



**THE COMMONWEALTH OF MASSACHUSETTS**

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS  
REGULATION**

**Division of Insurance**

*Report on the Comprehensive Market Conduct Examination of*

*Arbella Protection Insurance Company, Inc.*

*Quincy, Massachusetts*

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

**NAIC GROUP CODE: 0586**

**NAIC COMPANY CODE: 41360**

**EMPLOYER'S ID NUMBER: 04-3170665**



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August 22, 2007

Nonnie S. Burnes  
Commissioner of Insurance  
Commonwealth of Massachusetts  
Division of Insurance  
One South Station  
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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 PROTECTION INSURANCE COMPANY, INC.**

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 Arbella Protection Insurance Company, Inc. ("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, 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](http://www.mass.gov/doi).

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

## SECTION I - COMPANY OPERATIONS/MANAGEMENT

### STANDARD I – 1

Findings: None.

Observations: The internal audit reports, field audit reports and claims 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 management is made responsible for completing the recommendations and monitor progress timely.

The Company is in the process of adopting more formalized and structured field audit procedures for voluntary agents and ERPs. The Company should develop and implement the 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.

## **SECTION II – COMPLAINT HANDLING**

### **STANDARD II-2**

Findings: None.

Observations: It appears from the complaints reviewed that the Company has adequate procedures in place to address complaints, and 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, the internal audit department 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 the Company did not timely respond to two claims-related Division complaints of the three complaints tested. However, RNA also noted 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 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: Testing noted one workers' compensation policy that was incorrectly rated. The rating error appears to be confined to one policy, and the Company stated that it has been corrected. Further, the Company stated that it has implemented controls to ensure that this error will not recur.

Observations: Based on the results of testing and review of the reinsurer's underwriting review report, it appears that the Company generally calculates policy premiums, discounts and surcharges in compliance with statutory requirements and rates as filed with the Division.

Recommendations: The Company shall review its business processing and controls over premium rate changes and strengthen these processes and controls. 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.

Subsequent Actions: The Company states that it is currently monitoring its business processing and controls over premium rate changes.

### STANDARD VI-15

Findings: None.

Observations: Based on the results of testing, it appears that commercial automobile and commercial multi-peril policy files generally supported the Company's underwriting decisions. However, RNA noted one commercial automobile policy application, one commercial multi-peril policy application and two workers' compensation policy applications which were not signed by the applicants. Further, while some workers' compensation policies were well supported and documented, many of the workers' compensation policies had minimal support and documentation.

Recommendations: The Company should adopt additional controls to ensure that all commercial new business applications are signed by the applicant. The Company should also implement procedures to monitor compliance with required documentation practices. Finally, the internal audit department should conduct an audit of workers' compensation underwriting and documentation practices to ensure that management is adequately and timely addressing these concerns.

Subsequent Actions: The Company states that it has trained and instructed its underwriting staff to obtain signed applications on all new business.



STANDARD VI-16

Findings: None.

Observations: The reinsurer's most recent workers' compensation underwriting review report recommended adoption and use of renewal questionnaires. Based on the results of testing, it appears that the Company generally issues new and renewal policies and endorsements timely, accurately and completely. However, RNA noted no underwriting approval for one workers' compensation policy. Finally, the Company is in the process of adopting the use of renewal questionnaires to be completed by insureds for all commercial policies.

Recommendations: The Company should adopt a new procedure to ensure that underwriting approval is obtained for all new workers' compensation risks prior to issuing a policy. The Company should also adopt the use of renewal questionnaires to be completed by insureds for all commercial policies as soon as practicable.

FOR INFORMATION PURPOSES ONLY

## COMPANY BACKGROUND

The Company is a stock subsidiary of Arbella Mutual Insurance Company headquartered in Quincy, Massachusetts, which is the controlling entity in a corporate ownership structure that includes five Massachusetts domestic insurers (the “Arbella Group”). The 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 commercial automobile, commercial multi-peril and workers’ compensation insurance in Massachusetts. The commercial automobile market includes the involuntary and voluntary markets. The involuntary commercial automobile market is similar to the private passenger automobile market and covers some, but not all, classes of commercial coverage. Such remaining classes are part of the voluntary market where rates and forms are approved on an individual carrier basis by the Division. Commercial multi-peril coverage is voluntary, and all rates are filed with the Division for approval. Workers’ compensation insurance is mandatory for employers, with uniform rates set by the Workers’ Compensation Rating and Inspection Bureau (“WCRIB”) and approved by the Division. Personal lines coverage is also sold through 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 CAR. The ERPs write exclusively for the Company primarily in urban areas and can not be terminated as ERPs by the Company.

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.

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

*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 upon priorities established by the Audit Committee with input from senior management. The Audit Committee approves the plan prior to year end, and monitors plan progress and 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 claims department performs claims 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 claims settlement practices, such as evaluating the timeliness of subrogation recoveries.
- The Company is subject to periodic audits by Commonwealth Automobile Reinsurers ("CAR") for compliance with statutes and CAR Rules of Operation ("CAR Rules").

*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, claims 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 claims 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 voluntary agents and ERPs. The Company should develop and implement the 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 statutory financial examination of the Company which is ongoing.

**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 and in compliance with applicable statutes and is implemented appropriately.

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, and 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.
- As part of the claims department, the Company has a Special Investigative Unit ("SIU") 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 is retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or by 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.
- The SIU tracks and investigates potentially fraudulent activity with the assistance of other departments, and reports such activity to regulators as necessary.
- The Arbella Group's policy is to seek the Division's approval regarding the hiring of any "prohibited person" when it wishes to employ such a person.

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 claim 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.

Recommendation: None.

**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 record retention policies and procedures for each key function and department, which 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 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 of business 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. Additionally, 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 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 information about a consumer 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 Privacy Policy states that the Company collects certain types of nonpublic personal information from third parties or other sources, and gives examples of such third parties or other sources. Further, the Privacy Policy notes that the Company may disclose information as permitted by law, and that customers have a right to access and to correct errors 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 its Privacy Policy to customers via mail upon renewal.
- The Company provides its Privacy Policy on its website.
- 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 of having 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 that the Company's privacy practices minimize any improper intrusion into the privacy of applicants and policyholders, 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 consumer information 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 information about a consumer 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, it appears that the Company's privacy policies and procedures adequately protect consumer 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 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 information about a consumer 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 supporting its 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 the Company's 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 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 information about a consumer 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, it appears 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 for maintaining the 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 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 information about a consumer 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.

## 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 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 stated 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 selected and reviewed three Massachusetts complaint files from the examination period to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). RNA reviewed the files for each complaint, noting the Company's response date and the adequacy of 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 each reviewed complaint 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 selected and reviewed three Massachusetts complaint files from the examination period to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). In addition, the Company's website and various forms sent to policyholders were reviewed to determine whether they comply with the requirement that the Company provide contact information for consumer inquiries.

Transaction Testing Results:

Findings: None.

Observations: It appears from the complaints reviewed that the Company has adequate procedures in place to address complaints, and 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, the internal audit department 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 selected and reviewed three Massachusetts complaint files from the examination period, to evaluate the Company's actions related to the complaint disposition.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the Company fully addressed the issues raised in the complaints reviewed. Documentation for the complaints appeared to be 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 insurers to respond to complaints within 14 calendar days from the date it receives such complaints from the Division.

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 selected and reviewed three Massachusetts complaint files from the examination period, to evaluate the time frame within which the Company responds to complaints.



Transaction Testing Results:

Findings: None.

Observations: RNA noted that during 2005 the Company did not timely respond to two claims-related Division complaints of the three complaints tested. However, RNA also noted 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:

- Advertising and sales materials developed in the Company's home office by the marketing research and development team are 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 producers to develop advertising general in nature, 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 its 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 developing and approving advertising and sales materials. RNA reviewed seven pieces of advertising and sales materials 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 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.

<b>Standard III-2. Company internal producer training materials are in compliance with applicable statutes, rules and regulations.</b>
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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 electronically distributes 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 procedures 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 training materials provided to producers appear to 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 distributing producer communications, and reviewed one communication to producers in use 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**

No work performed. This Standard is not covered in the scope of examination because the Company does not offer affinity group discounts for commercial automobile policies.

#### 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 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 and 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 in instances where the Company wishes to appoint such a person as agent.
- The Company maintains an automated producer database that tracks all producer terminations, appointments and other licensing changes relating to 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. Contract standard terms and conditions address proper licensure, maintenance of records, binding authority, claim reporting, commission rates, premium accounting, advertising, and termination/suspension provisions. The contract also gives the agent exclusive control over expirations and records.

- The Company requires 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 commercial automobile, commercial multi-peril and workers' compensation policies issued or renewed during the examination period. RNA verified that the sales agent 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 the 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. 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.

<b>Standard IV-4. The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.</b>
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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, and processing of appointments and terminations. In conjunction with testing of commercial automobile, commercial multi-peril and workers' compensation 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 testing of commercial 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 by the Company 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 premiums, 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.



## 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:

- Most policyholders are direct billed, and generally receive a renewal and billing notice from the Company 30 - 45 days prior to the renewal effective date. Some policyholders are agency billed. A policy declaration page indicating the coverage type and policy limits, with the applicable premium, is included with the renewal billing notice.
- Installment billing notices are generated automatically through the Company's policy administration systems 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 reviewed billing notice dates for 10 commercial automobile policies, 10 commercial multi-peril policies and five workers' compensation 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 for charging 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 the policyholder 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 the policyholder has 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 13 commercial automobile, five commercial multi-peril and two workers' compensation insured-requested cancellations for the examination period. RNA reviewed evidence for each cancellation that it 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' telephone inquiries 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 claim standards. RNA also obtained documentation showing customer service representatives' 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 the Company 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 the Company's claims personnel have access to claims history and paid loss information from a statewide automobile claim database and a private Comprehensive Loss Underwriting Exchange database.
- The Company's policy is to provide, or ask the producer to provide the policyholder with its 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 for 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.**

**Commercial Automobile and Commercial Multi-peril: M.G.L. c. 175A, §§ 5, 6 and 9.**

**Commercial Automobile: M.G.L. c. 175E, § 7; 211 CMR 78.00, 86.00, 91.00 and 124.00.**

**Commercial Multi-peril: M.G.L. c. 174A, §§ 5, 6 and 9.**

**Workers' Compensation: M.G.L. c. 152, § 53A; 211 CMR 110.00, 211 CMR 113.00 and 211 CMR 115.00.**

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

Pursuant to M.G.L. c. 175A, § 5, rates for commercial automobile and multi-peril policies shall be based on past and prospective loss experience, a reasonable margin for underwriting profit and contingencies, investment income, unearned premium reserves and loss reserves. Rates shall not be excessive, inadequate or unfairly discriminatory, and must be filed with the Commissioner as provided by M.G.L. c. 175A, § 6 prior to use. Insurers must also use filed rates, unless they obtain approval for a rate deviation, as set forth in M.G.L. c. 175A, § 9.

For commercial 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 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. Finally, 211 CMR 91.00 also prescribes requirements for the filing of rates with the Commissioner at least 45 days prior to their effective date.

For commercial multi-peril policies, 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, and shall 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.

For workers' compensation policies, M.G.L. c. 152, § 53A specifies a rate filing process and statistical reporting requirements using experience rating credits and payroll caps to ensure equitable distribution of premium based on wage differentials. Further, rates and producer commissions for business ceded to the Commonwealth reinsurance pool are determined by the Division. 211 CMR 110.00, 211 CMR 113.00 and 211 CMR 115.00 provide guidance on rate filing procedures, premium credit filings and the conduct of rate hearings.

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.
- Commercial automobile rates are determined by CAR for those risks ceded to CAR, and such rates are filed with the Division. All other commercial automobile rates are otherwise filed with the Division for approval prior to use.
- Commercial multi-peril rates are based on Insurance Services Office (“ISO”) rates, and the Company files such rates with the Division for use to comply with statutory and regulatory requirements. Property coverage rating criteria include territory, coverage amount and type, property age, protection class and structure type. Liability coverage rates are generally based on the type of business, number of employees, payroll and annual revenue.
- Workers’ compensation rates are determined by the WCRIB, and such rates are filed with the Division.
- The Company’s reinsurer conducts periodic reviews of the Company’s workers’ compensation underwriting and rating policies and procedures.

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. Further, RNA also reviewed the reinsurer’s most recent workers’ compensation underwriting review report dated November 2, 2005. RNA selected eight commercial automobile policies, six commercial multi-peril policies and four workers’ compensation policies issued or renewed during the examination period to test rate classifications and premiums charged. RNA verified that the policy premium, discounts and surcharges for each policy complied with statutory and regulatory requirements, and with rates as filed with the Division.

Transaction Testing Results:

Findings: Testing noted one workers’ compensation policy that was incorrectly rated. The rating error appears to be confined to one policy, and the Company stated that it has been corrected. Further, the Company stated that it has implemented controls to ensure that this error will not recur.

Observations: Based on the results of testing and review of the reinsurer’s underwriting review report, it appears that the Company generally calculates policy premiums, discounts and surcharges in compliance with statutory requirements and rates as filed with the Division.

Recommendations: The Company shall review its business processing and controls over premium rate changes and strengthen these processes and controls. 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.

Subsequent Actions: The Company states that it is currently monitoring its business processing and controls over premium rate changes.

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

**Commercial Automobile and Commercial Multi-peril: M.G.L. c. 175A, § 11.**

**Commercial Multi-peril: M.G.L. c. 175, §§ 99 and 99A; M.G.L. c. 174A, § 11.**

**Workers' Compensation: M.G.L. c. 152, § 25A; 211 CMR 113.00 and 211 CMR 115.00.**

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.

For commercial automobile and multi-peril policies, M.G.L. c. 175A, § 11, requires rating organizations and insurers to furnish rate information to any insured within a reasonable time after receiving a written request.

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

For workers' compensation policies, pursuant to M.G.L. c. 152, § 25A, each insurer must offer policy deductibles, including reasonable small deductibles optional to the policyholder, which shall be fully disclosed to prospective policyholders in writing. 211 CMR 113.00 and 211 CMR 115.00 provide additional guidance on deductibles.

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.

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 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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 comply with the requirement to provide required coverage disclosures to insureds upon initial application and renewal, in accordance with statutory guidelines.

Recommendations: None.

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

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

**Workers' Compensation: M.G.L. c. 152, § 53A.**

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. M.G.L. c. 152, § 53A requires the Division to determine producer commissions for workers' compensation business ceded to the Commonwealth reinsurance pool.

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 provisions contained in statutory underwriting and rating requirements which 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 also inspected new business materials, advertising materials, and producer training materials and manuals for indications of rebating, commission cutting or inducements. RNA also selected three commercial automobile policies, three commercial multi-peril policies and one workers' compensation policy 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 Company policies, procedures and statutory requirements.

Recommendations: None.

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

**Commercial Automobile and Commercial Multi-peril: M.G.L. c. 175A, §§ 5, 6 and 9.**

**Commercial Automobile: M.G.L. c. 175E, § 7; 211 CMR 78.00, 211 CMR 86.00, 211 CMR 91.00 and 211 CMR 124.00.**

**Commercial Multi-peril: M.G.L. c. 174A, §§ 5, 6 and 9.**

**Workers' Compensation: M.G.L. c. 152, § 53A; 211 CMR 110.00, 211 CMR 113.00 and 211 CMR 115.00.**

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

Pursuant to M.G.L. c. 175A, § 5, rates for commercial automobile and multi-peril policies shall be based on past and prospective loss experience, a reasonable margin for underwriting profit and contingencies, investment income, unearned premium reserves and loss reserves. Rates shall not be excessive, inadequate or unfairly discriminatory, and must be filed with the Commissioner as provided by M.G.L. c. 175A, § 6 prior to use. Insurers must use filed rates unless they obtain approval for a rate deviation, as set forth in M.G.L. c. 175A, § 9.

For commercial 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 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. Finally, 211 CMR 91.00 also prescribes requirements for the filing of rates with the Commissioner at least 45 days prior to their effective date.

For commercial multi-peril policies, 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 and shall 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. 152, § 53A specifies a rate filing process and statistical reporting requirements for workers compensation policies that uses experience rating credits and payroll caps to ensure equitable distribution of premium based on wage differentials. Further, the Division determines



rates and producer commissions for business ceded to the Commonwealth reinsurance pool. 211 CMR 110.00, 211 CMR 113.00 and 211 CMR 115.00 provide guidance on rate filing procedures, premium credit filings and the conduct of rate hearings.

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 also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected eight commercial automobile policies, six commercial multi-peril policies and four workers' compensation policies issued or renewed during the examination period to test rate classifications and premiums charged. RNA verified that credits and deviations for each policy were consistently applied on a non-discriminatory basis.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, and review of the reinsurer's underwriting review report, it appears that the Company applies credits and deviations consistently 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.**

**Commercial Automobile and Commercial Multi-peril: M.G.L. c. 175A, § 5.  
Workers' Compensation: M.G.L. c. 152, § 53A; 211 CMR 110.00 and 211 CMR 113.00.**

Objective: This Standard addresses whether schedule rating or individual risk premium modification plans are based on objective criteria and appropriately documented.

For commercial automobile and multi-peril policies, pursuant to M.G.L. c. 175A, § 5, casualty, surety and certain commercial rates must be based, in part, on past and prospective loss experience and catastrophe hazards, and must include a reasonable margin for underwriting profits and contingencies. Risks may be grouped by classifications to establish rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans, which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that demonstrate a probable effect upon losses or expenses.

M.G.L. c. 152, § 53A specifies a rate filing process and statistical reporting requirements for workers compensation policies that uses experience rating credits and payroll caps to ensure equitable distribution of premium based on wage differentials. Further, rates and producer commissions for business ceded to the Commonwealth reinsurance pool are determined by the

Division. 211 CMR 110.00 provides guidance on rate filing procedures and the conduct of hearings. 211 CMR 113.00 requires premium credits to be filed with the Division by the WCRIB.

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

- The Company has written policies and procedures for determining schedule rating and individual risk premium modification plans.
- Underwriting personnel are required to approve schedule rating and individual risk premium modification plans and ensure that such decisions are documented in the underwriting files.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.

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 and rating process. RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected eight commercial automobile policies, six commercial multi-peril policies and 15 workers' compensation policies issued or renewed during the examination period to test schedule rating and individual risk premium modification plans, to ensure that such modifications are objective and properly documented.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing and review of the reinsurer's underwriting review report, the Company appears to properly use schedule rating and individual risk premium modification plans, and ensures that such modifications are objective and documented.

Recommendations: None.

**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.**

**Workers' Compensation: M.G.L. c. 152, § 53A and 211 CMR 110.00.**

Objective: This Standard addresses the use of loss costs and expense multipliers filed with the Division.

M.G.L. c. 152, § 53A specifies a rate filing process and statistical reporting requirements for workers compensation policies that uses experience rating credits and payroll caps to ensure equitable distribution of premium based on wage differentials. Further, the Division determines rates and producer commissions for business ceded to the Commonwealth reinsurance pool. 211 CMR 110.00 provides guidance on rate filing procedures and the conduct of hearings.

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

- The Company has written policies and procedures for the use of loss costs and expense multipliers.
- The WCRIB approves the use of loss costs and expense multipliers, and such deviations are filed with the Division.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.
- The WCRIB conducts an audit every three years of the Company's compliance with workers' compensation statistical reporting 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 Company personnel with responsibility for the underwriting and rating process. RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005, and the WCRIB's most recent audit report. RNA selected 15 workers' compensation policies issued or renewed during the examination period to test the use of loss costs and expense multipliers as filed with the Division.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing and review of the reinsurer's underwriting review report and the WCRIB's audit report, the Company appears to properly use loss costs and expense multipliers as filed with the Division.

Recommendations: None.

<b>Standard VI-7. Verification of premium audit accuracy and the proper application of rating factors.</b>
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Objective: This Standard addresses the performance of premium audits to verify proper rating factors.

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

- The Company has written policies and procedures conducting premium audits to verify rate factors.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.

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 and rating process. RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected 25 commercial multi-peril policies and 15 workers' compensation policies issued or renewed during the examination period to look for evidence that the Company conducted premium audits verifying rate factors, when applicable.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing and review of the reinsurer's underwriting review report, the Company appears to properly conduct premium audits and verify rate factors.

Recommendations: None.

**Standard VI-8. Verification of experience modification factors.**

**Workers' Compensation: M.G.L. c. 152, § 53A and 211 CMR 110.00.**

Objective: This Standard addresses the use of experience modification factors.

M.G.L. c. 152, § 53A specifies a rate filing process and statistical reporting requirements for workers' compensation policies that uses experience rating credits and payroll caps to ensure equitable distribution of premium based on wage differentials. Further, the Division determines rates and producer commissions for business ceded to the Commonwealth reinsurance pool. 211 CMR 110.00 provides guidance on rate filing procedures and the conduct of hearings.

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

- The Company has written policies and procedures for verifying experience modification factors.
- The WCRIB approves experience modification factors, and such deviations are filed with the Division.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.
- The WCRIB conducts an audit every three years of the Company's compliance with workers' compensation statistical reporting 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 Company personnel with responsibility for the underwriting and rating process. Further, RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005 and the WCRIB's most recent audit report. RNA selected 15 workers' compensation policies issued or renewed

during the examination period for testing the use experience modification factors as filed with the Division.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing and review of the reinsurer's underwriting review report and the WCRIB's audit report, the Company appears to properly use experience modification factors as filed with the Division.

Recommendations: None.

<b>Standard VI-9. Verification of loss reporting.</b>
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Objective: This Standard addresses the maintenance and verification of accurate loss histories.

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

- The Company has written policies and procedures for the maintenance and verification of accurate loss histories.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.
- The WCRIB conducts an audit every three years of the Company's compliance with workers' compensation statistical reporting 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 Company personnel with responsibility for the underwriting and rating process. RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005, and the WCRIB's most recent audit report. RNA selected 15 workers' compensation policies issued or renewed during the examination period for testing maintenance and verification of accurate loss histories.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing and review of the reinsurer's underwriting review report and the WCRIB's audit report, the Company appears to maintain and verify accurate loss histories.

Recommendations: None.

**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 is not subject to NCCI data calls.

**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.**

**General: M.G.L. c. 175, § 193T.**

**Commercial Automobile: M.G.L. c. 175, § 22E.**

**Commercial Automobile and Commercial Multi-peril: M.G.L. c. 175A, § 5.**

**Commercial Multi-peril: M.G.L. c. 174A, § 5.**

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

M.G.L. c. 175, § 193T prohibits discrimination in underwriting or in rates charged for all policies 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.”

Pursuant to M.G.L. c. 175, § 22E, no insurance company, and no officer or agent thereof on its behalf, shall refuse to issue, renew or execute as surety a commercial 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.

Pursuant to M.G.L. c. 175A, § 5, rates for commercial automobile and multi-peril policies shall be based on past and prospective loss experience, a reasonable margin for underwriting profit and contingencies, investment income, unearned premium reserves and loss reserves. Rates shall not be excessive, inadequate or unfairly discriminatory.

Pursuant to M.G.L. c. 174A, § 5, fire rates for commercial multi-peril policies 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, and shall consider a reasonable margin for underwriting profit and contingencies. Finally, such rates shall not be excessive, inadequate or unfairly discriminatory.

*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.
- 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 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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).**

**M.G.L. c. 175, § 2B and 192.**

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

**Workers' Compensation: M.G.L. c. 152, § 53A.**

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, commercial automobile policy forms must be filed with the Division for approval prior to use. M.G.L. c. 152, § 53A requires workers' compensation policy forms to be filed with the Division.

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

- Company policy requires that all commercial policy forms, endorsements and changes thereto be filed and approved by the Division prior to use.
- The Company's producers are required to use approved forms and endorsements when providing quotes or delivering insurance policies 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 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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 application of underwriting guidelines, rating classifications, premium discounts and surcharges based on information developed at or near the inception of coverage.
- Commercial automobile underwriting decisions are automated using standard underwriting criteria. Certain risks are referred to underwriting to determine whether the risk should be retained or ceded to CAR in compliance with CAR Rule 11.
- Commercial automobile rates are determined by CAR for those risks ceded to CAR, and such rates are filed with the Division. All other commercial automobile rates are filed with the Division for approval prior to use.
- The Company has set forth written underwriting guidelines for commercial multi-peril and workers' compensation policies based on information obtained at or near the inception of coverage.
- The Company files commercial multi-peril and workers' compensation rates with the Division to comply with statutory and regulatory requirements. Commercial multi-peril rates are based on ISO rates, and workers' compensation rates are determined by the WCRIB. The Company's rating process is designed to ensure that it uses consistent and filed rates at or near the inception of coverage.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.

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 the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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, and review of the reinsurer's underwriting review report, 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.

<b>Standard VI-15. File documentation adequately supports decisions made.</b>
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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 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 needed information to properly underwrite and rate the policy. Properly completed applications must include the producer's and the applicant's signatures.
- Company underwriting personnel review the applications submitted by producers for completeness and internal consistency.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.

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. Further, RNA also reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation policies

issued or renewed during the examination period to test whether the policy files adequately support underwriting decisions.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that commercial automobile and commercial multi-peril policy files generally supported the Company's underwriting decisions. However, RNA noted one commercial automobile policy application, one commercial multi-peril policy application and two workers' compensation policy applications which were not signed by the applicants. Further, while some workers' compensation policies were well supported and documented, many of the workers' compensation policies had minimal support and documentation.

Recommendations: The Company should adopt additional controls to ensure that all commercial new business applications are signed by the applicant. The Company should also implement procedures to monitor compliance with required documentation practices. Finally, the internal audit department should conduct an audit of workers' compensation underwriting and documentation practices to ensure that management is adequately and timely addressing these concerns.

Subsequent Actions: The Company states that it has trained and instructed its underwriting staff to obtain signed applications on all new business.

<b>Standard VI-16. Policies and endorsements are issued or renewed accurately, timely and completely.</b>
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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.
- All applications submitted by producers are to be reviewed by the underwriting department to ensure that they are complete and internally consistent.
- Written Company procedures include sending a renewal notice to the policyholder 30 days prior to the policy renewal effective date.
- The Company's reinsurer conducts periodic reviews of the Company's workers' compensation underwriting and rating policies and procedures.

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 reviewed the reinsurer's most recent workers' compensation underwriting review report dated November 2, 2005. RNA selected 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation policies, as well as five commercial automobile endorsements, five commercial multi-peril endorsements and three workers' compensation endorsements issued or renewed during the examination period to test whether new and renewal policies and endorsements were issued timely, accurately and completely.

Transaction Testing Results:

Findings: None.

Observations: The reinsurer's most recent workers' compensation underwriting review report recommended adoption and use of renewal questionnaires. Based on the results of testing, it appears that the Company generally issues new and renewal policies and endorsements timely, accurately and completely. However, RNA noted no underwriting approval for one workers' compensation policy. Finally, the Company is in the process of adopting the use of renewal questionnaires to be completed by insureds for all commercial policies.

Recommendations: The Company should adopt a new procedure to ensure that underwriting approval is obtained for all new workers' compensation risks prior to issuing a policy. The Company should also adopt the use of renewal questionnaires to be completed by insureds for all commercial policies as soon as practicable.

<b>Standard VI-17. Audits when required are conducted accurately and timely.</b>
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See Standard VI-7 for workers' compensation premium audits and Standard I-1 in Company Operations/Management for audits by external and internal auditors.

<b>Standard VI-18. Company verifies that VIN number submitted with application is valid and that the correct symbol is utilized.</b>
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Objective: This Standard addresses whether the Company verifies that the VIN submitted with the application is valid and accurate.

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.
- 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 15 commercial automobile policies issued 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: Company policy requires that the underwriting department apply consistent underwriting practices, and that no underwriter or producer engage in collusive or anti-competitive practices.

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 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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.**

No work performed. This Standard is not covered in the scope of examination because the Company does not offer mass marketing plans for commercial policies.

**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.**

**General: M.G.L. c. 175, § 193T.**

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

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

For all policies, 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.”

For commercial automobile policies, 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.

*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.
- 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 commercial policies, with 30 days notice, 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 two commercial automobile, five commercial multi-peril and two workers' compensation company-initiated cancellations for 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.**

**Commercial Automobile: M.G.L. c. 175, §§ 113A and 113F.**

**Workers' Compensation: M.G.L. c. 152, §§ 65B and 55A.**

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

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

M.G.L. c. 175, § 113A states that no cancellation of a commercial automobile 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 vehicle.

M.G.L. c. 152 § 65B requires that any insurer canceling a workers' compensation policy shall give notice in writing to the rating organization and the insured of its desire to cancel. Such cancellation shall be effective unless the employer, within ten days after the receipt of such notice, files an objection with the Division. M.G.L. c. 152 § 55A allows mid-term notice of cancellation of a workers' compensation policy only if based on nonpayment of premium; fraud or material misrepresentation affecting the policy or insured; or a substantial increase in the risk hazard.



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 in accordance with statutory requirements. The Company's practice is to give at least 20 days written notice prior to the effective date for commercial automobile policies, 10 days notice for commercial multi-peril policies and 10 days notice for workers' compensation policies. The Company's general practice is to give notice to the producer, who is responsible for communicating the pending action to the policyholder within the required timeframes.
- Company policy requires that commercial automobile policyholders be given 45 days notice prior to non-renewal. The Company communicates the pending action and reasons to policyholders in writing.
- Company policy requires that commercial multi-peril policyholders be given 40 days notice prior to non-renewal. The Company communicates the pending action and reasons 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 seven commercial automobile Company-initiated cancellations and non-renewals, 15 commercial multi-peril company-initiated cancellations and non-renewals and two workers' compensation Company-initiated cancellations during the examination period to test compliance with notice requirements. There were no workers' compensation non-renewals during the examination period.

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.**

**M.G.L. c. 175, § 187C.**

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

**Workers' Compensation: M.G.L. c. 152 §§ 65B and 55A.**

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.**

**Commercial Automobile: M.G.L. c. 175, §§ 113A and 176A.**

*Objective:* This Standard addresses timely return of the correctly calculated unearned premium 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.

For commercial automobile policies, M.G.L. c. 175, § 113A provides, in part, that in the event of cancellation of a motor vehicle policy by either the insured or the company, the insured, if he has paid the premium to the company, is 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.

*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.
- Unearned premium for commercial 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 13 commercial automobile, five commercial multi-peril and two workers' compensation insured-requested cancellations for the examination period to test for timely payment of properly calculated premium refunds.

*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.**

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

M.G.L. c. 175, § 187D allows the cancellation of any policy for nonpayment of premium.

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 seven commercial automobile, 15 commercial multi-peril and two workers' compensation company-initiated cancellations or non-renewals during the examination period, to test for evidence of improper rescission.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, none of the policies were improperly rescinded. RNA also noted no improper rescission in conjunction with other underwriting tests.

Recommendations: None.

**Standard VI-27. All policies are correctly coded.**

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, ISO or the WCRIB.

- The Company reports quarterly commercial automobile premium data to CAR, and quarterly commercial multi-peril premium data to ISO in the required format.
- The Company reports monthly workers' compensation premium data to the WCRIB in the required format.
- The Company has a process for correcting data coding errors and making subsequent changes, as needed.
- The WCRIB conducts an audit every three years of the Company's compliance with workers' compensation statistical reporting 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 Company personnel with responsibility for the underwriting process. RNA selected 25 commercial automobile policies, 25 commercial multi-peril policies and 15 workers' compensation 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 most recently completed triennial review of the Company's compliance with the WCRIB statistical coding requirements for key policy determinants.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company generally appears to report premium 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.

## 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) and M.G.L. c. 152, § 7.**

*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 claims settlement practices include failure to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

M.G.L. c. 152, § 7 requires the insurer to either commence payment of weekly benefits within 14 days of an insurer's receipt of an employer's first report of injury or an initial written claim for weekly benefits, or notify the Department of Industrial Accidents ("DIA"), the employer, and, the employee, of its refusal to commence payment. The notice shall specify the grounds and factual basis for the refusal to commence payment and be delivered by certified mail.

*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 claim 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 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.
- All loss claim files are maintained on a mainframe based automated claims management system.
- Company policy is to respond to all physical damage claims within two business days of receipt of a loss report as required by CAR standards. Appraisers are dispatched to adjudicate all physical damage claims, or they are 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.

- Company claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Company 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 analyzed and compiled, then 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 claim handling processes and obtained documentation supporting such processes. RNA selected 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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 the Company's initial contact with the claimant was timely.

Transaction Testing Results:

Findings: None.

Observations: The claim transactions tested were processed according to the Company's policies and procedures, and the initial contact by the Company with the claimant 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 claim 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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation claims processed during the examination period, to evaluate the Company's compliance with its claim

handling policies and procedures, and to verify that investigations are conducted in a timely manner.

Transaction Testing Results:

Findings: None.

Observations: The Company timely investigated the tested claims. 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: None.

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

**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.**

**Workers' Compensation: M.G. L. c. 152, § 7.**

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

Pursuant to M.G.L. c. 176D, § 3(9)(f), unfair claims 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 such findings to the General Court.

M.G.L. c. 175, § 112 states that the 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 that 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 with regard to procedures 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 report vehicle theft to the police, and the company must pay such claims within 60 days after receiving a proof of loss. 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.

**Workers' Compensation Claims:**

M.G.L. c. 152, § 7 requires the insurer to either commence payment of weekly benefits within 14 days of its receipt of an employer's first report of injury or an initial written claim for weekly benefits, or to notify the DIA, the employer, and the employee of its refusal to commence payment. The notice shall specify the grounds and factual basis for the refusal to commence payment and must be delivered by certified mail.

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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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 timely resolves claims in compliance with its 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); M.G. L. c. 152, § 7.**

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.

M.G.L. c. 152, § 7 requires the insurer to either commence payment of weekly benefits within 14 days of its receipt of an employer's first report of injury or an initial written claim for weekly benefits, or to notify the DIA, the employer, and the employee of its refusal to commence

payment. The notice shall specify the grounds and factual basis for the refusal to commence payment, and must be delivered by certified mail.

Controls Assessment: See VII-1.

Controls Reliance: See VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation claims processed during the examination period to verify that claim correspondence was answered timely.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

<b>Standard VII-5. Claim files are adequately documented.</b>
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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 15 commercial automobile, 15 commercial multi-peril, and 10 workers' compensation claims processed during the examination period, to verify that claim files were adequately documented.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the tested claim files 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.**

**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.**

**Workers' Compensation: M.G. L. c. 152, §§ 7, 8, 29, 31, 33, 34, 34A, 35, 36, 36A, and 50.**

*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. Companies are also 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, and only applies when an insurer pays the cost 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 paid premium 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 the Company 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 in excess of \$1,000 covering loss or damage to a building or other structure (defined as “dangerous” pursuant to M.G.L. c. 143, § 6) 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 is 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 that 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.

#### Workers’ Compensation Claims:

M.G.L. c. 152, § 7 requires the insurer to either commence payment of weekly benefits within 14 days of an insurer’s receipt of an employer’s first report of injury or an initial written claim for weekly benefits, or to notify the DIA, the employer, and the employee of its refusal to commence payment. The notice shall specify the grounds and factual basis for the refusal to commence payment, and must be delivered by certified mail.

M.G.L. c. 152, § 8 allows an insurer to terminate or modify payments at any time within 180 days of commencement of disability without penalty, if such change is based on the actual income of the employee or if it gives the employee and the Department at least seven days written notice of its intent to stop or modify payments and to contest any claim filed. The notice shall specify the

grounds and factual basis for stopping or modifying payment of benefits and the insurer's intention to contest.

Pursuant to M.G.L. c. 152, § 29, no compensation shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of five or more calendar days. If incapacity extends for a period of 21 days or more, compensation shall be paid from the date of onset of incapacity. If incapacity extends for a period of at least five but less than 21 days, compensation shall be paid from the sixth day of incapacity. Generally, no compensation shall be paid for any period for which any wages were earned.

Pursuant to M.G.L. c. 152, § 31, if death results from the injury, the insurer shall pay compensation to dependents of the employee who were wholly dependent upon his or her earnings for support. M.G.L. c. 152, § 33 requires the insurer to pay the reasonable expenses of burial not exceeding \$4,000.

Pursuant to M.G.L. c. 152, § 34, while incapacity is total, during each week of incapacity the insurer shall pay the injured employee compensation equal to 60 percent of his or her average weekly wage before the injury, subject to defined limits. The total number of weeks of compensation due the employee shall not exceed 156 weeks. Pursuant to M.G.L. c. 152, § 34A, when the injury is both permanent and total, the insurer shall pay to the injured employee, following payment of compensation provided in M.G.L. c. 152, §§ 34 and 35, a weekly compensation equal to two-thirds of the average weekly wage before the injury, subject to defined limits.

Pursuant to M.G.L. c. 152, § 35, when injury is partial, during each week of incapacity the insurer shall pay the injured employee a weekly compensation equal to 60 percent of the difference between the average weekly wage before the injury, and the weekly wage he or she is capable of earning after the injury, but not more than 75 percent of what the employee would receive if eligible for total incapacity benefits. An insurer may reduce the amount paid to an employee to the amount at which the employee's combined weekly earnings and benefits are equal to two times the average weekly wage in the Commonwealth at the time of such reduction.

Pursuant to M.G.L. c. 152, § 36, additional sums are designated for specific injuries, provided that the employee has not died from any cause within 30 days of such injury. M.G.L. c. 152, § 36A states that where any loss is a result of an injury involving brain damage, a lump sum payment resulting from brain damage shall not exceed an amount equal to the average weekly wage in the Commonwealth at the date of injury multiplied by 105. Payments shall not be made where death occurs within 45 days of the injury.

Pursuant to M.G.L. c. 152, § 50, if payments are not made within 60 days of being claimed by an employee, dependent or other party, interest at the rate of 10% per annum of all sums due from the date of the receipt of the notice of the claim by the DIA, to the date of payment, shall be required. Whenever such sums include weekly payments, interest shall be computed on each unpaid weekly payment.

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 15

commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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. RNA ascertained whether the claim tested had a written request for disclosure of the insured's liability policy limits. When required, the Company responded to the request within 30 days pursuant to M.G.L. c. 175, § 112C. RNA also ascertained whether the paid claims were subject to the intercept procedures complying with M.G.L. c. 175, §§ 24D, 24E, and 24F. When required, the Company properly verified that the claim recipient was not subject to the intercept requirements 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 those repair shops which 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, according to the requirements of 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.

<b>Standard VII-7. The company uses the reservation of rights and excess of loss letters, when appropriate.</b>
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Objective: This Standard addresses the Company's use of reservation of rights letters, and its procedures for notifying an insured when the amount of loss exceeds 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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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. RNA 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 its claim handling processes, and obtained documentation supporting such processes. RNA selected 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation claims processed during the examination period, and reviewed the 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 timely and accurate. Based upon the results of testing, it appears that the Company's processes for making subrogation recoveries for 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.**

**M.G.L. c. 152, § 7.**

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



M.G.L. c. 152, § 7 requires the use of specific Department-developed forms for workers' compensation claims.

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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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.

<b>Standard VII-10. Claim files are reserved in accordance with the company's established procedures.</b>
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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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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 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).**

**Workers' Compensation: M.G.L. c. 152, § 8, 29, 34, 34A, 35, 36A.**

*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 claim 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 claim settlement practice.

Workers' Compensation Claims:

M.G.L. c. 152, § 8 allows an insurer may terminate or modify payments at any time within 180 days of commencement of disability without penalty, if such change is based on the actual income of the employee, or if it gives the employee and the Department at least seven days written notice of its intent to stop or modify payments and to contest any claim filed. The notice shall specify the grounds and factual basis for stopping or modifying payment of benefits, and the insurer's intention to contest.

Pursuant to M.G.L. c. 152, § 29, no compensation shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of five or more calendar days. If incapacity extends for a period of 21 days or more, compensation shall be paid from the date of onset of incapacity. If incapacity extends for a period of at least five but less than 21 days, compensation shall be paid from the sixth day of incapacity. Generally, no compensation shall be paid for any period for which any wages were earned.

Pursuant to M.G.L. c. 152, § 34, while incapacity is total, during each week of incapacity the insurer shall pay the injured employee compensation equal to 60 percent of his or her average weekly wage before the injury, but not more than the maximum weekly compensation rate, unless the average weekly wage of the employee is less than the minimum weekly compensation rate, in which case said weekly compensation shall be equal to his average weekly wage. The total number of weeks of compensation due the employee shall not exceed 156 weeks. M.G.L. c. 152, § 34A, when the injury is both permanent and total, the insurer shall pay to the injured employee, following payment of compensation provided in §§ 34 and 35, a weekly compensation equal to two-thirds of the average weekly wage before the injury, but not more than the maximum weekly compensation rate nor less than the minimum weekly compensation rate.

Pursuant to M.G.L. c. 152, § 35, when injury is partial, during each week of incapacity the insurer shall pay the injured employee a weekly compensation equal to 60 percent of the difference between the average weekly wage before the injury and the weekly wage he or she is capable of earning after the injury, but not more than 75 percent of what the employee would receive if eligible for total incapacity benefits. An insurer may reduce the amount paid to an employee to

the amount at which the employee's combined weekly earnings and benefits are equal to two times the average weekly wage in the Commonwealth at the time of such reduction.

M.G.L. c. 152, § 36A states that where any loss is a result of an injury involving brain damage, a lump sum payment resulting from brain damage shall not exceed an amount equal to the average weekly wage in the Commonwealth at the date of injury, multiplied by 105. Payments shall not be made where death occurs within 45 days of the injury.

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 three commercial automobile, four commercial multi-peril, and two workers compensation claims that were denied or closed without payment during the examination period, and reviewed the claim correspondence and investigative reports to note 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 and closed without payment claims tested appeared complete, including correspondence and other documentation. Further, the Company's conclusions appeared reasonable. Based upon the results of testing, it appears that the Company's processes do not unreasonably deny claims or delay payment of claims.

Recommendations: None.

<b>Standard VII-12. Cancelled benefit checks and drafts reflect appropriate claim handling practices.</b>
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Objective: The Standard addresses the Company's procedures for issuing claim checks.

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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation claims processed during the examination period for review, and noted whether claims payment practices were appropriate.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that each selected claim 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) institute 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 institute 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 15 commercial automobile, 15 commercial multi-peril, and 10 workers compensation 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. RNA noted that several of the claims tested involved litigation in a bodily injury or collision claim. 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: The documentation of the selected claims involving litigation appeared complete, including correspondence and other documentation. Further, the Company's

conclusions 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 and 211 CMR 115.00.**

*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 and the rating system on file with the Commissioner, who may designate a rating agency or agencies to assist 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 commercial multi-peril insurance and related coverages, in accordance with M.G.L. c. 175A, § 15(a). 211 CMR 115.00 requires insurers to report workers' compensation losses and expenses for statistical purposes.

*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.
- The Company reports commercial automobile loss data to CAR in a format required by CAR. Participation in CAR is mandatory for all insurers writing commercial automobile insurance in Massachusetts.
- The Company also reports loss data to the Automobile Insurers Bureau of Massachusetts ("AIB"), a rating bureau that represents the insurance industry in rate hearings before the Commissioner of Insurance.
- The Company reports commercial multi-peril property/liability loss data to ISO in a format required by ISO.
- The Company reports workers' compensation loss data to the WCRIB in the format required by the WCRIB.
- Detailed claim data is reported quarterly to CAR, AIB and ISO, and monthly to the WCRIB. The claim data includes loss experience by line of business, type of loss, dollar amount, 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 the most recent detailed reports from CAR and ISO showing the Company's loss data in summary format. RNA compared the CAR and ISO reports for reasonableness against the Company's statistical data. RNA also 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. Finally, RNA reviewed the WCRIB's most recently completed triennial review of the Company's compliance with the statistical plan.

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.

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## 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 related to company operations/management, complaint handling, marketing and sales, producer licensing and underwriting and rating.

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## 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.

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