



THE COMMONWEALTH OF MASSACHUSETTS

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS
REGULATION**

Division of Insurance

Report on the Comprehensive Market Conduct Examination of

Arbella Mutual Insurance Company

Quincy, Massachusetts

For the Period January 1, 2005 through June 30, 2006

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NAIC COMPANY CODE: 17000

EMPLOYER'S ID NUMBER: 04-3022050



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August 22, 2007

Nonnie S. Burnes
Commissioner of Insurance
Commonwealth of Massachusetts
Division of Insurance
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Dear Commissioner Burnes:

Pursuant to your instructions and in accordance with Massachusetts General Laws, Chapter 175, Section 4, a comprehensive examination has been made of the market conduct affairs of

ARBELLA MUTUAL INSURANCE COMPANY

at its home office located at:

1100 Crown Colony Drive
Quincy, Massachusetts 02269

The following report thereon is respectfully submitted.

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SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (the “Division”) conducted a comprehensive market conduct examination of Arbell Mutual Insurance Company (“Arbella Mutual” or “the Company”) for the period January 1, 2005 to June 30, 2006. The examination was called pursuant to authority in Massachusetts General Laws Chapter (“M.G.L. c.”) 175, Section 4. The market conduct examination was conducted at the direction of, and under the overall management and control of, the market conduct examination staff of the Division. Representatives from the firm of Rudmose & Noller Advisors, LLC (“RNA”) were engaged to complete certain agreed upon procedures.

EXAMINATION APPROACH

A tailored audit approach was developed to perform the examination of the Company using the guidance and standards of the *NAIC Market Conduct Examiner’s Handbook*, (“the Handbook”) the market conduct examination standards of the Division, the Commonwealth of Massachusetts insurance laws, regulations and bulletins and selected federal laws and regulations. All procedures were performed under the management and control and general supervision of the market conduct examination staff of the Division, including procedures more efficiently addressed by the concurrent Division financial examination. For those objectives, market conduct examination staff discussed, reviewed and used procedures performed by the Division’s financial examination staff to the extent deemed necessary, appropriate and effective, to ensure that the objective was adequately addressed. The following describes the procedures performed and the findings for the workplan steps thereon.

The basic business areas that were reviewed in under this examination were:

- I. Company Operations/Management
- II. Complaint Handling
- III. Marketing and Sales
- IV. Producer Licensing
- V. Policyholder Service
- VI. Underwriting and Rating
- VII. Claims

In addition to the processes’ and procedures’ guidance in the Handbook, the examination included an assessment of the Company’s internal control environment. While the Handbook approach detects individual incidents of deficiencies through transaction testing, the internal control assessment provides an understanding of the key controls that Company management uses to run their business and to meet key business objectives, including complying with applicable laws and regulations related to market conduct activities.

The controls assessment process is comprised of three significant steps: (a) identifying controls; (b) determining if the control has been reasonably designed to accomplish its intended purpose in mitigating risk (i.e., a qualitative assessment of the controls); and (c) verifying that the control is functioning as intended (i.e., the actual testing of the controls). For areas in which controls reliance was established, sample sizes for transaction testing were accordingly adjusted. The form of this report is “Report by Test,” as described in Chapter VI A. of the Handbook.

EXECUTIVE SUMMARY

This summary of the comprehensive market conduct examination of the Company is intended to provide a high-level overview of the examination results. The body of the report provides details of the scope of the examination, tests conducted, findings and observations, recommendations and, if applicable, subsequent Company actions. Managerial or supervisory personnel from each functional area of the Company should review report results relating to their specific area.

The Division considers a substantive issue as one in which corrective action on part of the Company is deemed advisable, or one in which a “finding,” or violation of Massachusetts insurance laws, regulations or bulletins was found to have occurred. It also is recommended that Company management evaluate any substantive issues or “findings” for applicability to potential occurrence in other jurisdictions. When applicable, corrective action should be taken for all jurisdictions, and a report of any such corrective action(s) taken should be provided to the Division.

The following is a summary of all substantive issues found, along with related recommendations and, if applicable, subsequent Company actions made, as part of the comprehensive market conduct examination of the Company. All Massachusetts laws, regulations and bulletins cited in this report may be viewed on the Division’s website at www.mass.gov/doi.

The comprehensive market conduct examination resulted in no findings or negative observations with regard to policyholder service. Examination results showed that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in this section.

SECTION I - COMPANY OPERATIONS/MANAGEMENT

STANDARD I-1

Findings: None.

Observations: The internal audit reports, field audit reports and claim quality assurance audits reviewed by RNA provided detailed information on the procedures performed, audit findings and recommendations for improvement. The review of CAR audits indicated that the Company is generally in compliance with statutory requirements and CAR Rules. RNA’s review indicated that follow up audits were not always conducted when previous audits included significant recommendations.

Recommendations: The internal audit department should conduct follow up audits where significant recommendations from previous audits were made. Further, internal audit should ensure that line management is made responsible for completing the recommendations and monitoring progress timely.

The Company is in the process of adopting more formalized and structured field audit procedures for all voluntary agents. The Company should develop and implement these new audit procedures as soon as practicable.

Subsequent Actions: The internal audit department has initiated an annual process to evaluate the status of all internal and external audit comments and communicate such

evaluations to the Board of Directors' Audit Committee. In addition, follow-up audits in the 2007 audit plan are being performed.

STANDARD I-3

Transaction Testing Results:

Findings: None.

Observations: Based upon RNA's review of the Company's policies and procedures, it appears that the Company generally has anti-fraud initiatives in place to detect, prosecute, and prevent fraudulent insurance acts. The Company has conducted background checks on approximately 59% of its employees.

Recommendations: RNA recommends that the Company conduct a criminal background check for any employee for whom a background check has not already been conducted.

SECTION II - COMPLAINT HANDLING

SECTION II-2

Findings: None.

Observations: It appears from the complaints reviewed that the Company has adequate procedures in place to address complaints, and adequately communicates such procedures to policyholders. However, RNA noted that the Company has not established formal KPIs for monitoring complaint handling activity.

Recommendations: The Company shall develop and implement KPIs for complaint handling. Further, internal audit shall periodically monitor the Company's compliance with its complaint handling policies and regulatory requirements.

Subsequent Action: The Company has subsequently developed KPIs for complaint handling.

SECTION II-4

Findings: None.

Observations: RNA noted that during 2005 and early 2006, the Company did not timely respond to twelve claims-related Division complaints of those tested. However, RNA also noted that the Company took corrective actions in the spring of 2006 to timely respond to claims-related Division complaints. Based on the results of testing, after the corrective action that the Company has taken, it appears that the Company's processes for responding to complaints in a timely manner are functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: The Company's KPIs for complaint handling shall include metrics for monitoring timeliness of complaint responses.

Subsequent Actions: The Company's subsequently-developed KPIs for complaint handling include metrics for monitoring timeliness of complaint responses.

SECTION III - MARKETING AND SALES

STANDARD III-1

Findings: None.

Observations: The results of RNA's testing showed that the Company's advertising and sales materials comply with Massachusetts M.G.L. c. 176D, § 3. The Company's website disclosure complies with the requirements of Division of Insurance Bulletin 2001-02. The Company's legal department does not review all advertising and sales materials prior to use.

Recommendations: The Company should consider implementing a new procedure requiring that its public relations consultant, who is an attorney, determine whether any issues that warrant review by the Company's legal department exist with each proposed sales or advertising piece, and provide the questionable material to the Company's legal department for review prior to distribution and use of such material.

Subsequent Actions: The Company has subsequently hired a vice-president of marketing and an assistant vice-president of marketing, who, in conjunction with the legal department, will develop appropriate processes and procedures governing the review of all sales and advertising materials prior to their use and distribution. Until these procedures are in place, the legal department is now reviewing all sales and advertising materials prior to their use and distribution.

SECTION IV - PRODUCER LICENSING

STANDARD IV-1

Findings: None.

Observations: Based on the results of RNA's testing, all of the producers who sold policies during the examination period were properly licensed, and most were included on the Division's list of the Company's appointed agents at the time the policies were issued. While not required by statute, it is the Company's policy to appoint all of its producers as agents.

Recommendations: The Company and the Division shall complete a reconciliation of the Company's agent appointments at a mutually agreed upon date, to ensure that such appointment records are in agreement.

Subsequent Actions: The Company states that it is now appointing all producers as agents.

STANDARD IV-3

Findings: None.

Observations: The results of RNA's testing showed that the Company appears to be notifying the Division when it terminates agent appointments. RNA noted that the Company did not consistently terminate agent appointments via OPRA when the terminations were requested by the producer.

Recommendations: The Company shall adopt policies and procedures to ensure that it terminates agent appointments through OPRA when they are requested by the producer.

Subsequent Actions: The Company states that it is now using the OPRA system to terminate agent appointments.

SECTION VI - UNDERWRITING AND RATING

STANDARD VI-1

Findings: None.

Observations: Based on the results of testing, it appears that the Company calculates policy premiums, discounts and surcharges in compliance with statutory requirements, as well as with applicable rates set by the Commissioner or filed with the Division. However, the Company made two homeowners rating errors during the examination period. An error occurring during 2006 resulted in approximately 1,400 policyholders being charged incorrect premium. The Company states that it has corrected the 2006 rating error, and has refunded premium to policyholders who were overcharged. Another rating error occurred during 2005 when the Company improperly applied newly approved rates for approximately 30 days. The Company states it discovered the error within 30 days and adjusted the premium it charged to the effected policyholders. While not required by statute or regulation, the Company did not timely notify the Division of these rating errors or present their plan for correcting them. Further, the Company states that they have implemented controls to ensure that these errors will not reoccur.

Recommendations: Internal audit shall periodically conduct audits to monitor the Company's premium rate change and implementation processes to ensure compliance with Company policies and regulatory requirements.

STANDARD VI-2

Findings: None.

Observations: Based upon testing, the Company appears to provide required coverage disclosures to insureds upon initial application and renewal, in accordance with statutory guidelines. Although the Company stated that it believes that its producers provided information guides to consumers, no evidence is available supporting this assertion. However, RNA is not aware of any evidence suggesting that policyholders have not received the information guide.

Recommendations: The Company shall consider implementing procedures to monitor its agents' delivery of coverage denial disclosure due to an adverse credit report. At a minimum, the Company should require agents to retain documentation of their disclosure of coverage denials, and that such disclosure documentation is subject to review by the Company at any time.

STANDARD VI-16

Findings: None.

Observations: Based on the results of testing, it appears that the Company generally issues new and renewal policies and endorsements timely, accurately and completely. However, one homeowners' policy application was processed and issued without review by underwriting prior to issuance. The policy was backdated to be effective approximately three months prior to the date the application was received in the home office, and was non-renewed by the Company one year later.

Recommendations: The Company shall adopt a new control procedure to ensure that all homeowners' applications are sent to underwriting for review and approval. In addition, the Company shall adopt a new control procedure to ensure that effective date of homeowners' coverage is not backdated without approval of underwriting supervisory personnel. Internal audit shall design audit procedures and perform testing to ensure that the control procedures are effective.

Subsequent Actions: The Company has implemented a new control procedure to ensure that the underwriter's initials and date stamp are included with the application prior to filing the application in the records file. If the initials and date stamp are not included on the application, the application is returned to underwriting for review and approval.

SECTION VII – CLAIMS

STANDARD VII-2

Findings: None.

Observations: The Company timely investigated the tested claims. RNA also noted that the Company's contracts with surveillance investigators are not written. Based upon the

results of testing, it appears that the Company's processes for investigating claims are functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: The Company should consider requiring that all investigator contracts are agreed to by the parties in writing.

FOR INFORMATION PURPOSES ONLY

COMPANY BACKGROUND

The Company is mutual insurance company headquartered in Quincy, Massachusetts, and is the controlling entity in a corporate ownership structure that includes five Massachusetts domestic insurers (the "Arbella Group"). This examination was conducted concurrently with the examination of certain affiliates within the Arbella Group, as management, systems, processes and controls are common to operations of these affiliated companies.

The Company offers private passenger automobile, homeowners' and personal umbrella property/liability insurance in Massachusetts. Commercial automobile, commercial property/liability and workers' compensation insurance is sold through subsidiary or affiliated insurance companies within the Arbella Group.

The Arbella Group contracts with approximately 450 independent agencies in Massachusetts, including approximately 100 ERPs assigned to them by Commonwealth Automobile Reinsurers ("CAR"). The ERPs write exclusively for the Company, primarily in urban areas, and can not be terminated by the Company. The independent agents produce private passenger automobile, homeowners' and personal umbrella property/liability business. The business produced by ERPs is primarily automobile business produced in accordance with CAR rules.

The private passenger automobile market in Massachusetts is highly regulated, characterized by mandatory coverage minimums, uniform rates set by the Division, a requirement for carriers to accept all risks, and uniform coverages. Rate deviations are allowed via discounts to affinity groups as approved by the Division. Further, individual risks as determined by the carriers can be ceded to CAR. All licensed automobile insurance carriers are also required to participate in the CAR reinsurance facility. Each licensed automobile insurance carrier is allocated a share of the CAR pooled operating results and accumulated deficit, in proportion to each carrier's market share in the voluntary market. The Company is the third largest insurer of private passenger automobile coverage in Massachusetts, with over 300,000 vehicles insured, or approximately 9% of the market.

The Arbella Group is rated B++ (Very Good) by A.M. Best. The Company had \$898.1 million in admitted assets and \$345.1 million in surplus as of December 31, 2005. For the year ended December 31, 2005, the Company's premiums were \$453.6 million, and net income was \$25.1 million.

The key objectives of this examination were determined by the Division with emphasis on the following areas.

I. COMPANY OPERATIONS/MANAGEMENT

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard I-1. The company has an up-to-date, valid internal, or external, audit program.

Objective: This Standard addresses whether there is an audit program function that provides meaningful information to management.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's financial statements are audited annually by an independent accounting firm.
- The Company's internal audit department reports to the Board of Directors' Audit Committee.
- The Company's internal audit plan is based on priorities established by the Audit Committee, with input from senior management. The Audit Committee approves the plan for the following year prior to year end, and monitors plan progress and implementation results periodically throughout the year.
- The Company's internal audit department conducts periodic audits of various company functions to ensure compliance with Company policies and procedures, and recommends enhancements to such policies and procedures.
- The Company's claim department performs claim quality assurance audits, whereby claims processed by two of the seven branch claim offices are annually reviewed and evaluated for adherence to Company policies and procedures. Further, the Company conducts studies to evaluate the Company's claim settlement practices, such as evaluating the timeliness of subrogation recoveries.
- The Company's underwriting department conducts annual field audits of all ERPs as required by CAR, to ensure compliance with the Company's underwriting and complaint policies and procedures. Written reports of findings are prepared. If deficiencies are noted, the Company will make an additional visit within a year to evaluate whether improvements have been made. Continued non-compliance results in notification of the deficiencies to CAR.
- At least once every five years, the Company's underwriting department, conducts desk audits of voluntary agents who electronically submit applications. The Company statistically selects samples of new business, and requests that agents submit supporting information including signed applications. Written reports of audit findings are prepared and circulated to management in the underwriting and marketing departments. To the extent that deficiencies are noted, follow up audits may be conducted.
- The Company is subject to periodic audits by CAR for compliance with statutes and CAR Rules of Operation ("CAR Rules"). Participation in CAR is mandatory for all insurers writing private passenger automobile insurance in Massachusetts.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA reviewed various internal audit reports, field audit reports, claim quality assurance audits and CAR audits to evaluate procedures performed and results obtained.

Transaction Testing Results:

Findings: None.

Observations: The internal audit reports, field audit reports and claim quality assurance audits reviewed by RNA provided detailed information on the procedures performed, audit findings and recommendations for improvement. The review of CAR audits indicated that the Company is generally in compliance with statutory requirements and CAR Rules. RNA's review indicated that follow up audits were not always conducted when previous audits included significant recommendations.

Recommendations: The internal audit department should conduct follow up audits where significant recommendations from previous audits were made. Further, internal audit should ensure that line management is made responsible for completing the recommendations and monitoring progress timely.

The Company is in the process of adopting more formalized and structured field audit procedures for all voluntary agents. The Company should develop and implement these new audit procedures as soon as practicable.

Subsequent Actions: The internal audit department has initiated an annual process to evaluate the status of all internal and external audit comments and communicate such evaluations to the Board of Directors' Audit Committee. In addition, follow-up audits in the 2007 audit plan are being performed.

Standard I-2. The company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.

No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

Standard I-3. The company has anti-fraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.

18 U.S.C. § 1033; Division of Insurance Bulletins 1998-11 and 2001-14.

Objective: This Standard addresses whether the Company has an anti-fraud plan that is adequate, up-to-date, in compliance with applicable statutes and is appropriately implemented.

Pursuant to 18 U.S.C. § 1033 of the Violent Crime Control and Law Enforcement Act of 1994 (“Act”), it is a criminal offense for anyone “engaged in the business of insurance” to willfully permit a “prohibited person” to conduct insurance activity without written consent of the primary insurance regulator. A “prohibited person” is an individual who has been convicted of any felony involving dishonesty or breach of trust or certain other offenses, who willfully engages in the business of insurance as defined in the Act. In accordance with Division of Insurance Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts must notify the Division in writing of all employees and producers affected by this law. Individuals “prohibited” under the law may apply to the Commissioner for written consent, and must not engage or participate in the business of insurance unless and until they are granted such consent.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has a written plan to address fraud throughout the organization.
- The Company has a Special Investigative Unit (“SIU”) within the Claim Department which is dedicated to the prevention and handling of fraudulent activities.
- The SIU function does not make a distinction between claims in which the insured’s policy is ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- The Company’s SIU function has written policies, guidelines and procedures to address claim fraud prevention.
- The Company adheres to SIU standards established by CAR. Participation in CAR is mandatory for all insurers writing private passenger automobile insurance in Massachusetts.
- The SIU tracks and investigates potentially fraudulent activity with the assistance of other departments, and reports such activity to regulators as necessary.
- The Company’s policy is to seek the Division’s approval regarding the hiring of any “prohibited person” when it wishes to employ such a person.
- Beginning in 1998, the Company began conducting criminal background checks on all new employees.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA reviewed the Company’s anti-fraud policies and procedures and the work of the SIU as part of various claims standards.

Transaction Testing Results:

Findings: None.

Observations: Based upon RNA’s review of the Company’s policies and procedures, it appears that the Company generally has anti-fraud initiatives in place to detect, prosecute, and prevent fraudulent insurance acts. The Company has conducted background checks on approximately 59% of its employees.

Recommendation: RNA recommends that the Company conduct a criminal background check for any employee for whom a background check has not already been conducted.

Standard I-4. The company has a valid disaster recovery plan.

No work performed. All required activity for this Standard is included in the scope of the statutory financial examination of the Company which is ongoing.

Standard I-5. The company adequately monitors the activities of the Managing General Agents (MGA).

No work performed. The Company does not utilize MGAs; therefore this standard is not applicable to this examination.

Standard I-6. Company contracts with MGAs comply with applicable statutes, rules and regulations.

No work performed. The Company does not utilize MGAs; therefore this standard is not applicable to this examination.

Standard I-7. Records are adequate, accessible, consistent and orderly and comply with record retention requirements.

Objective: This Standard addresses the organization, legibility and structure of files, as well as the determination of the Company's compliance with record retention requirements.

Controls Assessment: The Company has established record retention policies and procedures for each key function and department that note the length of time each document must be retained and how documents should be destroyed.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA reviewed the Company's record retention policies and evaluated them for reasonableness.

Transaction Testing Results:

Findings: None.

Observations: The Company's home office record retention policies appear reasonable.

Recommendations: None.

Standard I-8. The company is licensed for the lines of business that are being written.

M.G.L. c. 175, §§ 32 and 47.

Objective: This Standard addresses whether the lines being written by a Company are in accordance with the authorized lines of business.

Pursuant to M.G.L. c. 175, § 32, domestic insurers must obtain a certificate authorizing it to issue policies or contracts. M.G.L. c. 175, § 47 sets forth the various lines of business for which an insurer may be licensed.

Controls Assessment: Due to the nature of this Standard, no controls assessment was performed.

Controls Reliance: Not applicable.

Transaction Testing Procedure: RNA reviewed the Company's Certificate of Authority and compared it to the lines of business which the Company writes in the Commonwealth.

Transaction Testing Results:

Findings: None.

Observations: The Company is licensed for the lines of business being written.

Recommendations: None.

Standard I-9. The company cooperates on a timely basis with examiners performing the examinations.

M.G.L. c. 175, § 4.

Objective: This Standard addresses the Company's cooperation during the course of the examination.

M.G.L. c. 175, § 4 sets forth the Commissioner's authority to conduct examinations of an insurer.

Controls Assessment: Due to the nature of this Standard, no controls assessment was performed.

Controls Reliance: Not applicable.

Transaction Testing Procedure: The Company's level of cooperation and responsiveness to examiner requests was assessed throughout the examination.

Transaction Testing Results:

Findings: None.

Observations: The Company's level of cooperation and responsiveness to examiner requests was exemplary.

Recommendations: None.

Standard I-10. The company has procedures for the collection, use and disclosure of information gathered in connection with insurance transactions to minimize any improper intrusion into the privacy of applicants and policyholders.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 Code of Federal Regulations ("CFR") Part 313.

Objective: This Standard addresses the Company's policies and procedures to ensure it minimizes improper intrusion into the privacy of consumers.

The Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313 set forth requirements for proper notice to consumers and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. Further, a financial institution must provide its customers with a written notice of its privacy policies and practices. In addition, a financial institution is prohibited from disclosing nonpublic personal consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out of such disclosure.

Controls Assessment: The following key observations were noted in conjunction with the review of Standards I-10 through I-17:

- The Company's practice is to provide the Privacy Policy when the policy is delivered.
- The Company's Privacy Policy states that it collects certain types of nonpublic personal information from third parties or other sources, and gives examples of such third parties or other sources. The Privacy Policy further notes that the Company may disclose information as permitted by law, and that consumers have a right to access and to correct inaccuracies in this information.
- The Company's Privacy Policy states that it does not disclose any nonpublic personal information to any affiliate or non-affiliated third party other than those permitted by law, and only for the purpose of transacting the applicant's insurance coverage or claim.
- The Company annually provides the Privacy Policy to customers via mail upon renewal.
- The Company provides its Privacy Policy on its website.
- The application for personal lines insurance notes that the Company's normal underwriting procedures may include obtaining an investigative consumer report with applicable information on an applicant's character, general reputation, personal characteristics and mode of living. The application further discloses that the Company may obtain this information through personal interviews with the applicant's friends, neighbors and associates, and that it will provide additional detail concerning the nature and scope of this investigation to applicants within a reasonable time upon receiving a written request.

- The Company annually conducts an information systems risk assessment to consider, document and review information security threats and controls. The risk assessment evaluations have resulted in continual improvements to information systems security.
- Company policy requires that information technology security practices safeguard nonpublic personal and health information, and communicates these practices in training programs, compliance presentations and various memoranda as needed. Company policy requires all staff to take annual privacy training, and to sign an acknowledgement that they have taken such training.
- Only individuals approved by Company management are granted access to the Company's key electronic and operational areas where nonpublic personal and health information is located. Access is frequently and strictly monitored.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: It appears from RNA's review that the Company's privacy practices minimize any improper intrusion into applicants' and policyholders' privacy, and are disclosed to policyholders in accordance with the Company's policies and procedures.

Recommendations: None.

Standard I-11. The company has developed and implemented written policies, standards and procedures for the management of insurance information.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

The objective of this Standard relates to privacy matters and is included in Standards I-10 and I-12 through I-17.

Standard I-12. The company has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

Objective: This Standard addresses the Company's policies and procedures to ensure it protects the privacy of non-public personal information.

The Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313, set forth requirements for proper notice to consumers, and restrictions on a financial institution's ability to

disclose nonpublic personal information about consumers to nonaffiliated third parties. Further, a financial institution must provide its customers with an annual notice of its privacy policies and practices. In addition, a financial institution is prohibited from disclosing nonpublic personal consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out of such disclosure.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: It appears from RNA's review that the Company's policies and procedures adequately protect consumers' non-public personal information.

Recommendations: None.

Standard I-13. The company provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding treatment of nonpublic personal financial information.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

Objective: This Standard addresses the Company's practice of providing privacy notices to customers and consumers.

The Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313, set forth requirements for proper notice to consumers and restrictions on a financial institution's ability to disclose consumers' nonpublic personal information to nonaffiliated third parties. Further, a financial institution must provide its customers with an annual written notice of its privacy policies and practices. In addition, a financial institution is prohibited from disclosing consumers' nonpublic personal information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out of such disclosure.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, reviewed documentation its supporting privacy policies and procedures and examined whether the privacy notice provided sufficient information and disclosures.

Transaction Testing Results:

Findings: None.

Observations: Based upon RNA's review of the Company's privacy notice and its privacy practices, it appears that the Company provides a sufficient privacy notice to applicants and to policyholders regarding its collection and disclosure of non-public personal financial information, in accordance with Company policy.

Recommendations: None.

Standard I-14. If the company discloses information subject to an opt out right, the company has policies and procedures in place so that nonpublic personal financial information will not be disclosed when a consumer who is not a customer has opted out, and the company provides opt out notices to its customers and other affected consumers.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

No work performed. The Company does not utilize opt out rights as it does not share information with others for marketing purposes; therefore, this standard is not applicable to this examination.

Standard I-15. The company's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

Objective: This Standard addresses the Company's policies and procedures regarding collection, use and disclosure of nonpublic personal financial information.

The Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313, set forth requirements for proper notice to consumers and restrictions on a financial institution's ability to disclose consumers' nonpublic personal information to nonaffiliated third parties. Further, a financial institution must provide its customers with an annual written notice of its privacy policies and practices. In addition, a financial institution is prohibited from disclosing consumers' nonpublic personal information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out of such disclosure.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: It appears from RNA's review that the Company's policies and procedures provide reasonable assurance that the Company properly collects, uses and discloses nonpublic personal financial information.

Recommendations: None.

Standard I-16. In states promulgating the health information provisions of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the Department of Insurance, the company has policies and procedures in place so that nonpublic personal health information will not be disclosed except as permitted by law, unless a customer or a consumer who is not a customer has authorized the disclosure.

Objective: This Standard addresses the Company's policies and procedures to ensure it maintains privacy of nonpublic personal health information related to claims.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures related to liability claims.

Transaction Testing Results:

Findings: None.

Observations: Based upon RNA's review of the Company's policies, procedures and liability claims, it appears that such policies and procedures provide reasonable assurance that the Company maintains the privacy of nonpublic personal health information related to claims.

Recommendations: None.

Standard I-17. Each licensee shall implement a comprehensive written information security program for the protection of nonpublic customer information.

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

Objective: This Standard addresses the Company's information security efforts to ensure that nonpublic consumer information is protected.

The Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313, set forth requirements for proper notice to consumers, and restrictions on a financial institution's ability to disclose consumers' nonpublic personal information to nonaffiliated third parties. Further, a financial institution must provide its customers with an annual written notice of its privacy

policies and practices. In addition, a financial institution is prohibited from disclosing consumers' nonpublic personal information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt out of such disclosure.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon RNA's review of the Company's information security policies and procedures, it appears that the Company has implemented an information security program which provides reasonable assurance that its information systems protect nonpublic customer information.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

II. COMPLAINT HANDLING

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard II-1. All complaints are recorded in the required format on the company complaint register.

M.G.L. c. 176D, § 3(10).

Objective: This Standard addresses whether the Company formally tracks complaints or grievances as required by statute.

Pursuant to M.G.L. c. 176D, § 3(10), an insurer is required to maintain a complete record of all complaints it received from the date of its last examination. The record must indicate the total number of complaints, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint and the time to process each complaint.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the complaint handling process.
- The Company logs all written complaints in the complaint register in a consistent format.
- The complaint register includes the date received, the date closed, the person making the complaint, the insured, the policy number, state of residence, the nature of the complaint using NAIC reason codes and the complaint disposition using NAIC reason codes.
- The Company's policy is to respond to Division complaints within 14 calendar days of receipt when possible, and in a timely manner once it receives and evaluates all required information.
- The Company states that it provides its toll free telephone number and address in its written responses to consumer inquiries and on its web site.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. RNA reviewed 23 Massachusetts complaint files from the examination period to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). RNA reviewed the complaint files, noting the response date and the documentation supporting the resolution of the complaint. RNA also compared the Company's complaint register to the Division's complaint records to ensure that the Company's records were complete.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the Company's format for recording the complaints reviewed included all necessary information. Based upon the results of testing, it appears

that the Company's processes for recording complaints in the required format are functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: None.

Standard II-2. The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.

M.G.L. c. 176D, § 3(10).

Objective: This Standard addresses whether the Company has adequate complaint handling procedures and communicates those procedures to policyholders.

M.G.L. c. 176D, § 3(10) requires that (a) the Company has documented procedures for complaint handling (b) the procedures in place are sufficient to enable satisfactory handling of complaints received as well as to conduct root cause analyses in areas developing complaints; (c) there is a method for distribution of and obtaining and recording responses to complaints that is sufficient to allow response within the time frame required by state law, and (d) the Company provides a telephone number and address for consumer inquiries.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. RNA reviewed 23 Massachusetts complaint files from the examination period to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). RNA also reviewed the Company's website, and various forms sent to policyholders, to determine whether the Company provides contact information for consumer inquiries as required.

Transaction Testing Results:

Findings: None.

Observations: It appears from the complaints reviewed that the Company has adequate procedures in place to address complaints, and adequately communicates such procedures to policyholders. However, RNA noted that the Company has not established formal Key Performance Indicators ("KPIs") for monitoring complaint handling activity.

Recommendations: The Company shall develop and implement KPIs for complaint handling. Further, internal audit shall periodically monitor the Company's compliance with its complaint handling policies and regulatory requirements.

Subsequent Action: The Company has subsequently developed KPIs for complaint handling.

Standard II-3. The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.

Objective: This Standard addresses whether the Company response to the complaint fully addresses the issues raised, is properly documented, includes appropriate remedies and complies with statutes, regulations and contract language.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. RNA reviewed 23 Massachusetts complaint files from the examination period to evaluate the Company's actions related to complaint disposition.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the Company fully addressed the issue raised in the complaints reviewed. Documentation for the complaints appeared complete, including the original complaint, related correspondence and the Company's complaint register information. RNA is not aware of any complainants with similar fact patterns that were not treated consistently and reasonably.

Recommendations: None.

Standard II-4. The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.

Objective: This Standard addresses the time required for the Company to process each complaint.

Massachusetts does not have a specific time standard in the statutes or regulations. However, the Division has established a practice of requiring that insurers respond to complaints from the Division within 14 calendar days from the date they receive a notice of complaint.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. RNA reviewed 23 Massachusetts complaint files from the examination period to evaluate the Company's complaint response times.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that during 2005 and early 2006, the Company did not timely respond to twelve claims-related Division complaints of those tested. However, RNA also noted that the Company took corrective actions in the spring of 2006 to timely respond to claims-related Division complaints. Based on the results of testing, after the corrective action that the Company has taken, it appears that the Company's processes for responding to complaints in a timely manner are functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: The Company's KPIs for complaint handling shall include metrics for monitoring timeliness of complaint responses.

Subsequent Actions: The Company's subsequently-developed KPIs for complaint handling include metrics for monitoring timeliness of complaint responses.

FOR INFORMATION PURPOSES ONLY

III. MARKETING AND SALES

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard III-1. All advertising and sales materials are in compliance with applicable statutes, rules and regulations.

M.G.L. c. 176D, § 3; Division of Insurance Bulletin 2001-02.

Objective: This Standard addresses whether the Company maintains a system of control over the content, form and method of dissemination for all advertisements of its policies.

Pursuant to M.G.L. c. 176D, § 3, it is deemed an unfair method of competition to misrepresent or falsely advertise insurance policies, or the benefits, terms, conditions and advantages of said policies. Pursuant to Division of Insurance Bulletin 2001-02, an insurer who maintains an Internet website must disclose on that website the name of the company appearing on the certificate of authority and the address of its principal office.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's home office marketing research and development team develops advertising and sales materials targeted to consumers and producers. All sales and promotional materials are submitted to a public relations consultant for review prior to use.
- The Company permits agents to develop advertising material, but requires them, per the standard agency contract, to obtain home office approval prior to use of such material.
- The Company's policy is to disclose the Company's name and address on its website.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for advertising and sales materials, and reviewed eight pieces of advertising and sales materials used during the examination period, for compliance with statutory and regulatory requirements. RNA also reviewed the Company's website for appropriate disclosure of its name and address, and general compliance with statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: The results of RNA's testing showed that the Company's advertising and sales materials comply with Massachusetts M.G.L. c. 176D, § 3. The Company's website disclosure complies with the requirements of Division of Insurance Bulletin 2001-02. The Company's legal department does not review all advertising and sales materials prior to use.

Recommendations: The Company should consider implementing a new procedure requiring that its public relations consultant, who is an attorney, determine whether any issues that warrant review by the Company's legal department exist with each proposed sales or advertising piece, and provide the questionable material to the Company's legal department for review prior to distribution and use of such material.

Subsequent Actions: The Company has subsequently hired a vice-president of marketing and an assistant vice-president of marketing, who, in conjunction with the legal department, will develop appropriate processes and procedures governing the review of all sales and advertising materials prior to their use and distribution. Until these procedures are in place, the legal department is now reviewing all sales and advertising materials prior to their use and distribution.

Standard III-2. Company internal producer training materials are in compliance with applicable statutes, rules and regulations.

Objective: This Standard addresses whether all of the Company's producer training materials are in compliance with state statutes, rules and regulations.

Controls Assessment: The following controls were noted as part of this Standard and Standard III-3:

- The Company has distributed producer training materials focusing on Company policies, practices and procedures, including those relating to underwriting and rating, policyholder service, and claims.
- The Company's producers have access to electronic policy and procedure manuals through the Company's agent web portal.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for developing and distributing producer training materials, and reviewed such materials in use during the examination period for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

Observations: The Company's producer training materials provided to producers appear accurate and reasonable.

Recommendations: None.

Standard III-3. Company communications to producers are in compliance with applicable statutes, rules and regulations.

Objective: This Standard addresses whether the written and electronic communication between the Company and its producers is in accordance with applicable statutes, rules and regulations.

Controls Assessment: See Standard III-2.

Controls Reliance: See Standard III-2.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for developing and circulating written producer communications, and reviewed seven such communications to producers during the examination period for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

Observations: The Company's communications to producers appear accurate and reasonable.

Recommendations: None.

Standard III-4. Company mass marketing of property and casualty insurance is in compliance with applicable statutes, rules and regulations.

M.G.L. c. 175, § 193R.

Objective: This Standard addresses whether the Company's mass marketing efforts comply with applicable statutes, rules and regulations.

Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company provides the same premium discount of 2-15% to each member of various affinity groups.
- The Company files its affinity group premium discounts with the Division for approval as required.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for its marketing and underwriting processes. RNA selected 45 private passenger automobile policies

issued or renewed during the examination period for testing of premium discounts including affinity group discounts. RNA verified that the Company properly applied each affinity group discount after the Division approved it.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of RNA's testing, it appears that each of the premium discounts available to affinity group members was properly applied and approved by the Division.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

IV. PRODUCER LICENSING

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard IV-1. Company records of licensed and appointed (if applicable) producers agree with department of insurance records.

18 U.S.C. § 1033; M.G.L. c. 175, §§ 162I and 162S; Division of Insurance Bulletins 1998-11 and 2001-14.

Objective: The Standard addresses licensing and appointment of the Company's producers.

M.G.L. c. 175, § 162I requires that all persons who solicit, sell or negotiate insurance in the Commonwealth be licensed for that line of authority. Further, any such producer shall not act as an agent of the Company unless the producer has been appointed by the Company pursuant to M.G.L. c. 175, § 162S.

Pursuant to 18 U.S.C. § 1033 of the Violent Crime Control and Law Enforcement Act of 1994 ("Act"), it is a criminal offense for anyone "engaged in the business of insurance" to willfully permit a "prohibited person" to conduct insurance activity without written consent of the primary insurance regulator. A "prohibited person" is an individual who has been convicted of any felony involving dishonesty or a breach of trust or certain other offenses, who willfully engages in the business of insurance as defined in the Act. In accordance with Division of Insurance Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and producers acting as agents who are affected by this law. Those individuals may either apply for an exemption from the law, or must cease and desist from their engagement in the business of insurance.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's appointment procedures are designed to comply with the statutory requirement that a producer be appointed as agent within 15 days from the date the agent's contract is executed, or when the first policy application is received.
- The Company's policy is to seek the Division's approval regarding the appointment of any "prohibited person" as noted above when it wishes to appoint such a person.
- The Company maintains an automated producer database that tracks all terminations, appointments and other licensing changes related to its appointed agents and ERPs.
- The Company verifies that producers are properly licensed for the lines of business to be sold in Massachusetts prior to contracting with them as agents.
- All appointed agents and ERPs are required to enter into a written contract with the Company prior to selling business. Standard contract terms and conditions address proper licensure, maintenance of records, binding authority, claim reporting, commission rates, premium accounting, advertising, and termination/suspension provisions. The standard contract also gives the agent exclusive control over expirations and records.
- The Company requires its appointed agents to maintain E&O coverage.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed individuals with responsibility for producer contracting and processing of agent appointments. RNA reviewed evidence of agent appointments in conjunction with testing of private passenger automobile, homeowners' and umbrella policies issued or renewed during the examination period. RNA verified that the sales agent for each policy was included on the Division's list of the Company's appointed agents at the time of sale.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of RNA's testing, all of the producers who sold policies during the examination period were properly licensed, and most were included on the Division's list of the Company's appointed agents at the time the policies were issued. While not required by statute, it is the Company's policy to appoint all of its producers as agents.

Recommendations: The Company and the Division shall complete a reconciliation of the Company's agent appointments at a mutually agreed upon date, to ensure that such appointment records are in agreement.

Subsequent Actions: The Company states that it is now appointing all producers as agents.

Standard IV-2. Producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.

18 U.S.C. § 1033; M.G.L. c. 175, §§ 162I and 162S; Division of Insurance Bulletins 1998-11 and 2001-14.

See Standard IV-1.

Standard IV-3. Termination of producers complies with applicable statutes regarding notification to the producer and notification to the state, if applicable.

M.G.L. c. 175, § 162T.

Objective: This Standard addresses the Company's termination of producers in accordance with applicable statutes requiring notification to the state and the producer.

Pursuant to M.G.L. c. 175, § 162T, the Company must notify the Division within 30 days of the effective date of a producer's termination, and if the termination was for cause, must notify the Division of such cause.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy and practice is to notify the Division of agent terminations as required by statute.
- The Company's policy and practice is to notify the Division of the reason for agent terminations when the termination is "for cause."
- The Company has a process for notifying agents that they have been terminated which complies with statutory and contractual requirements.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed individuals with responsibility for producer contracting and termination processing. RNA selected terminated agents from the Company's termination listing and the Division's termination records, and compared the termination information on both listings.

Transaction Testing Results:

Findings: None.

Observations: The results of RNA's testing showed that the Company appears to be notifying the Division when it terminates agent appointments. However, RNA noted that the Company did not consistently terminate agent appointments via OPRA when the terminations were requested by the producer.

Recommendation: The Company shall adopt policies and procedures to ensure that it terminates agent appointments through OPRA when they are requested by the producer.

Subsequent Actions: The Company states that it is now using the OPRA system to terminate agent appointments.

Standard IV-4. The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.
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Objective: The Standard addresses the Company's policy for ensuring that producer appointments and terminations do not unfairly discriminate against policyholders.

Controls Assessment: Refer to Standards IV-1 and IV-3.

Controls Reliance: Refer to Standards IV-1 and IV-3.

Transaction Testing Procedure: RNA interviewed individuals with responsibility for producer contracting, appointments and terminations. In conjunction with testing of private passenger automobile, homeowners' and umbrella policies issued or renewed during the examination period, RNA reviewed documentation for any evidence of unfair discrimination against

policyholders resulting from the Company's policies regarding producer appointments and terminations.

Transaction Testing Results:

Findings: None.

Observations: Through RNA's testing of private passenger automobile, homeowners' and umbrella policies, no evidence of unfair discrimination against policyholders was noted as a result of the Company's policies regarding producer appointments and terminations.

Recommendations: None.

Standard IV-5. Records of terminated producers adequately document reasons for terminations.

M.G.L. c. 175, §§ 162R and 162T.

Objective: The Standard addresses the Company's documentation of producer terminations.

Pursuant to M.G.L. c. 175, § 162T, the Company must notify the Division within 30 days of the effective date of a producer's termination, and if the termination was for cause, as defined in M.G.L. c. 175, § 162R, the Company must notify the Division of such cause.

Controls Assessment: Refer to Standard IV-3.

Controls Reliance: Refer to Standard IV-3.

Transaction Testing Procedure: RNA selected agents whose appointments were terminated during the examination period, and reviewed the reasons for each termination.

Transaction Testing Results:

Findings: None.

Observations: Based on RNA's testing, the Company's internal records adequately document reasons for agent terminations. None of the terminations that RNA tested was for cause as defined by statute.

Recommendations: None.

Standard IV-6. Producer accounts current (account balances) are in accordance with the producer's contract with the company.

No work performed. This Standard is not covered in the scope of examination because the Company direct bills most premium, thus excessive debit account balances are not a significant issue. If material debit account balances existed, they would be evaluated in the scope of the statutory financial examination of the Company.

FOR INFORMATION PURPOSES ONLY

V. POLICYHOLDER SERVICE

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard V-1. Premium notices and billing notices are sent out with an adequate amount of advance notice.

M.G.L. c. 175, §§ 193B and 193B ½.

Objective: This Standard addresses efforts to provide policyholders with sufficient advance notice of premiums due and notice of cancellation due to non-payment.

Pursuant to M.G.L. c. 175, §§ 193B and 193B ½, motor vehicle premiums may be paid in installments, with interest charged on the unpaid balance due as of the billing date.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company direct bills most policyholders, who generally receive a renewal and billing notice from the Company 30 - 45 days prior to the renewal effective date. The Company includes a policy declaration page indicating the coverage type and policy limits, with the applicable premium due, with the renewal billing notice.
- The Company's policy administration system automatically generates installment billing notices approximately 20 days before payments are due.
- Company policy generally requires a 20% premium down payment at the time an application is taken. The remaining premium and applicable service charges are direct billed to policyholders in up to 10 installments.
- All installment billing notices contain disclosures regarding grace periods and policy cancellation for non-payment of premium.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for policyholder service. RNA also reviewed billing notice dates for 15 private passenger automobile policies and 15 homeowners' policies issued or renewed during the examination period, and reviewed installment and interest charges on a limited basis.

Transaction Testing Results:

Findings: None.

Observations: The premium and billing transactions tested were processed according to the Company's policies and procedures. Based upon the results of testing, the

Company's processes for mailing billing notices with adequate advance notice, and properly applying monthly service charges on installment payments, appear to be functioning in accordance with its policies, procedures, and statutory requirements.

Recommendation: None.

Standard V-2. Policy issuance and insured requested cancellations are timely.

M.G.L. c. 175, § 187B.

Objective: This Standard addresses the Company's procedures to ensure customer cancellation requests are processed timely. Objectives pertaining to policy issuance are included in Underwriting and Rating Standard VI-16. Return of premium testing is included in Underwriting and Rating Standard VI-25.

Pursuant to M.G.L. c. 175, § 187B, insurers are required to return unearned premium in a reasonable time upon receipt of the policyholder's request to cancel.

Controls Assessment: The following key observations were noted in conjunction with the review of cancellation and withdrawals under this Standard:

- Company policy is to cancel policies upon notification from the producer of the policyholder's request, and to process premium refunds in a timely manner.
- The Company refunds unearned premium to policyholders on a pro-rata or short rate basis, pursuant to statutory and regulatory guidelines.
- Automobile policyholders can cancel their policy only after filing a Form 2A-Notice of Transfer of Coverage, proof that the vehicle has been taken out of service or evidence that they have moved out of Massachusetts.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for policyholder service, and tested 10 private passenger automobile and five homeowner insured-requested cancellations processed during the examination period. RNA reviewed evidence for each cancellation that the request was processed timely.

Transaction Testing Results:

Findings: None.

Observations: The insured-requested cancellations tested were processed timely according to the Company's policies and procedures. Based upon the results of testing, the Company's processing of insured-requested cancellations appears to be functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: None.

Standard V-3. All correspondence directed to the company is answered in a timely and responsive manner by the appropriate department.

Objective: This Standard addresses the Company's procedures to provide timely and responsive information to customers by the appropriate department. Complaints are covered in the Complaint Handling section. Claims are covered in the Claims section.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has approximately 25 customer service representatives who answer policyholders' general questions about their policies or billing matters.
- The Company considers its producers as having the primary relationship with the policyholder. Since customer service representatives are not licensed producers, policyholders must request endorsements and policy changes through the producer. Policyholders who request such changes through customer service can be transferred to the producer for servicing.
- The Company monitors customer service call waiting times, call abandon rates and individual customer service representatives' per call time use, to ensure that adequate resources are available to address customer inquiries.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA discussed correspondence procedures with Company personnel, and reviewed correspondence in conjunction with underwriting, rating, policyholder service and claims standards. RNA also obtained and reviewed documentation showing customer service representatives' per call time use and the overall call abandon rate.

Transaction Testing Results:

Findings: None.

Observations: Based upon a review of general correspondence between policyholders and the Company regarding underwriting, rating, policyholder service and claims, and review of the above information, it appears that the Company handles customer inquiries and correspondence directed to it in a timely and responsive manner.

Recommendations: None.

Standard V-4. Claims history and loss information is provided to insured in timely manner.

Objective: This Standard addresses the Company's procedures to provide history and loss information to insureds in a timely manner.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's producers and its claims personnel have access to claims history and paid loss information for personal lines policyholders from a statewide automobile claim database and a private Comprehensive Loss Underwriting Exchange database.
- The Company's policy is to directly provide, or ask the producer to provide a policyholder their claims history and paid loss information upon request.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA discussed with Company personnel its policies and procedures related to responding to policyholder inquiries regarding claims history and paid loss information.

Transaction Testing Results:

Findings: None.

Observations: The testing of underwriting and rating, claims, complaints and policyholder service noted no evidence of the Company failing to respond to policyholder inquiries on claims history and paid loss information.

Recommendations: None.

Standard V-5. Whenever the company transfers the obligations of its contracts to another company pursuant to an assumption reinsurance agreement, the company has gained the prior approval of the insurance department and the company has sent the required notices to affected policyholders.

No work performed. The Company does not enter into assumption reinsurance agreements.

VI. UNDERWRITING AND RATING

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard VI-1. The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company's rating plan.

M.G.L. c. 175, § 193R.

Automobile: M.G.L. c. 175E, §§ 4 and 7, M.G.L. c. 175, § 113B; 211 CMR 56.00, 211 CMR 78.00, 211 CMR 86.00, 211 CMR 124.00 and 211 CMR 134.00.

Property/Liability: M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175 § 111H; 211 CMR 131.00.

Objective: This Standard addresses whether the Company is charging premiums using properly filed rates.

M.G.L. c. 175, § 193R permits affinity group discounts based on experience for all policies.

For private passenger auto policies, M.G.L. c. 175E, § 7 and 211 CMR 78.00 require every insurer, or rating organization authorized to file on behalf of such insurer, to file with the Commissioner its classifications, rules and rates, rating plans and modifications of any of the foregoing not less than 45 days before the effective date thereof. 211 CMR 86.00 requires premium discounts for anti-theft devices, and 211 CMR 124.00 mandates premium discounts for certain safety features.

Pursuant to M.G.L. c. 175E, § 4, private passenger automobile insurance rates shall be reduced for insureds age 65 or older. M.G.L. c. 175, § 113B mandates various discounts and surcharges. 211 CMR 56.00 requires premium discounts for election of optional repair shop endorsement plans, and 211 CMR 134.00 requires each driver to receive a Safe Driver Insurance Plan ("SDIP") rating with its corresponding discounts and surcharges.

Pursuant to M.G.L. c. 174A, § 5, fire rates shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available. In considering catastrophe hazards with respect to homeowners' insurance rates, the Commissioner shall consider catastrophe reinsurance and factors relating thereto. Fire rates shall also consider a reasonable margin for underwriting profit and contingencies. Finally, such rates shall not be excessive, inadequate or unfairly discriminatory. M.G.L. c. 174A, § 6 requires the filing of fire rates with the Commissioner, and M.G.L. c. 174A, § 9 requires insurers to use such filed rates, unless the insurer obtains approval from the Commissioner for a rate deviation.

M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage be subject to rules and regulations set forth by the Commissioner, and 211 CMR 131.00 prescribes requirements for the filing of lead liability coverage rates with the Division.

Controls Assessment: The following key observations were noted in conjunction with the review of Standards VI-1 and VI-4:

- The Company has written underwriting and rating policies and procedures which are designed to reasonably assure consistency in classification and rating.

- Company policy prohibits unfair discrimination in the application of premium discounts and surcharges, and in the application of the general rating methodology, in accordance with statutory and regulatory requirements.
- Private passenger automobile rates are annually determined by the Division, and these rates are incorporated in the Automobile Insurers Bureau of Massachusetts (“AIB”) Rating Manual. The Company applies such rates to information provided by the applicant, and obtained from the Massachusetts Registry of Motor Vehicles, to calculate premium. This information includes the location of garaged vehicles.
- The Company offers private passenger automobile affinity group discounts which are approved by the Division.
- The low mileage discount form, which verifies actual mileage, must be completed annually to receive the low mileage discount.
- For private passenger automobile policies, the Company compares discount usage, rate class distribution, operator classifications and driver SDIP distributions by producer for unusual results, and reports such results to producers to help them proactively prevent and detect potential fraud.
- The Company’s underwriting department conducts annual field audits of all ERPs as required by CAR to ensure compliance with the Company’s underwriting policies and procedures.
- At least once every five years, the Company’s underwriting department conducts desk audits of voluntary agents who electronically submit applications.
- Company policy requires that homeowners’ rates be based on Insurance Services Office (“ISO”) rates. The Company files such rates with the Division to comply with statutory and regulatory requirements. Homeowners’ rating criteria include territory, coverage amount and type, protection class, structure type, construction age and deductible choice.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process, and reviewed other rating information. RNA selected 15 private passenger automobile policies and seven homeowners’ and umbrella policies issued or renewed during the examination period to test rate classifications and premiums charged. RNA verified that each policy’s premium, discounts and surcharges complied with statutory and regulatory requirements, and with private passenger automobile rates set by the Commissioner or homeowners’ rates filed with the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company calculates policy premiums, discounts and surcharges in compliance with statutory requirements, as well as with applicable rates set by the Commissioner or filed with the Division. However, the Company made two homeowners rating errors during the examination period. An error occurring during 2006 resulted in approximately 1,400 policyholders being charged incorrect premium. The Company states that it has corrected the 2006 rating error, and has refunded premium to policyholders who were overcharged. Another

rating error occurred during 2005 when the Company improperly applied newly approved rates for approximately 30 days. The Company states it discovered the error within 30 days and adjusted the premium it charged to the effected policyholders. While not required by statute or regulation, the Company did not timely notify the Division of these rating errors or present their plan for correcting them. Further, the Company states that they have implemented controls to ensure that these errors will not reoccur.

Recommendations: Internal audit shall periodically conduct audits to monitor the Company's premium rate change and implementation processes to ensure compliance with Company policies and regulatory requirements.

Standard VI-2. Disclosures to insureds concerning rates and coverage are accurate and timely.

Automobile: M.G.L. c. 175E, §§ 11 and 11A.

Property/Liability: M.G.L. c. 175, §§ 99 and 99A; M.G.L. c. 174A, § 11.

Objective: This Standard addresses whether all mandated disclosures for rates and coverage are documented in accordance with statutes and regulations and provided to insureds timely.

Pursuant to M.G.L. c. 175E, § 11, a private passenger auto information guide shall be provided upon application which outlines choices of coverage available to insureds and an approximation of differences in cost among various types of coverage and among competing carriers. Pursuant to M.G.L. c. 175E, § 11A, producers shall disclose coverage options in simple language to every person they solicit, including the option to exclude oneself and members of one's household from personal injury protection coverage.

Pursuant to M.G.L. c. 175, § 99 and 99A numerous disclosures and requirements must be included on a standard fire policy. Pursuant to M.G.L. c. 174A, § 11, rating organizations and insurers shall furnish to any insured rate information within a reasonable time after receiving a written request.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has written policies and procedures for processing new and renewal business.
- The Company's supervisory procedures are designed to ensure that new business submissions from producers are accurate and complete, including the use of all Company required forms and instructions.
- The Company's insurance policies provide disclosures as required by statutory and regulatory guidelines.
- The Company provides the private passenger automobile information guides to producers, who are required to provide them to consumers.
- The Company's underwriting department conducts annual field audits of all ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department, conducts desk audits of voluntary agents who electronically submit applications.

- The Company requires its producers to deliver a notice of declination of insurance when a potential applicant's underwriting credit check does not meet the Company's credit scoring threshold for new homeowners' coverage. .

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA also selected 45 private passenger automobile policies, and 35 homeowners' and umbrella policies issued or renewed during the examination period, to test for timely disclosure of rates and coverage.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, the Company appears to provide required coverage disclosures to insureds upon initial application and renewal, in accordance with statutory guidelines. Although the Company stated that it believes that its producers provided information guides to consumers, no evidence is available supporting this assertion. However, RNA is not aware of any evidence suggesting that policyholders have not received the information guide.

Recommendations: The Company shall consider implementing procedures to monitor its agents' delivery of coverage denial disclosure due to an adverse credit report. At a minimum, the Company should require agents to retain documentation of their disclosure of coverage denials, and that such disclosure documentation is subject to review by the Company at any time.

Standard VI-3. The company does not permit illegal rebating, commission cutting or inducements.

M.G.L. c. 175, §§ 182, 183 and 184; M.G.L. c. 176D, § 3(8).

Objective: This Standard addresses illegal rebating, commission cutting or inducements and requires that producer commissions adhere to the commission schedule.

Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, the Company, or any agent thereof, cannot pay or allow, or offer to pay or allow any valuable consideration or inducement not specified in the policy or contract. Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to knowingly permit or make any offer to pay, allow or give as inducement any rebate of premiums, any other benefits or any valuable consideration or inducement not specified in the contract.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has procedures for paying producers' commissions in accordance with home office approved written contracts.
- The Company's producer contracts, and its home office policies and procedures, are designed to comply with statutory underwriting and rating requirements that prohibit special inducements and rebates.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed individuals with responsibility for commission processing and producer contracting. In connection with the review of producer contracts, RNA inspected new business materials, advertising materials, producer training materials and manuals for indications of rebating, commission cutting or inducements. RNA also selected six private passenger automobile policies and three homeowners' and umbrella policies issued or renewed during the examination period to test commissions paid to producers and to look for indications of rebating, commission cutting or inducements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company's processes for prohibiting illegal acts, including special inducements and rebates, are functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: None.

Standard VI-4. Credits and deviations are consistently applied on a non-discriminatory basis.

M.G.L. c. 175, § 193R.

Automobile: M.G.L. c. 175E, §§ 4 and 7, M.G.L. c. 175, § 113B; 211 CMR 56.00, 78.00, 86.00, 124.00 and 134.00.

Property/Liability: M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175 § 111H; 211 CMR 131.00.

Objective: This Standard addresses whether unfair discrimination is occurring in the application of premium discounts and surcharges.

M.G.L. c. 175, § 193R permits affinity group discounts based upon experience for all policies.

For private passenger automobile policies, M.G.L. c. 175E, § 7 and 211 CMR 78.00 require every insurer, or rating organization authorized to file on behalf of such insurer, to file with the Commissioner every manual of its classifications, rules and rates, rating plans and modifications of any of the foregoing not less than 45 days before the effective date thereof. 211 CMR 86.00 requires premium discounts for anti-theft devices, and 211 CMR 124.00 mandates premium discounts for certain safety features.

Pursuant to M.G.L. c. 175E, § 4, rates for private passenger automobile policies shall be reduced for insureds age 65 or older. M.G.L. c. 175, § 113B mandates various discounts and surcharges. 211 CMR 56.00 requires premium discounts for election of optional repair shop endorsement plans, and 211 CMR 134.00 requires each driver to receive an SDIP rating with its corresponding discounts and surcharges.

Pursuant to M.G.L. c. 174A, § 5, fire rates shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available. In considering catastrophe hazards with respect to homeowners' insurance rates, the Commissioner shall consider catastrophe reinsurance and factors relating thereto. Fire rates shall also consider a reasonable margin for underwriting profit and contingencies. Finally, such rates shall not be excessive, inadequate or unfairly discriminatory. M.G.L. c. 174A, § 6 requires the filing of fire rates with the Commissioner, and M.G.L. c. 174A, § 9 requires insurers to use such filed rates, unless it obtains the Commissioner's approval for a rate deviation.

M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage be subject to rules and regulations set forth by the Commissioner, and 211 CMR 131.00 prescribes requirements for the filing of lead liability coverage rates with the Division.

Controls Assessment: See Standard VI-1.

Controls Reliance: See Standard VI-1.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process, and reviewed other rating information. RNA selected 15 private passenger automobile policies and seven homeowners' and umbrella policies issued or renewed during the examination period to test rate classifications and premiums charged. RNA verified that each policy's credits and deviations were consistently applied on a non-discriminatory basis.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company consistently applies credits and deviations on a non-discriminatory basis.

Recommendations: None.

Standard VI-5. Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.
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No work performed. This Standard is not covered in the scope of examination because the Company does not offer commercial lines coverage.

Standard VI-6. Verification of use of the filed expense multipliers; the company should be using a combination of loss costs and expense multipliers filed with the Department.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer workers' compensation insurance.

Standard VI-7. Verification of premium audit accuracy and the proper application of rating factors.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer workers' compensation insurance.

Standard VI-8. Verification of experience modification factors.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer workers' compensation insurance.

Standard VI-9. Verification of loss reporting.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer workers' compensation insurance.

Standard VI-10. Verification of company data provided in response to the NCCI call on deductibles.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer workers' compensation insurance.

Standard VI-11. The company underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules and regulations and company guidelines in the selection of risks.

Automobile: M.G.L. c. 175E, § 4, M.G.L. c. 175, § 22E, 113K, and 113N.

Property/Liability: M.G.L. c. 175, § 4C, 95B and 193T.

Objective: This Standard addresses whether unfair discrimination is occurring in insurance underwriting.

Pursuant to M.G.L. c. 175E, § 4, automobile risks shall not be grouped by sex, marital status or age, except to produce the reduction in rates for insureds age sixty-five years or older. Pursuant to M.G.L. c. 175, § 22E, no insurance company, and no officer or agent thereof in its behalf, shall

refuse to issue, renew or execute as surety a motor vehicle liability policy or bond, or any other insurance based on the ownership or operation of a motor vehicle because of age, sex, race, occupation, marital status, or the vehicle's principal place of garaging. Pursuant to M.G.L. c. 175, § 113K, persons 16 years of age and older may purchase automobile insurance. Pursuant to M.G.L. c. 175, § 113N, no medical examination can be required as a condition of underwriting.

Pursuant to M.G.L. c. 175, § 4C, no insurer shall take into consideration when deciding whether to provide, renew, or cancel homeowners' insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. M.G.L. c. 175, § 95B notes that no insurer shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a residential property insurance policy based upon information that an applicant or policy owner, or any member of their family, has been a victim of domestic abuse. M.G.L. c. 175, § 193T prohibits discrimination based on blindness or partial blindness, mental retardation or physical impairment, unless such discrimination is based on "sound actuarial principles or is related to actual experience."

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy and practice prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- Company policy is to accept all private passenger automobile risks, except the Company may decline a risk if the applicant, or any person who usually drives the motor vehicle, has failed to pay premiums during the preceding 12 months, or if the applicant does not hold or is not eligible to obtain a driver's license.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks on a proper, consistent and fair basis.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies, and 35 homeowners' and umbrella policies issued or renewed during the examination period, to test for evidence of unfair discrimination in underwriting.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, RNA noted no evidence that the Company's underwriting practices are unfairly discriminatory.

Recommendations: None.

Standard VI-12. All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the department of insurance (if applicable).

General: M.G.L. c. 175, § 2B and 192.

Automobile: M.G.L. c. 175, §§ 22A and 113A.

Property/Liability: M.G.L. c. 175, §§ 99, 99B, and 111H; 211 CMR 131.00.

Objective: This Standard addresses whether policy forms and endorsements are filed with the Division for approval.

Pursuant to M.G.L. c. 175, § 2B, policy form language, size and content standards for all policies must meet statutory requirements for readability and understanding. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and must be filed with the Division for approval prior to use. Pursuant to M.G.L. c. 175, §§ 22A and 113A, automobile policy forms must be filed with the Division for approval prior to use.

Pursuant to M.G.L. c. 175, § 99 homeowners' policy forms must conform to the standards for policy language set forth in that section and, according to M.G.L. c. 175, § 99B, condominium and tenant policies must be filed with the Division for approval prior to use. M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage be subject to rules and regulations set forth by the Commissioner, and 211 CMR 131.00 requires that forms be filed with and approved by the Division for homeowners' lead liability coverage.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires the use of the standard Massachusetts private passenger automobile policy forms and endorsements which are approved by the Division, and the use of filed and approved forms for homeowners' and umbrella policies.
- Company policy requires that all changes to homeowners' and umbrella policy forms and endorsements be filed with and approved by the Division.
- Producers are required to use approved forms and endorsements as guidelines when providing quotes to customers.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies, and 35 homeowners' and umbrella policies issued or renewed during the examination period to test for the use of policy forms and approved endorsements in compliance with statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company is using approved policy forms and endorsements in compliance with statutory requirements.

Recommendations: None.

Standard VI-13. The producers are properly licensed and appointed (if required) in the jurisdiction where the application was taken.

See Standards IV-1 and IV-2 in the Producer Licensing Section.

Standard VI-14. Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.

Objective: This Standard addresses whether underwriting, rating and classification decisions are based on adequate information developed at or near inception of the coverage, rather than near expiration or following a claim.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures are designed to reasonably assure consistency in the application of underwriting guidelines, rating classifications, premium discounts and surcharges determined at or near the inception of coverage.
- The Company automates private passenger automobile underwriting decisions using standard underwriting criteria. Certain risks are referred to the underwriting department to determine whether they should be retained or ceded to CAR, in compliance with CAR Rule 11.
- The Division annually determines private passenger automobile rates, premiums and discounts, and such rate information is incorporated in the AIB Rating Manual. The Company applies such rates to information provided by the applicant, and obtained from the Massachusetts Registry of Motor Vehicles, at or near the inception of coverage.
- For private passenger automobile policies, the Company compares discount usage, rate class distribution, operator classifications and driver SDIP distributions by producer, and reports unusual results to producers to help them proactively prevent and detect potential fraud.
- The Company's underwriting department conducts annual field audits of all ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.
- The Company has written underwriting guidelines for homeowners' and umbrella policies that are based on information obtained at or near the inception of coverage.
- The Company files homeowners' and umbrella rates with the Division to comply with statutory and regulatory requirements. The Company's rating process is designed to ensure that it uses consistent and filed rates at or near the inception of coverage.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies and 35 homeowners' and umbrella policies issued or renewed during the examination period to test whether underwriting, rating and classification are based on adequate information developed at or near inception of coverage.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company is using underwriting, rating and classification guidelines based on adequate information developed at or near inception of coverage.

Recommendations: None.

<u>Standard VI-15. File documentation adequately supports decisions made.</u>
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Objective: This Standard addresses whether policy file documentation adequately supports decisions made in underwriting and rating.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires that the underwriting files support its underwriting and rating decisions. Most policy source information and related documentation is maintained and controlled by the Company, while some policy documentation may be maintained by the producer.
- Producers are responsible for completing applications for new business and obtaining information needed to properly underwrite and rate the policy. Properly completed applications include applicant and producer signatures.
- Underwriting personnel review the applications submitted by producers for completeness and internal consistency.
- The Company's underwriting department conducts annual field audits of all ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies and 35 homeowners' and umbrella policies issued or renewed during the examination period to test whether the policy files adequately support the Company's decisions.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that policy files adequately supported the Company's decisions.

Recommendations: None.

Standard VI-16. Policies and endorsements are issued or renewed accurately, timely and completely.

Objective: This Standard addresses whether the Company issues policies and endorsements timely and accurately.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires the use of policy forms and endorsements which are approved by the Division. Producers are required to use such approved forms and endorsements as guidelines when providing quotes to customers.
- Any changes in policy coverage must be requested through the producer, who must timely process such requests.
- The Company's underwriting department conducts annual field audits of all ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.
- All applications submitted by producers are reviewed by the underwriting department to ensure that they are complete and internally consistent.
- Company procedures include sending a renewal notice to the policyholder prior to the policy renewal effective date. Policyholders must sign and return a questionnaire to receive any private passenger automobile low mileage discount.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies and 35 homeowners' and umbrella policies, as well as five private passenger automobile endorsements and five homeowners' endorsements for the period for testing of whether new and renewal policies and endorsements were issued timely, accurately and completely.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company generally issues new and renewal policies and endorsements timely, accurately and completely. However, one homeowners' policy application was processed and issued without review by underwriting prior to issuance. The policy was backdated to be effective approximately three months prior to the date the application was received in the home office, and was non-renewed by the Company one year later.

Recommendations: The Company shall adopt a new control procedure to ensure that all homeowners' applications are sent to underwriting for review and approval. In addition, the Company shall adopt a new control procedure to ensure that effective date of homeowners' coverage is not backdated without approval of underwriting supervisory personnel. Internal audit shall design audit procedures and perform testing to ensure that the control procedures are effective.

Subsequent Actions: The Company has implemented a new control procedure to ensure that the underwriter's initials and date stamp are included with the application prior to filing the application in the records file. If the initials and date stamp are not included on the application, the application is returned to underwriting for review and approval.

Standard VI-17. Audits when required are conducted accurately and timely.

No work performed. This Standard is not covered in the scope of examination because the Company does not perform premium audits on personal lines coverage.

Standard VI-18. Company verifies that VIN number submitted with application is valid and that the correct symbol is utilized.

M.G.L. c. 175, § 113S and 211 CMR 94.08.

Objective: This Standard addresses whether the Company verifies that the VIN submitted with the application is valid and accurate.

M.G.L. c. 175, § 113S requires that used cars, and those purchased by new customers, be inspected before fire and theft (or comprehensive), collision or limited collision coverage can be issued. 211 CMR 94.08 requires that pre-insurance inspections of vehicles must verify the VIN.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The producer is responsible for obtaining the VIN and symbol when the application is completed.
- Company policy and procedures require that pre-insurance inspections of vehicles be conducted to verify the VIN and symbol numbers.

- The Company's underwriting system compares the VIN and symbol to its industry database to ensure that both are accurate.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies issued or renewed during the examination period to determine whether the Company verifies the VIN and symbol.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company issues automobile policies with VINs that are valid and symbols that are accurate.

Recommendations: None.

Standard VI-19. The company does not engage in collusive or anti-competitive underwriting practices.

M.G.L. c. 176D, §§ 3(4) and 3A.

Objective: This Standard addresses whether the Company has engaged in any collusive or anti-competitive underwriting practices.

Pursuant to both M.G.L. c. 176D, § 3(4) and M.G.L. c. 176D, § 3A, it is an unfair method of competition, and an unfair or deceptive act or practice in the business of insurance, to enter into any agreement, or to commit any act of boycott, coercion or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires that the underwriting department apply consistent underwriting practices, and that no underwriter or producer shall engage in collusive or anti-competitive practices.
- Company policy is to accept all private passenger automobile risks, except where it may decline a risk if the applicant, or any person who usually drives the motor vehicle, has failed to pay premiums during the preceding 12 months, or if the applicant does not hold or is not eligible to obtain a driver's license.
- Premium rates for private passenger automobile coverage are determined annually by the Division, and are consistent among all private passenger automobile insurers. As such, anti-trust pricing concerns are minimal for these policies.

- The Company's underwriting department conducts annual field audits of all its ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies, and 35 homeowners' and umbrella policies issued or renewed during the examination period, to determine whether any underwriting practices appeared collusive or anti-competitive.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, RNA noted no instances where the Company's underwriting policies and practices appeared collusive or anti-competitive.

Recommendations: None.

Standard VI-20. The company underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules and regulations in application of mass marketing plans.

M.G.L. c. 175, § 193R

Objective: This Standard addresses whether the Company's mass marketing efforts are in compliance with applicable statutes, rules and regulations.

Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization, and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company provides the same premium discount of 2-15% to each member of various affinity groups.
- The Company files its premium discounts available to affinity groups with the Division for approval.

- The Company's underwriting department conducts annual field audits of all its ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 45 private passenger automobile policies issued or renewed during the examination period to test premium discounts including affinity group discounts. RNA verified that each affinity discount given was properly applied and approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that each of the premium discounts given to affinity group members was properly applied and approved by the Division.

Recommendations: None.

Standard VI-21. All group personal lines property and casualty policies and programs meet minimum requirements.

No work performed. This Standard is not covered in the scope of examination because the Company does not offer group products.

Standard VI-22. Rejections and declinations are not unfairly discriminatory.

Automobile: M.G.L. c. 175, §§ 22E and 113D.

Property/Liability: M.G.L. c. 175, §§ 4C, 95B and 193T.

Objective: This Standard addresses the fairness of application rejections and declinations.

Pursuant to M.G.L. c. 175, § 22E, no insurance company or agent thereof in its behalf, shall refuse to issue, renew or execute as surety a motor vehicle liability policy or bond, or any other insurance based on the ownership or operation of a motor vehicle because of age, sex, race, occupation, marital status, or principal place of garaging of the vehicle. In addition, M.G.L. c. 175, § 113D states that any person aggrieved by the refusal of any company or an agent thereof to issue such a policy may file a written complaint with the commissioner within 10 days after such refusal.

Pursuant to M.G.L. c. 175, § 4C, no insurer shall take into consideration when deciding whether to provide, renew, or cancel homeowners' insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. M.G.L. c. 175, § 95B notes that no insurer shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a residential property insurance policy based upon information that an applicant or policy owner, or any member of their family, has been a victim of domestic abuse. M.G.L. c. 175, § 193T prohibits discrimination based on blindness or partial blindness, mental retardation or physical impairment, unless such discrimination is based on "sound actuarial principles or is related to actual experience."

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- Company policy is to accept all private passenger automobile risks, except where it may cancel coverage if the applicant, or any person who usually drives the motor vehicle, failed to pay premiums during the preceding 12 months, or if the applicant does not hold or is not eligible to obtain a driver's license.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks for all lines of business on a consistent and fair basis.
- Company policy allows for cancellation of homeowners' policies when the nature of the risk at inception changes to an unacceptable risk during the coverage period.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected five private passenger automobile and two homeowners' company-initiated cancellations processed during the examination period, to ensure that cancellations were not unfairly discriminatory.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, Company-initiated cancellations do not appear to be unfairly discriminatory.

Recommendations: None.

Standard VI-23. Cancellation/non-renewal and declination notices comply with policy provisions and state laws and company guidelines.

General: M.G.L. c. 175, § 187C.

Automobile: M.G.L. c. 175, §§ 22C, 113A and 113F.

Property/Liability: M.G.L. c. 175, §§ 99 and 193P.

Objective: This Standard addresses notice to policyholders for cancellation, non-renewal and declinations, including advance notice before expiration for cancellation and non-renewals.

Pursuant to M.G.L. c. 175, § 187C any Company shall effect cancellation of any policy by serving written notice thereof as provided by the policy and by paying the full return premium due.

M.G.L. c. 175, § 22C states that a motor vehicle policy shall not be cancelled by the company except for nonpayment of premiums, the failure to complete the application, fraud or material misrepresentation in the application or unless the operator's license or motor vehicle registration of the named insured, or of any other person who resides in the same household as the named insured and who usually operates a motor vehicle insured under the policy, has been under suspension or revocation during the policy period, or if the insured refuses to comply with a request for inspection of his vehicle by the insurer. Pursuant to M.G.L. c. 175, § 113A, no cancellation of the policy shall be valid unless written notice of the specific reason or reasons for such cancellation is given at least 20 days prior to the effective date thereof, which date shall be set forth in the notice. M.G.L. c. 175, § 113F states that any Company which does not intend to issue, extend or renew a motor vehicle liability policy shall give written notice to the insured (or agent in certain circumstances) of its intent 45 days prior to the termination effective date. Such notice also must be sent to the Registry of Motor Vehicles. Every insurance agent or broker receiving such a notice from a company shall, within 15 days of its receipt, send a copy of such notice to the insured, unless another insurer has issued a motor vehicle policy covering that insured's vehicles.

Pursuant to M.G.L. c. 175, § 99, any Company may cancel property/liability coverage by giving the insured five days written notice of cancellation, and to the mortgagee to whom the policy is payable 20 days written notice of cancellation, except where the stated reason for cancellation is nonpayment of premium, where 10 days written notice of cancellation is required. M.G.L. c. 175, § 193P requires an insurer to give written notice of intent to non-renew a policy to the insured at least 45 days prior to the expiration of the policy, accompanied by a written statement specifying reasons for such decision.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires that written cancellation notice be given to policyholders in accordance with statutory requirements. The Company's practice is to give at least 20 days written notice to the policyholder prior to the effective date for private passenger automobile and homeowners' cancellations. The Company's general practice is to give notice to the producer, who is responsible for communicating the pending action to the policyholder.
- The Company generally gives a private passenger automobile declination notice to applicants at the application date if the applicant does not have a valid driver's license or

- owed outstanding balances to insurers during the previous year. If the applicant has a history of non-payment of automobile premium over the preceding two years, the Company is permitted by statute to require a 100% premium deposit, rather than to decline the application.
- The Company or its producers may deny homeowners' coverage to applicants who do not meet the Company's credit scoring threshold for new coverage. Written disclosure of such denials must be provided to the applicant.
 - Company policy requires that homeowners' policyholders be given 45 days notice prior to non-renewal. The Company communicates the pending non-renewal and the reasons for it to policyholders in writing.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 10 private passenger automobile, and 24 homeowners' and umbrella company-initiated cancellations or non-renewals processed during the examination period, to test compliance with cancellation and non-renewal notice requirements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company appears to comply with notice requirements for company-initiated cancellations and non-renewals.

Recommendations: None.

Standard VI-24. Cancellation/Non-renewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract.

General: M.G.L. c. 175, § 187C.

Automobile: M.G.L. c. 175, §§ 22C, 113A and 113F.

Property/Liability: M.G.L. c. 175, §§ 99 and 193P.

See Standard VI-23 for testing of this standard.

Standard VI-25. Unearned premiums are correctly calculated and returned to appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

General: M.G.L. c. 175, §§ 187B and 187C.

Automobile: M.G.L. c. 175, §§ 113A and 176A; 211 CMR 85.00.

Objective: This Standard addresses return of the correctly calculated unearned premium in a timely manner when policies are cancelled.

Pursuant to M.G.L. c. 175, § 187B, a company is required to refund the proper amount of unearned premium upon any policy termination. Under M.G.L. c. 175, § 187C, a company canceling a policy of insurance must tender the full return premium due, without deductions, at the time the cancellation notice is served on the insured.

M.G.L. c. 175, § 113A provides, in part, that when a motor vehicle policy is cancelled by either the insured or the company, insureds that paid the premium are entitled to a return of premium calculated on a pro rata basis. Pursuant to M.G.L. c. 175, § 176A, premium refunds on cancelled policies must be paid to the policyholder within 30 days, and notice of the cancellation must be given. Pursuant to 211 CMR 85.00, short rate tables may be required to calculate automobile premium refunds, depending on when the policy is cancelled.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires that premium refunds be calculated properly and paid timely.
- The Company uses a pro-rata or short rate table method to calculate private passenger automobile premium refunds, depending upon when the cancellation occurred.
- Unearned premium for homeowners' policies is calculated using the pro-rata method.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 10 private passenger automobile and five homeowner insured-requested cancellations processed during the examination period to test for proper premium refund calculation and timely payment.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, premium refunds appear to be calculated properly and returned timely.

Recommendations: None.

Standard VI-26. Rescissions are not made for non-material misrepresentation.

General: M.G.L. c. 175, § 187D.

Automobile: M.G.L. c. 175, § 22C.

Objective: This Standard addresses whether decisions to rescind and to cancel coverage are made appropriately.

M.G.L. c. 175, § 187D also allows the cancellation of any policy for nonpayment of premium. M.G.L. c. 175, § 22C states that a motor vehicle policy shall not be cancelled by the company except for nonpayment of premium, the failure to complete the application, fraud or material misrepresentation in the application or unless the operator's license or motor vehicle registration

of the named insured, or of any other person who resides in the same household as the named insured and who usually operates a motor vehicle insured under the policy has been under suspension or revocation during the policy period, or if the insured refuses to comply with an insurer's request for inspection of his vehicle.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires compliance with underwriting guidelines in accordance with statutory requirements.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks.
- As a general policy, the Company does not rescind policies as of their effective date, but instead cancels them as of the date on which it determines rescission is appropriate.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 10 private passenger automobile and 24 homeowners' and umbrella company-initiated cancellations or non-renewals processed during the examination period to test for evidence of improper rescission.

Transaction Testing Results:

Findings: None.

Observations: None of the policies tested were rescinded, and RNA noted no improper rescission in conjunction with other underwriting tests.

Recommendations: None.

Standard VI-27. All policies are correctly coded.
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Objective: This Standard addresses the accuracy of statistical coding.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating.
- Company policy is to timely report complete and accurate premium data to appropriate rating bureaus such as CAR or ISO.
- The Company reports private passenger automobile premium data to CAR in a format required by CAR. The Company also reports premium data to AIB, which is a rating bureau that represents the insurance industry in rate hearings before the Commissioner of Insurance.
- The Company reports homeowners' premium data to ISO in a format required by ISO.

- The Company reports detailed premium data quarterly to CAR, AIB and ISO.
- The Company has a process for correcting data coding errors and making subsequent changes.
- The Company is subject to periodic audits by CAR for compliance with statutes and CAR Rules.
- The Company's underwriting department conducts annual field audits of all its ERPs as required by CAR, to ensure compliance with the Company's underwriting policies and procedures.
- At least once every five years, the Company's underwriting department conducts desk audits of voluntary agents who electronically submit applications.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process, and selected 45 private passenger automobile policies and 35 homeowners' and umbrella policies issued or renewed during the examination period to test data coding. RNA also reviewed detailed reports from CAR and ISO showing the Company's premium data in summary format for reasonableness compared to Company statistical data. Finally, RNA reviewed the latest CAR audit reports on the Company's compliance with CAR statistical coding requirements for key policy determinants for business ceded to CAR.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company uses proper data coding procedures. The most recent CAR audit noted that the Company does a reasonably effective job of minimizing premium statistical errors and data coding errors. RNA also noted recent reports from ISO indicate that it accepted Company submitted premium data with low error rates.

Recommendations: None.

VII. CLAIMS

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

Standard VII-1. The initial contact by the company with the claimant is within the required time frame.

M.G.L. c. 176D, § 3(9)(b).

Objective: The Standard addresses the timeliness of the Company's initial contact with the claimant.

Pursuant to M.G.L. c. 176D, § 3(9)(b), unfair claim settlement practices include failure to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

Controls Assessment: The following key observations were noted in conjunction with the review of Standards VII-1 through VII-13:

- Written Company policies and procedures govern the claims handling process.
- A majority of claims are reported through one of the Company's agents. Written claim forms are received via fax, mail, or electronically. Company policy requires that a claim file be established and an adjuster assigned within 24 hours of the receipt of the notice of loss. Company policy also requires contact with the claimant within one business day.
- Company policy and claim handling procedures do not distinguish between claims on policies ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- The Company maintains all loss claim files on a mainframe based automated claims management system.
- Company policy is to respond to all physical damage claims within two business days after receiving a loss report, as required by CAR standards. Appraisers are dispatched to adjudicate all physical damage claims or handled by one of the Company's drive-through claim centers.
- Company policy is to complete physical damage appraisals within five days of the date of the appraisal assignment, as required by CAR standards.
- Company policy is to contact all injured persons, or their legal representatives, within one business day of receipt of a claim.
- Company claims management can access the claims system to monitor open claims.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.
- The Company periodically surveys claimants to ask about their experience when filing a claim. The results are compiled and analyzed, and necessary follow-up on specific comments is performed.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. RNA verified the date each selected claim was reported to the Company, and noted whether its initial contact with the claimant was timely acknowledged.

Transaction Testing Results:

Findings: None.

Observations: The claim transactions tested were processed according to the Company's policies and procedures, and the Company's initial contact with claimants was timely. Based upon the results of testing, it appears that the Company's processes for making initial contact with claimants are functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: None.

Standard VII-2. Timely investigations are conducted.

M.G.L. c. 176D, § 3(9)(c).

Objective: The Standard addresses the timeliness of the Company's claims investigations.

Pursuant to M.G.L. c. 176D, § 3(9)(c), unfair claims settlement practices include failure to adopt and implement reasonable standards for the prompt investigation of a claim.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period to evaluate the Company's compliance with its claim handling policies and procedures, and to verify that it conducts investigations in a timely manner.

Transaction Testing Results:

Findings: None.

Observations: The Company timely investigated the tested claims. RNA also noted that the Company's contracts with surveillance investigators are not written. Based upon the

results of testing, it appears that the Company's processes for investigating claims are functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: The Company should consider requiring that all investigator contracts are agreed to by the parties in writing.

Standard VII-3. Claims are resolved in a timely manner.

General: M.G.L. c. 176D, § 3(9)(f); M.G.L. c. 175, §§ 28 and 112.

Automobile: M.G.L. c. 175, §§ 113O and 191A; 211 CMR 123.00.

Objective: The Standard addresses the timeliness of the Company's claim settlements.

Pursuant to M.G.L. c. 176D, § 3(9)(f), unfair claim settlement practices include failing to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear. In addition, if an insurer makes a practice of unduly engaging in litigation or of unreasonably and unfairly delaying the adjustment or payment of legally valid claims, M.G.L. c. 175, § 28 authorizes the Commissioner to make a special report of findings to the General Court.

M.G.L. c. 175, § 112 states that liability of any company under a motor vehicle liability policy or under any other policy insuring against liability for loss or damage on account of bodily injury, death, or damage to property, shall become absolute whenever the loss or damage for which the insured is responsible occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the company to make payment on account of said loss or damage.

Automobile Claims:

M.G.L. c. 175, § 113O states payments to the insured under theft or comprehensive coverage shall not be paid until a claim form has been received from the insured, stating that the repair work described in an appraisal made pursuant to regulations promulgated by the automobile damage appraiser licensing board has been completed. Insurers are required to make such payments within seven days of receipt of the above claim form. However, direct payments to insureds without a claim form may be made in accordance with a plan filed and approved by the Commissioner. Any such plan filed with the Commissioner must meet stated standards for selecting approved repair shops, vehicle inspection, insurer guarantees of the quality and workmanship used on making repairs, and prohibitions on discrimination for selection of vehicles for inspection. 211 CMR 123.00 sets forth procedures for the Commissioner's approval of, and minimum requirements for, direct payment and referral repair shop plans.

M.G.L. c. 175, § 191A requires insureds to give timely notice of a property damage loss to the company or its agent. Further, insureds must also report theft to the police and the Company must pay such claims within 60 days after a proof of loss is filed. The statute also sets forth a process for selecting a disinterested appraiser in the event the insured and the company fail to agree on the amount of loss.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile, and 25 homeowners' claims processed during the examination period, to verify that claim resolutions were timely.

Transaction Testing Results:

Findings: None.

Observations: The resolution of tested claims was timely. RNA verified that the Company's direct payment plan complies with 211 CMR 123.00. Based upon the results of testing, it appears that the Company resolves claims timely in compliance with Company policies, procedures and statutory requirements.

Recommendation: None.

Standard VII-4. The company responds to claim correspondence in a timely manner.

M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e).

Objective: The Standard addresses the timeliness of the Company's response to all claim correspondence.

Pursuant to M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e), respectively, unfair claim settlement practices include failure to promptly address communications for insurance claims, and failure to affirm or deny coverage within a reasonable time after the claimant has given proof of loss.

Controls Assessment: See VII-1.

Controls Reliance: See VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period to verify that claims correspondence was answered timely.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that correspondence for the tested claims was answered timely. Based upon the results of testing, it appears that the Company timely responds to claim correspondence, in compliance with its policies, procedures and statutory requirements.

Recommendations: None.

Standard VII-5. Claim files are adequately documented.

Objective: The Standard addresses the adequacy of information maintained in the Company's claim records.

Controls Assessment: See VII-1.

Controls Reliance: See VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period to verify that claim files were adequately documented.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the files for tested claims were adequately documented. Based upon the results of testing, it appears that the Company's processes for documenting claim files are functioning in accordance with its policies and procedures.

Recommendations: None.

Standard VII-6. Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.

General: M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f), M.G.L. c. 175, §§ 22I, 24D, 24E, 24F, 111F, 112, 112C and 193K.

Automobile: M.G.L. c. 175, §§ 113J and 113O; 211 CMR 75.00 and 133.00.

Property/Liability: M.G.L. c. 175, §§ 96, 97, 97A, 100, 102; M.G.L. c. 139, § 3B.

Objective: The Standard addresses whether appropriate claim amounts have been paid to the appropriate claimant/payee.

Pursuant to M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f), respectively, unfair claim settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information; and unfair trade practices include failure to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.

M.G.L. c. 175, § 22I allows companies to retain unpaid premium due from claim settlements. Claim payments must also comply with M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support. M.G.L. c. 175, § 24E, requires the insurer to exchange information with the Commonwealth not less than 10 business days prior to making payment to a claimant who has received public assistance benefits. M.G.L. c. 175, § 24F requires communication with the Commonwealth regarding unpaid taxes. Medical reports must be furnished to injured persons or their attorney pursuant to M.G.L. c. 175, § 111F. In addition, M.G.L. c. 175, § 112C requires companies to reveal to an injured party making a claim against an

insured, the amount of the limits of said insured's liability coverage upon receiving a request in writing for such information.

M.G.L. c. 175, § 112 states that liability of any company under a motor vehicle liability policy, or under any other policy insuring against liability for loss or damage on account of bodily injury, death, or damage to property, shall become absolute whenever the loss or damage for which the insured is responsible occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the company to make payment on account of said loss or damage.

M.G.L. c. 175, § 193K prohibits discrimination by companies in the reimbursement of proper expenses paid to certain professions and occupations, such as physicians or chiropractors.

Automobile Claims:

Medical reports must be furnished to injured persons or their attorney pursuant to M.G.L. c. 175, § 113J. M.G.L. c. 175, § 113O prohibits payments by an insurer for theft coverage, until the insured has received notice from the appropriate police authority that a statement has been properly filed. Additionally, companies are required to report the theft or misappropriation of a motor vehicle to a central organization engaged in motor vehicle loss prevention. 211 CMR 75.00 designates the National Insurance Crime Bureau as the central organization to be used for this purpose.

211 CMR 133.00 sets forth uniform standards for repair of damaged motor vehicles, but only applies when an insurer pays the costs of repairs. The regulation addresses how damage and repair costs are determined, requires that like kind repair parts be used, and sets forth methods for determining vehicle values. It further allows vehicles deemed a total loss to be repaired subject to certain requirements and limits. Lastly, the regulation requires an insurer to have licensed appraisers conduct "intensified" appraisals of at least 25% of all damaged vehicles for which the damage is less than \$1,000, and 75% of all damaged vehicles for which the appraised cost of repair is more than \$4,000 for collision, limited collision, and comprehensive claims. The "intensified" appraisal is to determine if the repairs were made in accordance with the initial appraisal and any supplemental appraisals.

Property/Liability Claims:

M.G.L. c. 175, § 96 limits the Company's liability to the actual cash value of the insured property when a building is totally destroyed by fire. In addition, if the insured has paid premiums on a coverage amount in excess of said actual cash value, the statute states the insured shall be reimbursed the proportionate excess of premiums paid with interest at six percent per year.

M.G.L. c. 175 § 97 requires the Company to pay fire losses to mortgagees of property upon satisfactory proof of rights and title in accordance with the insurance policy. Further, when a claim for loss or damage to property exceeds five thousand dollars, M.G.L. c. 175 § 97A requires the Company to ensure that the claimant submits to them a certificate of municipal liens from the collector of taxes of the city or town wherein such property is located. The Company shall pay to the city or town any amounts shown on the certificate of municipal liens as outstanding on the date of loss. The provisions of M.G.L. c. 175 § 97A do not apply to certain owner-occupied dwellings.

M.G.L. c. 139, § 3B prohibits the Company from paying claims covering loss or damage to a building or other structure (defined as “dangerous” pursuant to M.G.L. c. 143, § 6) in excess of one thousand dollars, without having given 10 days written notice to the building commissioner or inspector of buildings appointed pursuant to the state building code, to the fire department, and to the board of health, in the city or town where the property located.

M.G.L. c. 175, § 100 sets forth standards for selecting a referee if the parties to a claim fail to agree on the amount of loss. In addition, M.G.L. c. 175 § 102 states the failure of the insured under a fire policy to render a sworn statement shall not preclude recovery if the insured renders a sworn statement after receiving a written request for such sworn statement from the Company. M.G.L. c. 175, § 102 further defines requirements related to such a request for a sworn statement made by the Company.

Controls Assessment: See VII-1.

Controls Reliance: See VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners’ claims processed during the examination period, to verify that claims were handled in accordance with applicable policy provisions, and statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the tested claims were reported according to the Company’s policies and procedures, and that the claim files were handled in accordance with policy provisions. When required, the Company responded to written requests for an insured’s policy limits within 30 days, pursuant to M.G.L. c. 175, § 112C. When required, the Company properly verified that claim recipients were not subject to the intercept requirements in M.G.L. c. 175, §§ 24D, 24E and 24F, prior to making the claim payment.

RNA verified that the Company has procedures in place for providing claimants with a list of registered repair shops, as well as repair shops that qualify as a referral shop, as required by 211 CMR 123.00. Further, RNA noted that the Company performs re-inspections of repaired vehicles following completion of repairs, as required by 211 CMR 123.00.

Based upon the results of testing, it appears that the Company’s processes for handling claims in accordance with policy provisions, statutory and regulatory requirements are functioning in accordance with its policies and procedures.

Recommendations: None.

Standard VII-7. The company uses the reservation of rights and excess of loss letters, when appropriate.

Objective: The Standard addresses the Company's usage of reservation of rights letters and its procedures for notifying an insured when the amount of loss will exceed policy limits.

Controls Assessment: See VII-1.

Controls Reliance: See VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether reservations of rights or excess loss letters were warranted.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the tested claims were reported according to the Company's policies and procedures, and noted no instances where a reservation of rights or excess loss letter was used inappropriately. Based upon the results of testing, it appears that the Company's processes for utilizing reservation of rights and excess loss letters are functioning in accordance with its policies and procedures.

Recommendations: None.

Standard VII-8. Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.

Objective: The Standard addresses the Company's timely refund of deductibles from subrogation proceeds.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether subrogation recoveries were reasonably timely and accurate.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the tested claims were reported according to the Company's policies and procedures, and noted no instances where subrogation recovery was not made in a timely and accurate manner. Based upon the results of testing, it appears that the Company's processes for making subrogation recoveries to insureds are functioning in accordance with its policies and procedures.

Recommendations: None.

Standard VII-9. Company claim forms are appropriate for the type of product.

Objective: The Standard addresses the Company's use of claim forms that are proper for the type of product.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether claim forms were appropriate for the type of product.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that claim forms for the tested claims were appropriate and used in accordance with the Company's policies and procedures.

Recommendations: None.

Standard VII-10. Claim files are reserved in accordance with the company's established procedures.

Objective: The Standard addresses the adequacy of information maintained in the Company's claim records related to its reserving practices.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether claim reserves were evaluated, established and adjusted in a reasonably timely manner.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the reserves for the tested claims were evaluated, established and adjusted according to the Company's policies and procedures. Based upon the results of testing, it appears that the Company's processes for evaluating, establishing and adjusting claim reserves are functioning in accordance with its policies and procedures, and are reasonably timely.

Recommendations: None.

Standard VII-11. Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

M.G.L. c. 176D, §§ 3(9)(d), 3(9)(h) and 3(9)(n).

Objective: The Standard addresses the Company's decision-making and documentation of denied and closed-without-payment claims.

Pursuant to M.G.L. c. 176D, § 3(9)(d), unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information. Pursuant to M.G.L. c. 176D, § 3(9)(h), unfair claims settlement practices include attempting to settle a claim for an amount less than a reasonable person would have believed he or she was entitled to receive. M.G.L. c. 176D, § 3(9)(n) considers failure to provide a reasonable and prompt explanation of the basis for denial of a claim an unfair claims settlement practice.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected nine private passenger automobile and five homeowners' claims that were denied or closed without payment during the examination period for testing. RNA reviewed the claim correspondence and investigative reports, and noted whether the Company handled the claim timely and properly before closing it.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the files for the denied or closed without payment claims tested appeared complete, including correspondence and other documentation. Further, the Company's conclusion appeared reasonable. Based upon the results of testing, it appears that the Company's processes do not unreasonably deny or delay payment of claims.

Recommendations: None.

Standard VII-12. Cancelled benefit checks and drafts reflect appropriate claim handling practices.

Objective: The Standard addresses the Company's procedures for issuing claim checks as they relate to appropriate claim handling practices.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether claim payment practices were appropriate.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that each claim selected for testing was reported according to the Company's policies and procedures, and that claim payment documentation was adequate. RNA noted no instances where claim payment practices appeared inappropriate. Based upon the results of testing, it appears that the Company's processes for issuing claim payment checks are appropriate and functioning in accordance with its policies and procedures.

Recommendations: None.

Standard VII-13. Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

M.G.L. c. 176D, §§ 3(9)(g) and 3(9)(h), M.G.L. c. 175, § 28.

Objective: The Standard addresses whether the Company's claim handling practices force claimants to (a) initiate litigation for the claim payment, or (b) accept a settlement that is substantially less than what the policy contract provides.

Pursuant to M.G.L. c. 176D, §§ 3(9)(g) and 3(9)(h), unfair claims settlement practices include (a) compelling insureds to initiate litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, and (b) attempting to settle a claim for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application. Moreover, if an insurer makes a practice of unduly engaging in litigation, or of unreasonably and unfairly delaying the adjustment or

payment of legally valid claims, M.G. L. c. 175, § 28 authorizes the Commissioner to make a special report of findings to the General Court.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. RNA selected 50 private passenger automobile and 25 homeowners' claims processed during the examination period, and reviewed the claim files to note whether claim reserves were evaluated, established and adjusted in a reasonably timely manner. When applicable, RNA verified the date the claim was reported, reviewed correspondence and investigative reports, and noted the whether the Company handled the claim timely and properly.

Transaction Testing Results:

Findings: None.

Observations: Documentation for the selected claims involving litigation appeared complete, including correspondence and other documentation. Further, the Company's conclusion appeared reasonable. Based upon the results of testing, it appears that the Company's processes do not unreasonably deny claims or compel claimants to initiate litigation.

Recommendations: None.

Standard VII-14. Loss statistical coding is complete and accurate.

M.G.L. c. 175A, § 15(a); 211 CMR 15.00

Objective: The Standard addresses the Company's complete and accurate reporting of loss statistical data to appropriate rating bureaus.

Pursuant to M.G.L. c. 175A, § 15(a), insurers must record and report their loss and countrywide expense experience in accordance with the statistical plan promulgated by the Commissioner in accordance with the rating system on file with the Commissioner, and the Commissioner may designate rating agency or agencies to assist her in the compilation of such data. In accordance with 211 CMR 15.00, the Commissioner established and fixed various statistical plans to be used in relation to homeowners' insurance, and related coverages, in accordance with M.G.L. c. 175A, § 15(a).

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy is to timely report complete and accurate loss data to appropriate rating bureaus such as CAR or ISO.
- The Company reports private passenger automobile loss data to CAR in a format required by CAR. Participation in CAR is mandatory for all insurers writing private passenger automobile insurance in Massachusetts.

- The Company also reports loss data to the AIB, which is a rating bureau that represents the insurance industry in private passenger automobile rate hearings before the Commissioner of Insurance.
- The Company reports homeowners' property/liability loss data to ISO in a format required by ISO.
- The Company quarterly reports detailed claim data to CAR, AIB and ISO. The claim data includes loss experience by line of business, type of loss, dollar amounts, claim counts, accident dates, territory, etc.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its loss statistical reporting processes, and obtained documentation supporting such processes. RNA reviewed detailed reports from CAR and ISO showing the Company's loss data in summary format, and reviewed the CAR and ISO reports for reasonableness compared to Company statistical data. RNA also reviewed the latest audit reports from CAR on the Company's compliance with CAR statistical coding requirements for key policy determinants for business ceded to CAR.

Transaction Testing Results:

Findings: None.

Observations: The Company generally appears to report loss statistical data to rating bureaus timely and accurately, and its processes are functioning in accordance with the Company's policies, procedures and statutory requirements.

Recommendations: None.

SUMMARY

Based upon the procedures performed in this comprehensive examination, RNA has reviewed and tested Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims as set forth in the *NAIC Market Conduct Examiner's Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. We have made recommendations to address various concerns in the areas of company operations/management, complaint handling, marketing and sales, producer licensing, underwriting and rating and claims.

FOR INFORMATION PURPOSES ONLY

ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with Rudmose & Noller Advisors, LLC, applied certain agreed-upon procedures to the corporate records of the Company in order for the Division of Insurance of the Commonwealth of Massachusetts to perform a comprehensive market conduct examination (“comprehensive examination”) of the Company.

The undersigned’s participation in this comprehensive examination as the Examiner-In-Charge encompassed responsibility for the coordination and direction of the examination performed, which was in accordance with, and substantially complied with, those standards established by the National Association of Insurance Commissioners (“NAIC”) and the *NAIC Market Conduct Examiners’ Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the comprehensive examination report. In addition to the undersigned, Dorothy K. Raymond of the Division’s Market Conduct Section participated in this examination and in the preparation of the report.

The cooperation and assistance of the officers and employees of the Company extended to all examiners during the course of the examination is hereby acknowledged.

Matthew C. Regan, III
Director of Market Conduct &
Examiner-In-Charge
Commonwealth of Massachusetts
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Boston, Massachusetts