that has policy periods with varying lengths.

Example 1:

Assume a 1/1/23 rating effective date.

Policy Period	Months of Data
06/01/18 – 01/01/19	7
01/01/19 – 01/01/20	12
01/01/20 – 01/01/21	12
01/01/21 – 01/01/22	12

The 1/1/23 rating includes 43 months of data. This is within the 45-month period under this rule. The oldest policy period (6/1/18-1/1/19) is not more than 57 months before the rating effective date.

Example 2:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
10/01/18 – 07/01/19	9
07/01/19 – 07/01/20	12
07/01/20 – 10/15/20	3.5
10/15/20 – 07/01/21	8.5 month coverage gap – no data to be included
07/01/21 – 07/01/22	12

The 7/1/23 rating includes 36.5 months of data, excluding the 8.5-month gap in coverage. This is within the 45 - month period as provided under this rule. The oldest policy period (10/1/18-7/1/19) is not more than 57 months before the rating effective date.

Example 3:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
02/01/19 – 12/01/19	10
12/01/19 – 07/01/20	7-month coverage gap – no data to be included
07/01/20 – 07/01/21	12
07/01/21 – 07/01/22	12

The 7/1/23 rating includes 34 months of data, excluding the 7-month gap in coverage. This is within the 45-month period as provided under this Rule. The oldest policy period (2/1/19-12/1/19) is only 53 months before the rating effective date and does not exceed the 57-month limit.

Example 4:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
07/01/19 – 07/01/20	12
07/01/20 – 07/01/21	12
07/01/21 – 10/01/21	3-month coverage gap – no data to be included
10/01/21 – 07/01/22	9

The 7/1/23 rating includes 33 months of data within an experience period of 36 months. The data effective 10/1/21 is used.

Example 5:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
07/01/19 – 07/01/20	10
07/01/20 – 07/01/21	12
07/01/21 – 07/01/22	12
10/01/21 – 10/01/22	12 – newly acquired subsidiary with a different policy date

In this example, the 7/1/21-7/1/22 policy overlaps with the 10/1/21-10/1/22 subsidiary policy. The 7/1/23 rating includes 36 months of data for the principal entity and 12 months of data for the subsidiary entity. Because two policies overlap for nine months, the 39-month experience period is within the 45-month limit.

Example 6:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
12/01/18 – 07/01/19	7
07/01/19 – 07/01/20	12
07/01/20 – 07/01/21	12
07/01/21 – 09/01/21	2
09/01/21 – 07/01/22	10

The experience period includes the 12/1/18 policy and the 9/1/21 policy. In this example, the 7/1/23 rating includes 43 months of data

Example 7:

Assume a 7/1/23 rating effective date.

Policy Period	Months of Data
11/01/18 – 11/01/19	12
11/01/19 – 09/01/20	10
09/01/20 – 07/01/21	10-month coverage gap – no data to be included
07/01/21 – 10/01/21	3
10/01/21 – 07/01/22	9

The 7/1/23 rating includes 34 months of data, excluding the 10-month gap in coverage. This is within the 45-month period. The most recent policy period (10/1/21-7/1/22) is not less than 21 months before the rating effective date.

Example 8:

Assume a 9/1/23 rating effective date.

Policy Period	Months of Data
11/01/18 – 11/01/19	12
11/01/19 – 11/01/20	12
11/01/20 – 09/01/21	10
09/01/21 – 09/01/22	12

In this example, there is a total of 46 months of data. Since this exceeds the 45-month period and the oldest data is more than 57 months before the rating effective date, the 11/1/18-11/1/19 policy is not used. As a result, the experience period is 34 months.

Example 9:

Assume a 1/1/23 rating effective date with combinable entities A and B,

Entity A		Entity B	
Policy Date	Months of Data	Policy Date	Months of Data
01/01/19 – 01/01/20	12	03/01/19 – 03/01/20	12
01/01/20 – 01/01/21	12	03/01/20 – 03/01/21	12
01/01/21 – 01/01/22	12	03/01/21 – 03/01/22	12
Total	36	Total	36

The experience period for a 1/1/23 rating effective date can include policies with effective dates on or between 4/1/18 and 4/1/21. Entity A and Entity B each have 36 months of experience. This particular risk’s experience period begins 1/1/19 and ends 3/1/22, totaling 39 months of experience, even though 33 of the 39 months are overlapping. Each entity’s separate experience, as well as the total experience of the risk, fits within the 45-month maximum experience period.

4. Self-Insurer Data

- a. Experience of self-insured risks may be included in an experience rating upon written request to the Operations Department of the Rating Board.
- b. Payroll and loss data must be submitted to the Rating Board on Form ERM-6. The ERM-6 Form is available on the Rating Board’s website at www.nycirb.org. The ERM-6 Form must be signed by either the risk, self-insurer or authorized third party administrator (“TPA”). The data is subject to verification by the entity submitting the data for inclusion in an experience rating, as well as by the Rating Board.
- c. The carrier requesting the data inclusion must be the risk’s insurer during the time for which the modification including the self-insured data would apply.
- d. For multiple insurer risks, agreement from only one of the risk’s insurers, during the time for which the modification would apply, is required.

5. Discontinued Operations

An entity may discontinue all or part of its operations.

If an entity discontinues...	Then the future experience ratings will include...
All of its operations and reestablishes them at a later date	The applicable data developed prior to the discontinuation.
Parts of its operations	The applicable data developed both prior to the discontinuation and for the remaining operations.

6. Insolvent Carriers

- a. Experience ratings may be promulgated by the Rating Board using data reported by those insolvent carriers that continue providing sufficient complete levels of unit statistical reports for experience rating purposes.
- b. When an insolvent carrier is unable to submit unit statistical reports for the policies it has written, experience ratings will be issued by the Rating Board if the experience required for rating purposes is submitted by the liquidator, an authorized Managing General Agent (MGA) or TPA, or by the employer using an ERM-6 Form. The data from an ERM-6 will be included in the determination of the rating upon receipt of authorization from the risk's carrier during the time for which the modification including the data submitted on an ERM-6 would apply.
- c. Data obtained from insolvent carriers that has been submitted later than the customary due date schedule for unit statistical reports, or insolvent carrier data obtained from third party sources, will be utilized in calculating experience ratings to the extent that the submitted data impacts the current and, if applicable, up to two preceding experience ratings. Refer to Rule 4 Section (B)(2)(a) of this Plan.
- d. When absolutely no insolvent carrier unit statistical report data can be obtained, the following steps will be taken:
 - If a first report (exposure record) is unobtainable, an experience rating will be calculated without the policy that is missing the first report.
 - If a subsequent report(s) is missing, and the prior report(s) has been submitted to the Rating Board, experience ratings will be calculated using the prior report(s) data.
 - If an experience rating cannot be issued due to multiple years with missing data from an insolvent carrier, the last authorized rating factor will continue to apply.