



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

DIVISION OF INSURANCE

*Report on the Comprehensive Market Conduct Examination of*

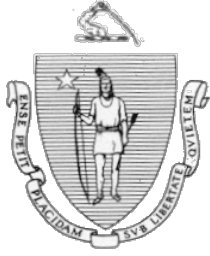
***Bay State Insurance Company***  
*Andover, Massachusetts*

*For the Period January 1, 2009 through December 31, 2009*

NAIC COMPANY CODE: 19763  
EMPLOYERS ID NUMBER: 04-2200004

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**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

1000 Washington Street, Suite 810 • Boston, MA 02118-6200  
(617) 521-7794 • <http://www.mass.gov/doi>

**DEVAL L. PATRICK**  
GOVERNOR

**GREGORY BIALECKI**  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR

**BARBARA ANTHONY**  
UNDERSECRETARY OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION

**JOSEPH G. MURPHY**  
COMMISSIONER OF INSURANCE

August 12, 2010

The Honorable Joseph G. Murphy  
Commissioner of Insurance  
The Commonwealth of Massachusetts  
Division of Insurance  
1000 Washington Street, Suite 810  
Boston, Massachusetts 02118-6200

Dear Commissioner Murphy:

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

**BAY STATE INSURANCE COMPANY**

at their home office located at:

95 Old River Road Andover, Massachusetts 01810.

The following report thereon is respectfully submitted.

## SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (the “Division”) conducted a comprehensive market conduct examination of Bay State Insurance Company (hereinafter “Bay State” or “Company”) for the period January 1, 2009 through December 31, 2009. The examination was called pursuant to authority in Massachusetts General Laws Chapter 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 INS Regulatory Insurance Services, Inc. (“INS”) 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 *2009 NAIC Market Regulation Handbook* (“Handbook”), the market conduct examination standards of the Division, the Commonwealth of Massachusetts insurance laws, regulations 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. The following describes the procedures performed and the findings for the workplan steps thereon.

The basic business area reviewed under this examination was:

### I. Company Operations/Management

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, regulations and bulletins 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 15, Section A of the Handbook.

The Company’s information systems and personnel are shared with Merrimack Mutual Fire Insurance Company (“Merrimack”) and Cambridge Mutual Fire Insurance Company (“Cambridge”) through an inter-company pooling arrangement. Testing of the control environment was conducted on the overall operating environment, while maintaining an understanding of each company within the organization.

## **EXECUTIVE SUMMARY**

This summary of the comprehensive market conduct examination 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 conclusions, recommendations and 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 is also 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 actions taken shall be provided to the Division.

The following is a summary of all substantive issues found, along with related recommendations and required actions and, if applicable, subsequent Company actions made, as part of the limited scope market conduct examination of the Company. All Massachusetts insurance 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).

This comprehensive market conduct examination reviewed and tested only the company operations and management area, since the company does not underwrite in the Commonwealth of Massachusetts. There were no recommendations with regard to Company Operations and Management, as examination results showed that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in these sections.

## **COMPANY BACKGROUND**

The Andover Group (“Group”) is comprised of three property and casualty companies connected through an inter-company pooling arrangement. Merrimack, the founding company, began operations in 1828. Cambridge was incorporated in 1833, and was acquired by Merrimack in 1913.

Bay State was added in 1955, and is organized as a stock company. All three entities within the Group specialize in providing homeowners, fire and commercial multiple peril lines. The majority of business is written in the Northeast region. Major direct written premium percentages by state during 2009 include: Massachusetts – 31.1%, New York – 23.7%, Illinois – 13.2%, New Hampshire – 10.7%, Maine – 7.6%, Connecticut – 7.4% and two other jurisdictions – 6.4%. The Group is ranked as the second largest writer of homeowners’ coverage and the sixth largest writer of dwelling fire coverage in Massachusetts, according to its 2009 New England Territory Profile.

The companies share in premiums, losses and expenses, which are distributed among the member companies based on the following percentages: Merrimack – 50%, Cambridge – 35% and Bay State – 15%. For ease of operations, a majority of the Group’s third party transactions are handled through Merrimack. Ultimately, the other two companies receive their share of business through the pooling agreement.

The Group primarily writes homeowners’ and commercial multiple peril lines, and has more than 300 licensed local independent producers who distribute the various products throughout the Northeast region. The Group utilizes a standardized producer contract with automatic renewal to establish the business relationship with producers, so that the arrangement is perpetual until cancelled by one of the parties. The Company is rated A+ (Superior) by AM Best Company and ratings were stable over the examination period. The rating applies to the consolidated financial position of the three members of the Andover intercompany pool.

The key objectives of this examination were determined by the Division utilizing the Handbook. The remainder of this report outlines the testing and results by each major risk area defined by the Handbook.

## **I. COMPANY OPERATIONS/MANAGEMENT**

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

### **Standard I-1. The regulated entity has an up-to-date, valid internal, or external, audit program.**

*Objective:* This Standard is concerned with whether the Company has 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 stated that it had no internal audit function, but is audited annually by an independent accounting firm.
- Formal procedure records are kept for the major areas of the company, and are updated on an annual basis.
- The Company uses a job rotation system within the accounting department to mitigate fraud.
- The Company responds to external audit recommendations to correct, modify and implement 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:* Due to the nature of this Standard, no transaction testing was performed.

*Transaction Testing Results:*

*Findings:*

*Observations:* None.

*Recommendations:* None.

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

INS reviewed work performed by the Division's financial examination team and found adequate coverage. All required activity for this Standard is included in the scope of the statutory financial examination of the Company.

**Standard I-3. The regulated entity has antifraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.**

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

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

- The Company has a written antifraud plan.
- Company claims and underwriting personnel, on average, have over 10 years of industry experience.
- Potentially fraudulent claims are brought to the attention of the Claims Examiner, and then referred to outside experts if the Claims Examiner determines further investigation is necessary.
- The Underwriting Department ensures the accuracy of applications through physical inspections of property, random field examinations, credit checks and information from outside sources.

*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:* INS interviewed Company personnel with responsibility for fraud reporting, and reviewed the Company's anti-fraud procedures.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* None.

*Recommendations:* None.

**Standard I-4. The regulated entity has a valid disaster recovery plan.**

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

**Standard I-5. Contracts between the regulated entity and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to , MGAs, GAs, TPAs, and management agreements must comply with applicable licensing requirements, statutes, rules and regulations.**

*Objective:* This standard addresses the Company's contracts with entities assuming a business function and compliance with licensing and regulatory requirements.



Controls Assessment: The following controls were noted in review of this Standard and Standard I-6:

- The Company uses Gab Robbins, a third party contractor, to accept intake of emergency initial claim reports. These contracts designate responsibilities and duties, restrictions, general confidentiality and privacy requirements for all customer contacts.
- The Company uses independent producers to sell the Company's products. The independent contracts describe the duties of the parties, licensing and appointment requirements, limitations of authority, compensation, terminations and reappointments.

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: INS interviewed management about its use of third parties to perform Company functions, and reviewed a standard producer contract and addendums.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, it appears that the Company's contracts with entities assuming a business function on their behalf comply with statutory and regulatory requirements.

Recommendations: None.

<b>Standard I-6. The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.</b>
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Objective: This Standard addresses the Company's efforts to adequately monitor the activities of the contracted entities that perform business functions on its behalf.

Controls Assessment: See Standard I-5.

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: INS interviewed management about its monitoring of the contractors that perform Company functions, and reviewed copies of related contracts with the third party

Findings: None.

Observations: Through review of the contract language, the Company appears to adequately monitor the business functions of these entities.

Recommendations: None.

<b><u>Standard I-7. Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.</u></b>
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*Objective:* This Standard is concerned with the organization, legibility and structure of files, as well as with determining if the Company is in compliance with its record retention requirements.

The objective of this Standard was included for review in each Standard where such policy or procedure for the retention of records exists or should exist.

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

- Company policy requires that its producers keep complete records and accounts of all insurance transactions.
- The Company's standard producer contract requires that insurance records and accounts be kept current and identifiable.
- The Company's standard producer contract also maintains the Company's right to examine producers' accounts and records of all insurance transactions for as long as the Company deems reasonable, including a reasonable time after the termination of a producer contract.

*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:* INS performed various procedures throughout this examination which related to review of documentation and record retention.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* The Company's record retention policies appear reasonable. Testing results relating to documentation evidence are also noted in the various examination standards.

*Recommendations:* None.

<b><u>Standard I-8. The regulated entity is licensed for the lines of business that are being written.</u></b>
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<b>M.G.L. c. 175, §§ 32 and 47.</b>
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*Objective:* This Standard is concerned with whether the Company is operating within the requirements of its Certificate of Authority.

According to M.G.L. c. 175, § 32, a company must first obtain a certificate of authority from the commissioner before any contracts or policies may be issued. A company may issue policies and contracts for lines of business allowed by M.G.L. c. 175, § 47.

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

- The Company operates within the lines of business approved under its existing Certificate of Authority.

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: INS traced each line of business written in Massachusetts, as listed on the annual statement, to the Certificate of Authority obtained from the Division.

Transaction Testing Results:

Findings: None.

Observations: The Company operates within the lines of business approved under its existing Certificate of Authority.

Recommendations: None.

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

**M.G.L. c. 175, § 4.**

Objective: This Standard is concerned with the Company's cooperation during the course of the exam.

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 excellent.

Recommendations: None.

**Standard I-10. The regulated entity 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; 16 Code of Federal Regulations (“CFR”) Part 313.**

Objective: This Standard is concerned with the Company’s policies and procedures for minimizing 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 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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

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

- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered.
- Annual disclosure notices are also provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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: INS interviewed Company personnel with responsibility for policyholder services, and reviewed privacy notices and other documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company’s privacy notice and discussion with Company personnel, it appears that the Company’s privacy policy minimizes any improper intrusion into the privacy of applicants and policyholders, and is disclosed to policyholders in accordance with their policies and procedures.

Recommendations: None.

**Standard I-11. The regulated entity had developed and implemented written policies, standards and procedures for the management of insurance information.**

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

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

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

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

*Objective:* This Standard is concerned with the Company's policies and procedures to ensure it maintains 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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule, 16 CFR Part 313, regarding privacy requirements of nonpublic personal information.
- Company policy allows for the sharing of policyholder and personal information with affiliates. The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices are also provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

*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:* INS interviewed Company personnel with responsibility for policyholder services, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company's privacy policy minimizes any improper intrusion into the privacy of policyholders, former policyholders and consumers that are not policyholders, and is disclosed to policyholders in accordance with Company policies and procedures.

Recommendations: None.

**Standard I-13. The regulated entity 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; 16 CFR Part 313.**

Objective: This Standard is concerned with 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 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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule, 16 CFR Part 313, regarding privacy requirements of nonpublic personal information.
- Company policy allows for the sharing of policyholder and personal information with affiliates.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices are also provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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: INS interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company provides privacy notices to customers in accordance with their policies and procedures and applicable laws.

Recommendations: None

**Standard I-14. If the regulated entity discloses information subject to an opt-out right, the regulated entity 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 regulated entity provides opt out notices to its customers and other affected consumers.**

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

Objective: This Standard is concerned with the Company's policies and procedures with regard to opt-out rights.

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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule, 16 CFR Part 313, regarding privacy requirements of nonpublic personal information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices are also provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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: INS interviewed Company personnel with responsibility for policyholder services, and reviewed documentation supporting its privacy policies and procedures, including opt-out requirements.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company provides consumer information to business partners or other third parties only to help provide essential services to the consumer, and therefore is not required to provide an opt-out option.

Recommendations: None.

**Standard I-15. The regulated entity'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; 16 CFR Part 313.**

Objective: This Standard is concerned with ensuring the Company's policies and procedures regarding collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes.

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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

Controls Assessment: Refer to Standard I-14.

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: INS interviewed Company personnel with responsibility for policyholder services, and reviewed the Company's privacy notice. The Division's financial examination team will also conduct a review of the Company's privacy policies.

Transaction Testing Results:

Findings: None.



Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company's policies and procedures are adequate to protect nonpublic personal financial information.

Recommendations: None.

**Standard I-16. In states promulgating the health information provision of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the Department of Insurance, the regulated entity 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.**

**Health Insurance Portability & Accountability Act of 1996 (HIPAA); Public Law 104-191; 45 CFR Parts 160 and 164.**

Objective: This Standard addresses the Company's policies and procedures to maintain the privacy of nonpublic personal health information.

The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and 45 CFR Parts 160 and 164 set proper procedure for inquiry, release, disclosure and maintenance of nonpublic personal health information.

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

- The Company stated that it does not sell any personal consumer information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices are also provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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: INS interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company's policies and procedures are adequate to protect nonpublic personal health information.

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; 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 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 consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt out of such discussion.

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule, 16 CFR Part 313, regarding privacy requirements of nonpublic personal information.
- The Company has written policies and procedures in place for the security of nonpublic policyholder and consumer information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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: INS interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. Review of information technology access and authorization controls is also included in the scope of the Division's statutory financial examination of the Company.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

## **SUMMARY**

Based upon the procedures performed in this limited scope examination, INS has reviewed and tested Company operations/management as set forth in the 2009 *NAIC Market Regulation Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. Other areas normally included in a comprehensive market conduct examination, including Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, Underwriting and Rating, and Claims were not required of this examination, since the Company does not underwrite any business in the Commonwealth of Massachusetts. There were no recommendations with regard to Company Operations and Management, as examination results showed that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in this section.

## ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with INS Regulatory Insurance Services, Inc., 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 Regulation 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, Dorothy K. Raymond, of the Division’s Market Conduct Section, participated in the examination and in the preparation of this 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