



**THE COMMONWEALTH OF MASSACHUSETTS**  
**OFFICE OF CONSUMER AFFAIRS AND BUSINESS**  
**REGULATION**

**Division of Insurance**

*Report on the Comprehensive Market Conduct Examination of*

*Commerce Insurance Company*

*Webster, Massachusetts*

*For the Period January 1, 2003 through June 30, 2004*

**NAIC COMPANY CODE: 34754**

**NAIC GROUP CODE: 0816**

**EMPLOYER'S ID NUMBER: 04-2495247**



**COMMONWEALTH OF MASSACHUSETTS**  
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**DIVISION OF INSURANCE**

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JULIANNE M. BOWLER  
COMMISSIONER OF INSURANCE

June 28, 2005

Honorable Julianne M. Bowler  
Secretary, Northeastern Zone, NAIC  
Commissioner of Insurance  
Division of Insurance  
Commonwealth of Massachusetts  
One South Station  
Boston, Massachusetts 02110-2208

Dear Commissioner Bowler:

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

**COMMERCE INSURANCE COMPANY**

at its home office located at:

211 Main Street  
Webster, MA 01570

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 Commerce Insurance Company (“the Company”) for the period January 1, 2003 to June 30, 2004. 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, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. 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 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 Services
- 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, 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 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 report 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.state.ma.us/doi](http://www.state.ma.us/doi).

### I. COMPANY OPERATION/MANAGEMENT

#### **STANDARD I-3 (PAGE 10)**

Findings: None.

Observations: RNA reviewed the work of the SIU as part of various claims standards throughout the examination. RNA also confirmed that companywide employee hiring requirements include attestation to no felony convictions, or if he or she has, that he or she has received approval by the Division to engage in the business of insurance. RNA also confirmed that criminal background checks are conducted for certain limited positions when new employees are hired. Based upon our review of the Company’s policies and procedures, it appears that the Company generally has antifraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts, although criminal background checks for all new employees are not conducted.

Recommendation: RNA recommends that the Company conduct criminal background checks for all current and prospective employees.

## II. COMPLAINT HANDLING

### **STANDARD II-1 (PAGE 19)**

*Findings:* None.

*Observations:* For the 24 complaints tested, RNA noted that the Company appears to maintain complaint handling procedures and a complete listing of complaints in accordance with M.G.L. c. 176D, § 3(10). The Company's complaint log does not include whether each complaint was justified or unjustified.

*Recommendation:* The Company should begin compiling the final disposition for each filed complaint, particularly whether each complaint was justified or unjustified and include such information as part of their complaint log.

### **STANDARD II-2 (PAGE 20)**

*Findings:* None.

*Observations:* The Company appears to have adequate complaint procedures in place and communicates such procedures to policyholders. Complaint activity and information is regularly distributed to members of the Company's Executive Committee. Management has stated the Executive Committee discusses complaint matters at the Committee level on an as needed basis.

*Recommendation:* The Company should consider enhancing its documentation of periodic discussions of complaint matters by the Executive Committee. Possible items for such documentation could include, but not be limited to, common complaints made, the results of complaint investigations and subsequent actions taken, if any, to address specific concerns including process enhancements directly related to such concerns.

## VI. UNDERWRITING AND RATING

### **STANDARD VI-15 (PAGE 49)**

*Findings:* None.

*Observations:* Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, it appears that policy files adequately supported decisions made. Four applications for new business were not signed by the applicant including two commercial property/liability applications, one homeowners application and one private passenger auto application.

*Recommendation:* Company underwriting personnel should ensure that applications submitted by producers for new business are signed by the applicant.

## VII. CLAIMS

### STANDARD VII-3 (PAGE 65)

Findings: None.

Observations: For all of the closed claims selected for testing except for one claim, RNA noted the claims were handled and adjudicated according to the Company's policies and procedures and resolved in a timely manner. Of the claims tested, 14 were property damage claims and paid within sixty days of receipt of a proof of loss as required by M.G.L. c. 175, § 191A. RNA verified the Company's direct payment complies with 211 CMR 123.00. One subrogation claim was not paid timely as it was not paid until approximately eight months after the subrogation request was made. Generally, based upon the results of our testing, it appears that the Company's processes to resolve claims timely are functioning in accordance with their policies and procedures, as well as statutory and regulatory requirements.

Recommendation: The Company should ensure that through its monitoring procedures of the aging of subrogation payables, all subrogation claim payments are made timely.

FOR INFORMATION PURPOSES ONLY

## COMPANY BACKGROUND

The Company is headquartered in Webster, Massachusetts and is a subsidiary of The Commerce Group, Inc. a publicly traded stock company. The Company offers private passenger auto, commercial auto, homeowners and commercial property/liability insurance in Massachusetts and New Hampshire. The Company's statutory surplus as of December 31, 2003 is \$855.4 million with statutory admitted assets of \$2.3 billion. For 2003, premium earned was \$1.22 billion, and net income was \$116.4 million.

The Company has a stable distribution channel with approximately 660 Massachusetts producers including 500 independent agents and 160 Exclusive Representative Producers ("ERP") assigned to them by Commonwealth Automobile Reinsurers ("CAR"). The independent agents produce private passenger auto, commercial auto, homeowners and commercial property/liability business. The business produced by ERPs is auto business produced in accordance with CAR rules. These ERPs write exclusively for the Company and can not be terminated.

The examination was conducted concurrently with examination of Company affiliate, Citation Insurance Company, as management, systems, processes and controls are common to operations of both of these affiliated companies.

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

The commercial auto market includes the involuntary and voluntary markets. The involuntary commercial auto market is similar to the private passenger auto 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.

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>
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*Objective:* This Standard is concerned with 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 ultimate parent is a publicly traded entity. Both the Company and its parent are audited annually by an independent accounting firm.
- The parent company's Corporate Compliance Committee of the Audit Committee was established over three years ago to address Securities and Exchange Commission and Sarbanes-Oxley requirements.
- The Company's internal audit function conducts periodic audits for compliance with Company policies and procedures including key internal controls.
- The Company responds to internal and external audit recommendations to correct, modify and implement procedures.
- The Company's claim's function has a Claims Quality Evaluation ("CQE") department which periodically conducts extensive audit procedures on various claim functions.
- The Company conducts periodic audits of producer operations to ensure that statutory and regulatory guidelines for auto policies are properly implemented.
- The Company has adopted audit procedures to screen and check data submitted to the Company's statistical agent, CAR. Participation in CAR is mandatory for all insurers writing private passenger auto insurance in Massachusetts.

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

*Transaction Testing Procedure:* RNA reviewed various internal audit reports, CQE department workpapers and the audits of producer operations as part of various standards throughout the examination.

*Transaction Testing Results:* The internal audit reports reviewed by RNA appeared to provide detailed information on the procedures performed, audit findings and recommendations for improvement. The results of our review of CQE department workpapers and the audits of producer operations are included in the various standards throughout the examination.

*Recommendations:* None.

\* \* \* \* \*

**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 antifraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts. 18 U.S.C. § 1033; Division of Insurance Bulletins 98-11 and 2001-14.**

*Objective:* This Standard is concerned with 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 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 98-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and 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 has a written plan to address fraud throughout the organization.
- As part of the claims department, the Company has a Special Investigative Unit (“SIU”) which includes 43 staff dedicated to the prevention and handling of fraudulent activities.
- The SIU function does not make a distinction between claims in which the insured’s policy is ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- The Company’s SIU function has extensive written policies, guidelines and procedures to address claim fraud prevention. All auto theft claims are handled by the SIU.
- The Company adheres to SIU standards established by CAR. Participation in CAR is mandatory for all insurers writing private passenger auto insurance in Massachusetts.
- Potential fraud activity is tracked by the SIU and investigated with the assistance of other departments as necessary. Such activity is reported to the regulators as necessary.
- To address claims, employee and management fraud, the Company’s parent has instituted a whistleblower hotline where any person can call and report a potential illegal act or fraud. If and when such reports are made, they are handled directly by the parent company’s Corporate Compliance Committee.
- The Company’s policy is to seek approval of the Division regarding the hiring of any “prohibited person” as noted above in instances where the Company wishes to employ such a person.

- The Company generally does not complete criminal background checks for new employees unless the potential hire will work in the Company's child care center or unless the position for which the applicant is applying requires such an investigation. Criminal background checks for three information security and one investment positions have been also conducted by the Company. However, every new employee must attest on his or her employment application that he or she has not been convicted of a felony, or if he or she has, that he or she has received approval by the Division to engage in the business of insurance.

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 work of the SIU as part of various claims standards throughout the examination.

Transaction Testing Results:

Findings: None.

Observations: RNA reviewed the work of the SIU as part of various claims standards throughout the examination. RNA also confirmed that companywide employee hiring requirements include attestation to no felony convictions, or if he or she has, that he or she has received approval by the Division to engage in the business of insurance. RNA also confirmed that criminal background checks are conducted for certain limited positions when new employees are hired. Based upon our review of the Company's policies and procedures, it appears that the Company generally has antifraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts, although criminal background checks for all new employees are not conducted.

Recommendation: RNA recommends that the Company conduct criminal background checks for all current and prospective employees.

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**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 is concerned with the organization, legibility and structure of files, as well as determining if the Company is in compliance with record retention requirements.

*Controls Assessment:* The parent company's Corporate Compliance Committee has established the Company's record retention policy and adopted an extensive Record Retention Manual. The Manual is quite detailed by company function and by document as to the length of time each document is to be retained. The Manual also discusses 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 performed various procedures throughout this examination which related to review of documentation and record retention.

*Transaction Testing Results:* The Company's home office record retention policies are described for each Standard, as applicable.

*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 is concerned with whether the lines being written by a Company are in accordance with the authorized lines of business. Pursuant to M.G.L. c. 175, § 32, domestic insurers must obtain a certificate authorizing it to issue policies or contracts. 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 Certificate of Authority for the Company and compared it to the lines of business which the Company writes in the Commonwealth.

*Transaction Testing Results:*

*Findings:* None.

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

Recommendations: None.

\* \* \* \* \*

**Standard I-9. The company cooperates on a timely basis with examiners performing the examinations. M.G.L. c. 175, § 4.**

Objective: This Standard is concerned with 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, Section 504(a) and 16 CFR Part 313.**

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

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, Section 504(a) and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- Company policy allows for the sharing customer and personal information with affiliates and non-affiliates who provide services to the Company.
- 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 to its customers.

- The Company does not sell or share information with anyone for marketing purposes. As such, policyholders have no “opt out” rights.
- Company policy requires a home office approved consumer privacy notice be provided to applicants when the application is taken and coverage is bound.
- The consumer privacy notice is also included with policy declaration pages when new and renewal policies are delivered.
- The Company stated that they have 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: RNA interviewed Company personnel with responsibility for privacy compliance and reviewed documentation supporting privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of the Company’s privacy practices, 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.**

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

\* \* \* \* \*

**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, Section 504(a) and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company’s policies and procedures to ensure it protects privacy of non-public personal information.

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, Section 504(a) and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.

- Company policy allows for the sharing customer and personal information with affiliates and non-affiliates who provide services to the Company.
- 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 to its customers.
- The Company does not sell or share information with anyone for marketing purposes. As such, policyholders have no “opt out” rights.

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 privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of the Company’s policies and procedures, it appears that such policies and procedures appear to adequately protect consumer non-public personal information.

Recommendations: None.

\* \* \* \* \*

<p><b>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, Section 504(a) and 16 CFR Part 313.</b></p>
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Objective: This Standard is concerned with the Company’s practice of providing privacy notices to customers and consumers.

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, Section 504(a) and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- Company policy requires a home office approved consumer privacy notice be provided to applicants when the application is taken and coverage is bound.
- The consumer privacy notice is also included with policy declaration pages when new and renewal policies are delivered.

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, reviewed documentation supporting privacy policies and procedures and reviewed the notice for sufficiency.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of the Company's privacy notice and a review of Company practices, it appears that the Company's provides a sufficient privacy notice to applicants and to policyholders regarding 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, Section 504(a) 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, Section 504(a) and 16 CFR Part 313.**

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

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, Section 504(a) and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- Company policy allows for the sharing customer and personal information with affiliates and non-affiliates who provide services to the Company.
- 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 to its customers.
- The Company does not sell or share information with anyone for marketing purposes. As such, policyholders have no "opt out" rights.
- Company policy requires a home office approved consumer privacy notice be provided to policyholders when the application is taken and coverage is bound.



- The consumer privacy notice is also included with policy declaration pages when new and renewal policies are delivered.

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 privacy policies and procedures.

Transaction Testing Results:

Findings: None.

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

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

- Company policy is to disclose nonpublic personal health information obtained in relation to claims 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 to its customers.
- The Company's procedures to protect the privacy of nonpublic personal health information are the same as those that apply to nonpublic personal financial 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: RNA interviewed Company personnel with responsibility for privacy compliance and reviewed documentation supporting privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of the Company's policies and procedures, it appears that such policies and procedures provide reasonable assurance regarding 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, Section 504(a) and 16 CFR Part 313.**

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

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, Section 504(a) and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- The Company has conducted an information systems risk assessment to consider, document and review information security threats and controls.
- The Company has adopted a written information systems security and controls policy.
- The Company stated that they have 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: RNA interviewed Company personnel with responsibility for privacy compliance and reviewed documentation supporting privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: Based upon our 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 information systems protect nonpublic personal 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 received. 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 it took to process each complaint.

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

- Written policies and procedures govern the complaint handling process.
- All complaints are recorded in a consistent format in the complaint log.
- The Company's definition of complaint is similar to the statutory requirement.
- The complaint handling process appears to function in accordance with written policies and procedures.
- Company personnel regularly review the complaint log to ensure compliance with statutory requirements.
- The Company does not classify each complaint as "justified" or "unjustified".
- The Company policy is to fully respond to Division complaints within 10 business days and document their findings in accordance with Massachusetts Law and contract language.

The Massachusetts complaint data for 2003 and the first six months of 2004 is as follows:

Massachusetts Complaints	Total
Claims	266
Underwriting and Rating	53
<b>Total</b>	<b>319</b>

*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 24 Massachusetts complaint files from January 1, 2003 to June 30, 2004 to evaluate compliance with M.G.L. c. 176D, § 3(10). For the complaints, RNA reviewed the complaint files noting the response date and the documentation supporting the

resolution of the complaint. Also, RNA 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: For the 24 complaints tested, RNA noted that the Company appears to maintain proper complaint handling procedures and a complete listing of complaints in accordance with M.G.L. c. 176D, § 3(10). The Company's complaint log does not include whether each complaint was justified or unjustified.

Recommendations: The Company should begin compiling the final disposition for each filed complaint, particularly whether each complaint was justified or unjustified and include such information as part of their complaint log.

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<b>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).</b>
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Objective: This Standard addresses whether (a) the Company has documented procedures for complaint handling as required by M.G.L. c. 176D, § 3(10), (b) the procedures in place are sufficient to require satisfactory handling of complaints received as well as conducting root cause analyses in areas developing complaints, (c) there is a method for distribution of and obtaining and recording response 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: 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 24 Massachusetts complaint files from January 1, 2003 to June 30, 2004 to evaluate this Standard. Also, RNA interviewed management and staff responsible for complaint handling and examined evidence of the Company's processes and controls. In addition, to determine whether or not the Company provides contact information for consumer inquiries, a sample of forms and billing notices sent to policyholders were reviewed for compliance.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have adequate complaint procedures in place and communicates such procedures to policyholders. Complaint activity and information is regularly distributed to members of the Company's Executive Committee. Management

has stated the Executive Committee discusses complaint matters at the Committee level on an as needed basis.

Recommendations: The Company should consider enhancing its documentation of periodic discussions of complaint matters by the Executive Committee. Possible items for such documentation could include, but not be limited to, common complaints made, the results of complaint investigations and subsequent actions taken, if any, to address specific concerns including process enhancements directly related to such concerns.

\* \* \* \* \*

**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, whether the response is properly documented, whether the response included appropriate remedies and whether the response with statutes, regulations and contract language.

Controls Assessment: Refer to Standard II-1.

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 24 Massachusetts complaint files from January 1, 2003 to June 30, 2004 to evaluate this Standard.

Transaction Testing Results:

Findings: None.

Observations: For the 24 complaints tested, documentation appeared to be complete including correspondence, original documentation and the Company's complaint summary. In addition, policyholders with similar fact patterns appeared to be treated consistently and reasonably. The responses appeared to fully address the issues raised, identified proper remedies and appeared to be in compliance with Massachusetts Law and contract language.

Recommendations: None.

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**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 is concerned with 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 allowing 14 calendar days from the date that

the notice of complaint is sent to the insurer by the Division for the insurer to respond to the Division. For complaints received by the Company directly, the Company policy is to diligently respond to the complaint as soon as possible.

Controls Assessment: Refer to Standard II-1.

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 24 Massachusetts complaint files from January 1, 2003 to June 30, 2004 to evaluate timely response.

Transaction Testing Results:

Findings: None.

Observations: For the 24 complaints tested, resolution appeared to be reasonably timely and within the 14 calendar day period directed by the Division.

Recommendations: None.

\* \* \* \* \*

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 is concerned with 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 are targeted to consumers. Many focus on the Company's CaresVan roadside emergency services provided in conjunction with American Automobile Association affiliated agencies.
- All advertising and sales materials produced by the Company are reviewed by management for approval and compliance with statutory and regulatory requirements prior to use.
- The Company's policy is to disclose the Company's name and address on its website.

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

Transaction Testing Procedure: RNA reviewed all 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 consistency with statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: The results of our 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.

Recommendations: None.

\* \* \* \* \*



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

Objective: This Standard is concerned with 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:

- The Company has distributed general information focusing on company policies, practices and procedures including those relating to underwriting and rating, policyholder service, and claims. The Company's producers also have access to electronic policy and procedures manuals.
- Updated electronic training manuals are provided to producers throughout the year noting changes in policies, practices 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 reviewed general information and electronic manuals provided to producers for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

Observations: The Company's general information and electronic manuals provided to producers appear to be accurate and reasonable.

Recommendations: None.

\* \* \* \* \*

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

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

Controls Assessment: The following controls were noted as part of this Standard:

- The Company has distributed general information focusing on company policies, practices and procedures including those relating to underwriting and rating, policyholder service, and claims. The Company's producers also have access to electronic training manuals.
- Updated electronic training manuals are provided to producers throughout the year noting changes in policies, practices 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 reviewed the Company's communications to producers for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

\* \* \* \* \*

<b>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</b>
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Objective: This Standard is concerned with whether the Company's mass marketing efforts are in compliance with applicable statutes, rules and regulations. Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise.

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

- Written underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company provides a premium discount of 3-10% to members of various affinity groups. The Company is required to provide the same discount to each member of the affinity group.
- Premium discounts available to affinity groups are filed with and approved by the Division.

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 marketing and underwriting processes. RNA selected 85 new and renewal private passenger auto policies for the period January 1, 2003 through June 30, 2004 for testing of premium discounts to affinity group members. For each of the policies, RNA verified that the affinity group discount was properly applied and that the group discount was approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 85 new and renewal private passenger auto policies, it appears that each of the premium discounts to affinity group members were properly applied and that each was approved by the Division.

Recommendations: None.

\* \* \* \* \*

FOR INFORMATION PURPOSES ONLY

#### IV. PRODUCER LICENSING

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

**Standard IV-1. Company records of licensed and appointed (if applicable) producers agree with department of insurance records. 18 U.S.C. § 1033; M.G.L. c. 175, §§ 162I and 162S. Division of Insurance Bulletins 98-11 and 2001-14.**

*Objective:* The Standard is concerned with ensuring that the Company's appointed producers are appropriately licensed by the Division. M.G.L. c. 175, § 162I requires all persons who solicit, sell or negotiate insurance in the Commonwealth to 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 98-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all 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 Division's requirements prescribed in M.G.L. c. 175, § 162S, which requires that a producer must be appointed as agent within 15 days from the date the agent's contract is executed.
- The Company's policy is to seek approval of the Division 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.
- Periodically notices are sent to agents as a reminder to renew their licenses and submit appropriate documentation to the Company. Company personnel will follow up with the agent if documentation of renewal is not received timely.
- The Company prepares a quarterly reconciliation of their agent appointment list to the Division's list.
- All appointed agents and ERPs are required to enter into a written contract with the Company prior to selling business.

- The Company does not conduct criminal background checks on newly appointed agents although it provides notice to them of the requirements of 18 U.S.C. § 1033 of the Act.
- The Company requires appointed agents to maintain \$1 million in 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 appointments. RNA selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004. For each of the sales, RNA verified that the selling 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 our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, RNA noted that all of the Company's appointed agents were listed on the Division's list of the Company's appointed agents at the time of sale. RNA noted that the Company provides notice to agents of the requirements of 18 U.S.C. § 1033 of the Act.

Recommendations: None.

\* \* \* \*

<p><b>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 98-11 and 2001-14.</b></p>
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Objective: Refer to Standard IV-1.

Controls Assessment: Refer to Standard IV-1.

Controls Reliance: Refer to Standard IV-1.

Transaction Testing Procedure: Refer to Standard IV-1.

Transaction Testing Results: Refer to Standard IV-1.

Recommendations: Refer to 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 is concerned with whether the Company's termination of producers complies 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 to notify agents that they have been terminated in compliance with statute 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 reviewed the listing of terminated agents and ERPs and reviewed the Division's list to ensure that terminated agents were removed from the Division's list.

Transaction Testing Results:

Findings: None.

Observations: The results of our testing showed that the Company appears to be notifying the Division when agents are terminated. None of the terminations that RNA tested was for cause as defined in M.G.L. c. 175, § 162R.

Recommendation: None.

\* \* \* \* \*

**Standard IV-4. The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.**

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: 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 selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004. For each of the sales, RNA reviewed documentation for any evidence of unfair discrimination against policyholders as a result of the Company's policies regarding producer appointments and terminations.

Transaction Testing Results:

Findings: None.

Observations: Through our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability 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 is concerned that the Company's records for terminated producers adequately document the action taken. 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, 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: 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 obtained a listing of terminated agents and reviewed the reasons for termination for each agent.

Transaction Testing Results:

Findings: None.

Observations: Based on the testing noted above, the Company's internal records adequately document reasons for agent terminations. None of the terminations that RNA tested was for cause as defined in M.G.L. c. 175, § 162R.

Recommendations: None.

\* \* \* \* \*

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

Objective: The Standard is concerned with whether the Company's contract with the producer limits excessive balances with respect to handling funds.

Controls Assessment: Due to the nature of the Standard, no controls assessment was made. Further, nearly all of the Company's policies are billed on a direct basis mitigating the possibility for excessive balances from producers.

Controls Reliance: Not applicable.

Transaction Testing Procedure: Since the Company direct bills premiums in nearly all instances, 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.

Transaction Testing Results: Not applicable.

Recommendations: None.

\* \* \* \* \*

FOR INFORMATION PURPOSES ONLY

## V. POLICYHOLDER SERVICE

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

**Standard V-1. Premium notices and billing notices are sent out with an adequate amount of advance notice. M.G.L. c. 175, §§ 193B and 193B ½.**

*Objective:* This Standard is concerned with whether the Company provides policyholders with sufficient advance notice of premiums due. Pursuant to M.G.L. c. 175, §§ 193B and 193B ½, premiums may be paid in installments with interest charged on the unpaid balance due as of the billing date.

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

- The policyholder generally receives a renewal and billing notice from the Company 30 days prior to the effective date of the renewal. A policy declaration page indicating the coverage type and limits with the applicable premium is later sent by the agent to the policyholder.
- Billing notices are generated automatically through the policy administration system approximately 24-30 days before payments are due.
- With regard to private passenger auto business, for new business, a payment of 30% of the premium is required and is usually collected by the producer and remitted to the Company. For new affinity group business, a payment of 20% is required. For renewal business, a payment of 10% is required by the renewal's effective date. The remaining premium is billed through nine installments with a fee of \$4 per installment. The entire premium must be paid by anyone cancelled due to non-payment of premium within the past 24 months. For electronic funds transfer, 12% down is required with the remainder paid in approximately 10 installments with no monthly fee.
- With regard to homeowners business, a payment of 10% of the premium is required and is usually collected by the producer and remitted to the Company. The remaining premium is billed through nine installments with a fee of \$4 per installment. Consumers also can elect the "E-Z-3" plan which requires full payment in the first 180 days. Electronic funds transfer is also available.
- With regard to commercial auto, property and liability business, for new business, a payment of 30% of the premium is required and is usually collected by the producer and remitted to the Company. For renewal business, 20% is required by the renewal's effective date. The remaining premium is billed through nine installments with a monthly charge of 1.25% on the unpaid balance. The entire premium must be paid by anyone cancelled due to non-payment of premium within the past 24 months.

*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 95 auto policies and 30 homeowners



and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 and reviewed installment and interest charges on a limited basis.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of 95 auto policies and 30 homeowners and commercial property/liability policies, billing notices appeared to be mailed with an adequate amount of advance notice. Monthly service charges on installment payments appeared to be properly applied.

Recommendation: None.

\* \* \* \* \*

<b>Standard V-2. Policy issuance and insured requested cancellations are timely. M.G.L. c. 175, §187B.</b>
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Objective: This Standard is concerned with whether the Company has cancellation procedures to ensure that such policyholder requests are processed timely. Pursuant to M.G.L. c. 175, § 187B, the insurers are required to return premium upon the request to cancel by the policyholder in a reasonable time. Policy issuance review is included in Underwriting and Rating Standard VI-16. Return of premium testing is included in Underwriting and Rating Standard VI-25.

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

- Auto 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.
- Company policy is to cancel the policy upon notification from the producer of the policyholder's request and to process premium refunds in a timely manner.
- For auto policies, any unearned premium is refunded to the policyholder on a pro-rata or short rate basis pursuant to statutory and regulatory guidelines. Unearned premium for homeowners policies is calculated using the pro-rata method, while unearned premiums for commercial property/liability are calculated on a pro-rata basis unless the policyholder does not want the policy outside the free look period. In such cases, the unearned premium for commercial property/liability policies may be calculated using a short rate 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 policyholder service and tested 25 private passenger and commercial auto and 20 homeowners and commercial property/liability insured-requested cancellations for the period January 1, 2003 through June 30, 2004. RNA reviewed evidence for each of the cancellations that the request was processed timely.

Transaction Testing Results:

Findings: None.

Observations: Based upon our testing of 25 private passenger and commercial auto and 20 homeowners and commercial property/liability insured-requested cancellations, such transactions appeared to be processed timely.

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 is concerned with whether the Company provides timely and responsive information to policyholders and claimants by the appropriate department. For discussion of written complaint procedures, see the Complaint Handling section.

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

- The Company has approximately 45 customer service representatives who answer policyholders' general questions about their policies or billing matters.
- The Company considers its producers as having the primary relationship with the policyholder, and since customer service representatives are not licensed producers, endorsements and policy changes must be requested by the policyholder through the producer. If a policyholder requests such changes through customer service, the policyholder can be transferred to the producer for servicing.
- The Company monitors customer service call response times, call abandon rates and individual customer service representatives' 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 procedures with Company personnel and reviewed correspondence in conjunction with underwriting, rating, policyholder service and claims standards. Additionally, RNA obtained documentation showing customer service representatives' time use and the overall call abandon rate.

Transaction Testing Results:

Findings: None.

Observations: Based upon our 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 has adequate resources and

procedures to handle customer inquiries and that correspondence directed to the Company is answered 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 is concerned with whether the Company provides history and loss information to the insured 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 statewide auto claim and CLUE databases for personal lines policyholders.
- When requested by the policyholder, the Company's policy is to provide the policyholder or ask the producer to provide the policyholder with his or her claims history and paid loss 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: RNA discussed with Company personnel policy and procedures related to how the Company responds to policyholder inquiries on claims history and paid loss information.

Transaction Testing Results:

Findings: None.

Observations: Based upon our review of underwriting and rating, claims, complaints and policyholder service, RNA noted no evidence of the Company being non-responsive to policyholder inquiries. Policies and procedures relating to how the Company responds to policyholder inquiries on claims history and paid loss information appears adequate and reasonable.

Recommendations: None.

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**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. This Standard is not applicable as 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. All rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company's rating plan.**

**Auto: M.G.L. c. 175E, §§ 4 and 7, M.G.L. c. 175, §§ 113B and 193R, M.G.L. c. 175A, § 5; 211 CMR 56.00, 211 CMR 78.00, 211 CMR 86.00, 211 CMR 91.00, 211 CMR 124.00 and 211 CMR 134.00.**

**Property/Liability: M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175 §§ 111H and 193R; M.G.L. c. 175A, §§ 5, 6 and 9; 211 CMR 131.00.**

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

### Auto Specific:

For both private passenger and commercial auto policies, M.G.L. c. 175E, § 7 and 211 CMR 78.00 require every insurer or rating organization authorized to file on behalf of such insurer to file with the Commissioner every manual of its classifications, rules and rates, rating plans and modifications of any of the foregoing not less than forty-five 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.

For private passenger auto policies, pursuant to M.G.L. c. 175E, § 4, rates shall be reduced for insureds age sixty-five years or older. M.G.L. c. 175, § 113B mandates various discounts and surcharges. Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. 211 CMR 56.00 requires premium discounts for election of optional repair shop endorsement plans and 211 CMR 134.00 requires each driver to receive a step rating according to the Safe Driver Insurance Plan which requires corresponding discounts and surcharges.

For commercial policies, pursuant to M.G.L. c. 175A, § 5, rates 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. Additionally, rates shall not be excessive, inadequate or unfairly discriminatory. 211 CMR 91.00 also prescribes requirements for the filing of rates with the Commissioner at least 45 days prior to their effective date.

### Property/Liability Specific:

Pursuant to M.G.L. c. 174A, § 5, fire rates shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available. In considering catastrophe hazards with respect to homeowners insurance rates, the Commissioner shall consider catastrophe reinsurance and factors relating thereto. Fire rates also 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.

Under M.G.L. c. 175A, § 5, casualty, surety and certain commercial rates also must be based, in part, on past and prospective loss experience, catastrophe hazards and include a reasonable margin for underwriting profits and contingencies. Additionally, these rates should not be excessive, inadequate or unfairly discriminatory. Casualty and surety rates must be filed with the Commissioner as provided by M.G.L. c. 175A, § 6 prior to use. Additionally, insurers must use filed rates unless they obtain approval for a rate deviation, as set forth in M.G.L. c. 175A, § 9.

Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage shall be subject to rules and regulations set forth by the Commissioner and 211 CMR 131.00 prescribes requirements for the filing of lead liability coverage rates with the Division.

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

- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating.
- Private passenger auto rates are determined by the Division annually, and such rate information is incorporated in the Automobile Insurers Bureau of Massachusetts (“AIB”) Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles. This information includes the location of garaged vehicles.
- The Company offers private passenger auto affinity group discounts which are approved by the Division.
- The low mileage discount form, which verifies actual mileage, must be completed annually to receive the low mileage discount.
- For private passenger auto policies, the Company compares discount usage, rate class distribution, operator classifications and driver SDIP distributions by producer for unusual results and reports such results to the producer to help them proactively prevent and detect potential fraud.
- Commercial auto rates are determined by CAR for those risks ceded to CAR. Such rates are filed with the Division. Otherwise, all other commercial auto rates are filed with the Division for approval prior to use.
- The Company contracts for auto rating and policy issuance with a third party. Annually, the Company performs extensive testing to ensure that rate changes are properly incorporated in the third party’s software.
- The Company conducts audits of producer operations to ensure that statutory and regulatory guidelines for auto policies are properly implemented.
- Company policy requires that homeowners and commercial property/liability rates are based on ISO rates, and the Company files such rates with the Division for use to comply with statutory and regulatory requirements. The Company’s process for rating is electronic and is designed to ensure that consistent and filed rates are used when business is written.
- Homeowners rating criteria include territory, coverage amount and type, property age, protection class, structure type as well as discounts for home and auto coverage, seniors, new construction, security features, safety features, multi-year renewals, and higher deductibles.

- Commercial property/liability rating criteria include territory, coverage amount and type, property age, protection class and structure type. For business owner policies, rates are generally based on the number of employees, payroll and type of business code.

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 reviewed extensive documentation supporting the annual testing of the third party software used for auto rating and rate filings made with the Division as applicable. RNA selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of rate classifications and premium discounts. For each of the policies, RNA verified that the policy premium, discounts and surcharges for multiple coverages complied with statutory and regulatory requirements and complied with the private passenger rates set by the Commissioner or the homeowners and commercial rates filed with the Division, as applicable.

Transaction Testing Results:

Findings: None.

Observations: The Company's annual testing of the third party software used for auto rating appears to be rigorous and effective. Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004, it appears that policy premiums, discounts and surcharges for multiple coverages are calculated in compliance with statutory requirements, as well as the rates set by the Commissioner or filed with the Division, as applicable.

Recommendations: None.

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<p><b>Standard VI-2. Disclosures to insureds concerning rates and coverage are accurate and timely. Auto: M.G.L. c. 175E, §§ 11 and 11A; M.G.L. c. 175A, § 11; Property/Liability: M.G.L. c. 175, §§ 99 and 99A; M.G.L. c. 174A, § 11.</b></p>
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Objective: This Standard is concerned with whether all mandated disclosures for rates and coverages are documented in accordance with statutes and regulations and provided to insureds timely.

Auto Specific:

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



organizations and insurers shall furnish to any insured rate information within a reasonable time after receiving a written request.

**Property/Liability Specific:**

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

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

- The Company has written policies and procedures for processing new and renewal business.
- The Company's supervisory procedures are designed to ensure that new business submissions from producers are accurate and complete including the use of all Company required forms and instructions.
- Commercial auto rates are determined by CAR for those risks ceded to CAR. Such rates are filed with the Division. Otherwise, all other commercial auto rates are filed with the Division for prior approval.
- The Company's insurance policies provide disclosures as required by statutory and regulatory guidelines.
- The Company provides the private passenger auto information guides to producers who are required to provide them to consumers.
- The Company conducts audits of producer operations to ensure that statutory and regulatory guidelines for auto policies are properly implemented.

**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 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of timely disclosure of rates and coverages.

**Transaction Testing Results:**

**Findings:** None.

**Observations:** Based upon our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, 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. Although the Company has stated they believe information guides were provided to consumers by producers, no evidence is available supporting this assertion. However, RNA is not aware of any information suggesting that policyholders have not received the information guide.

**Recommendations:** None.

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**Standard VI-3. The company does not permit illegal rebating, commission cutting or inducements. M.G.L. c. 175, §§ 182, 183 and 184; M.G.L. c. 176D, § 3(8).**

Objective: This Standard is concerned with ensuring that the Company does not permit illegal rebating, commission cutting or inducements; and that producer commissions adhere to the commission schedule. Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, the Company, or any agent thereof, cannot pay or allow, or offer to pay or allow any valuable consideration or inducement not specified in the policy or contract. Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to knowingly permit or make any offer to pay, allow or give as inducement any rebate of premiums, any other benefits or any valuable consideration or inducement not specified in the contract.

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

- The Company has procedures to pay producers' commissions in accordance with home office approved written contracts.
- The producer contracts and 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, new business materials, advertising materials, producer training materials and manuals, RNA inspected such materials for indications of rebating, commission cutting or inducements. RNA also selected six voluntary and four ERP agencies from the Company's list of contracted agencies. For the months of February or September of 2003, or the month of May 2004, RNA obtained monthly commission statements for the selected agencies. RNA reviewed the premium activity to determine that the related commission payments were reasonable and did not indicate any unusual commission activity.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing, it appears that the Company's processes to prohibit illegal acts including special inducements and rebating are functioning in accordance with Company policies and procedures and statutory underwriting and rating requirements.

Recommendations: None.

\* \* \* \* \*



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

**Auto: M.G.L. c. 175E, § 4 and 7; M.G.L. c. 175, §§ 113B and 193R, M.G.L. c. 175A, § 5; 211 CMR 56.00, 211 CMR 78.00, 211 CMR 86.00, 211 CMR 91.00, 211 CMR 124.00 and 211 CMR 134.00.**

**Property/Liability: M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175, §§ 111H, 193R and 193T; M.G.L. c. 175A, §§ 5, 6 and 9; 211 CMR 131.00.**

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

Auto:

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

For private passenger auto policies, pursuant to M.G.L. c. 175E, § 4, rates shall not be grouped by sex or marital status and shall not be grouped by age except to produce the reduction in rates for insureds age 65 years or older. M.G.L. c. 175, § 113B mandates various discounts and surcharges. Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. 211 CMR 56.00 requires premium discounts for election of optional repair shop endorsement plans. and 211 CMR 134.00 requires each driver to receive a step rating according to the Safe Driver Insurance Plan which requires corresponding discounts and surcharges.

For commercial policies, pursuant to M.G.L. c. 175A, § 5, rates 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. Additionally, rates shall not be excessive, inadequate or unfairly discriminatory. 211 CMR 91.00 also prescribes requirements for the filing of rates with the Commissioner at least 45 days prior to their effective date.

Property/Liability:

Pursuant to M.G.L. c. 174A, § 5, fire rates shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available. In considering catastrophe hazards with respect to homeowners insurance rates, the commissioner shall consider catastrophe reinsurance and factors relating thereto. Fire rates also 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.

Under M.G.L. c. 175A, § 5, casualty, surety and certain commercial rates also must be based, in part, on past and prospective loss experience, catastrophe hazards and include a reasonable margin for underwriting profits and contingencies. Additionally, these rates should not be excessive,

inadequate or unfairly discriminatory. Casualty and surety rates must be filed with the Commissioner as provided by M.G.L. c. 175A, § 6 prior to use. Additionally, insurers must use filed rates unless they obtain approval for a rate deviation, as set forth in M.G.L. c. 175A, § 9.

Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. M.G.L. c. 175, § 193T prohibits rate 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.” M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage shall be subject to rules and regulations set forth by the Commissioner and 211 CMR 131.00 prescribes requirements for the filing of lead liability coverage rates with the Division.

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

- 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.
- Written underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges and in the application of the general rating methodology.
- Private passenger auto rates are determined by the Division annually, and such rate information is incorporated in the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles. This information includes the location of garaged vehicles.
- The Company offers private passenger auto affinity group discounts which are approved by the Division.
- The low mileage discount form, which verifies actual mileage, must be completed annually to receive the low mileage discount.
- For private passenger auto policies, the Company compares discount usage, rate class distribution, operator classifications and driver SDIP distributions by producer for unusual results and reports such results to the producer to help them proactively prevent and detect potential fraud.
- Commercial auto rates are determined by CAR for those risks ceded to CAR. Such rates are filed with the Division. Otherwise, all other commercial auto rates are filed with the Division for prior approval.
- The Company contracts for auto rating and policy issuance with a third party. Annually, the Company performs extensive testing to ensure that rate changes are properly incorporated in the third party’s software.
- Company policy requires that homeowners and commercial property/liability rates are based on ISO rates, and the Company files such rates with the Division for use to comply with statutory and regulatory requirements. The Company’s process for rating is electronic and is designed to ensure that consistent and filed rates are used when business is written.
- Homeowners rating criteria include territory, coverage amount and type, property age, protection class, structure type as well as discounts for home and auto coverage, seniors, new construction, security features, safety features, multi-year renewals, and higher deductibles.

- Commercial property/liability rating criteria include territory, coverage amount and type, property age, protection class and structure type. For business owner policies, rates are generally based on the number of employees, payroll and type of business code.
- The Company conducts audits of producer operations to ensure that statutory and regulatory guidelines for auto policies are properly implemented.

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 reviewed extensive documentation supporting the annual testing of the third party software used for auto rating and rate filings made with the Division as applicable. RNA selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of credits and deviations. For each of the policies, RNA verified that credits and deviations were consistently applied on a non-discriminatory basis.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, it appears that the Company applies credits and deviations consistently and on a non-discriminatory basis.

Recommendations: None.

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<p><b>Standard VI-5. Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation. M.G.L. c. 175A, § 5.</b></p>
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Objective: This Standard is concerned with whether schedule rating or individual risk premium modification plans are based on objective criteria and appropriately documented.

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, catastrophe hazards and 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 can be demonstrated to have a probable effect upon losses or expenses.

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.

- The Company's supervisory procedures are designed to ensure that new business submissions from producers are accurate and complete including use of all Company required forms and instructions.
- 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.

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

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 10 sales of commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing schedule rating and individual risk premium modification plans to ensure that such modifications are objective and documented.

Transaction Testing Results:

Findings: None.

Observations: Based upon our testing of 10 sales of commercial property/liability policies, 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.

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

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

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

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

\* \* \* \* \*

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

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

\* \* \* \* \*

**Standard VI-9. Verification of loss reporting.**

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

\* \* \* \* \*

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

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

\* \* \* \* \*

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

**Auto: M.G.L. c. 175E, § 4, M.G.L. c. 175, § 22E, 113K, 113N and M.G.L. c. 175A, § 5.**  
**Property/Liability: M.G.L. c. 175, § 4C, 95B and 193T.**

*Objective:* This Standard is concerned with whether unfair discrimination is occurring with regard to underwriting in the sale of insurance.

Auto Specific:

Pursuant to M.G.L. c. 175E, § 4, risks shall not be grouped by sex or marital status and shall not be grouped by age, except to produce the reduction in rates for insureds age sixty-five years or older. Pursuant to M.G.L. c. 175, § 22E, no insurance company, and no officer or agent thereof in its behalf, shall refuse to issue, renew or execute as surety a motor vehicle liability policy or bond, or any other insurance based on the ownership or operation of a motor vehicle because of age, sex, race, occupation, marital status, or principal place of garaging of the vehicle. For commercial policies, pursuant to M.G.L. c. 175A, § 5, rates shall not be excessive, inadequate or unfairly discriminatory. Pursuant to M.G.L. c. 175, § 113K, persons 16 years of age and older may purchase auto insurance. Pursuant to M.G.L. c. 175, § 113N, no medical exam can be required as a condition of underwriting.

Property/Liability Specific:

Pursuant to M.G.L. c. 175, § 4C, no insurer shall take into consideration when deciding whether to provide, renew, or cancel homeowners insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. M.G.L. c. 175, § 95B notes that no insurer shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a residential property insurance policy based upon information that an applicant or policy owner, or any member of their family, has been a victim of domestic abuse. M.G.L. c. 175, § 193T prohibits discrimination based on blindness or partial blindness, mental retardation or physical impairment, unless such discrimination is based on “sound actuarial principles or is related to actual experience.”

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

- Company policy and practice prohibits unfair discrimination in underwriting in accordance with statutory requirements and will accept any private passenger auto risk for a licensed driver unless the consumer has outstanding balances due to insurers over the previous year or has a history of non-payment of premium over the past two years.
- Written 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 50 new sales of auto policies and 15 new sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of evidence of unfair discrimination in underwriting.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 50 new sales of auto policies and 15 new sales of homeowners and commercial property/liability policies, RNA noted no evidence that the Company’s underwriting practices are unfairly discriminatory.

Recommendations: None.

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**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).

**Auto:** M.G.L. c. 175, §§ 22A, 113A and 192.

**Property/Liability:** M.G.L. c. 175, §§ 99, 99B, 111H and 192; 211 CMR 131.00.

**General:** M.G.L. c. 175, § 2B.

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

For auto policies, pursuant to M.G.L. c. 175, §§ 22A and 113A, auto policy forms must be filed with the Division for prior approval. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and also are required to be filed with the Division for prior approval.

For property/liability policies, pursuant to M.G.L. c. 175, § 99 homeowners policy forms must conform to the standards for policy language set forth in that section and, according to M.G.L. c. 175, § 99B, condominium and tenant policies must be filed with the Division for prior approval. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and also are required to be filed with the Division for prior approval. M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage shall be subject to rules and regulations set forth by the Commissioner and 211 CMR 131.00 requires that forms be filed with and approved by the Division for homeowners lead liability coverage.

For all policies, pursuant to M.G.L. c. 175, § 2B, policy form language, size and content standards must meet statutory requirements for readability and understanding.

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

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

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

***Transaction Testing Procedure:*** RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 50 sales of new auto policies and 15 sales of new homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of the use of policy forms and approved endorsements in compliance with statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 50 new sales of auto policies and 15 new sales of homeowners and commercial property/liability policies, it appears that the Company is using approved policy forms and endorsements in compliance with statutory requirements.

Recommendations: None.

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**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.

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**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 is concerned with 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 policies and procedures are designed to reasonably assure consistency in application of underwriting guidelines, rating classifications, premium discounts and surcharges determined at or near the inception of coverage.
- Private passenger auto underwriting decisions are generally automated using standard underwriting criteria, and approximately 1% of underwriting decisions are made with a referral to underwriting to determine whether the risk should be retained or ceded to CAR. The decision to cede business to CAR is made using the Company's actuarially-developed point system developed in compliance with CAR Rule 11.
- For private passenger auto, rates, premiums and discounts are determined by the Division annually, and such rate information is incorporated in the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles at or near the inception of coverage.
- For private passenger auto policies, the Company compares discount usage, rate class distribution, operator classifications and driver SDIP distributions by producer for unusual results and reports such results to the producer to help them proactively prevent and detect potential fraud.
- The Company conducts audits of producer operations to ensure that statutory and regulatory guidelines for auto policies are properly implemented.



- For commercial auto, underwriting practices and rates are determined by CAR for those risks ceded to CAR. Such policies and rates are filed with the Division. Additionally, all other commercial auto policies and rates are filed with the Division prior to use. The Company applies such rates to information provided by the applicant at or near the inception of coverage.
- The Company has set forth written underwriting guidelines for homeowners and commercial property/liability policies based on information obtained at or near the inception of coverage.
- The Company files homeowners and commercial property/liability rates with the Division for use to comply with statutory and regulatory requirements. The Company's process for rating is electronic and is designed to ensure that consistent and filed rates are used at or near the inception of coverage.

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

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of whether underwriting, rating and classification are based on adequate information developed at or near inception of the coverage.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, it appears that the Company is using underwriting, rating and classification guidelines based on adequate information developed at or near inception of the coverage.

Recommendations: None.

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<b><u>Standard VI-15. File documentation adequately supports decisions made.</u></b>
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Objective: This Standard is concerned with 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 the application for new business and obtaining needed information to properly underwrite and rate the policy. Properly completing the application includes signing of the application by the producer and the applicant.
- Underwriting personnel review the applications submitted by producers for completeness and internal consistency.
- The Company conducts audits of producer operations to ensure that certain statutory and regulatory guidelines for auto policies are properly implemented.

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 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of whether the policy files adequately support decisions made.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, it appears that policy files adequately supported decisions made. Four applications for new business were not signed by the applicant including two commercial property/liability applications, one homeowners application and one private passenger auto application.

Recommendations: Company underwriting personnel should ensure that applications submitted by producers for new business are signed by the applicant.

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<p><b>Standard VI-16. Policies and endorsements are issued or renewed accurately, timely and completely.</b></p>
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Objective: This Standard is concerned with 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 forms and endorsements as guidelines when providing quotes to customers and are to process such requests timely. Any changes in coverage must be requested through the producer.
- The Company conducts audits of producer operations to ensure that certain statutory and regulatory guidelines for auto policies are properly implemented.

- All applications submitted by producers are reviewed by the underwriting department either manually, or using automated tools, to ensure that they are complete and internally consistent.
- Company procedures include sending a renewal notice to the policyholder prior to the policy renewal effective date. A questionnaire must be signed and returned to receive any private passenger auto low mileage discount.

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

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies as well as 15 endorsements for the period January 1, 2003 through June 30, 2004 for testing of whether new and renewal policies including endorsements were issued timely, accurately and completely.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies as well as 15 endorsements, it appears that the Company issues new and renewal policies, including endorsements timely, accurately and completely.

Recommendations: None.

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<p><b>Standard VI-17. Audits when required are conducted accurately and timely. M.G.L. c. 175A, § 5.</b></p>
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Objective: This Standard is concerned with whether audits are reasonably accurate and conducted in a timely manner.

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, catastrophe hazards and 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 can be demonstrated to have a probable effect upon losses or expenses.

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

- The Company's conducts periodic audits related to commercial property/liability policies to verify company payroll and other policy variables for schedule rating plans in order to ensure that premium is properly calculated. .

- Underwriting personnel are required to approve schedule rating plans and document such decisions in the underwriting files.

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

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process. RNA selected 10 sales of commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for verification that premium audits related to schedule rating plans are conducted in an accurate and timely manner.

Transaction Testing Results:

Findings: None.

Observations: Based upon our testing of 10 sales of commercial property/liability policies, the Company appears to conduct premium audits related to schedule rating plans in an accurate and timely manner.

Recommendations: None.

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<p><b>Standard VI-18. Company verifies that VIN number submitted with application is valid and that the correct symbol is utilized. M.G.L. c. 175, § 113S and 211 CMR 94.08.</b></p>
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Objective: This Standard is concerned with whether the Company verifies that the VIN submitted with the application is valid and accurate. M.G.L. c. 175, § 113S requires that used cars and those purchased by new customers be inspected. 211 CMR 94.08 requires that pre-insurance inspections of vehicles must verify the VIN.

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

- The producer is responsible for obtaining the VIN when the application is completed.
- Company policy and procedures require that pre-insurance inspections of vehicles be conducted and verify the VIN as required by 211 CMR 94.08.
- The Company's underwriting system compares the VIN to its industry database to ensure that the VIN is 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 50 new sales of auto policies for the period January 1, 2003 through June 30, 2004 for testing whether the VIN number is valid and accurate and that the Company is in compliance with the requirements of 211 CMR 94.08.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 50 new sales of auto policies, it appears that the Company issues auto policies with VINs that are valid and accurate and that the Company is in compliance with the requirements of 211 CMR 94.08.

Recommendations: None.

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<b>Standard VI-19. The company does not engage in collusive or anti-competitive underwriting practices. M.G.L. c. 176D, §§ 3(4) and 3A.</b>
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Objective: This Standard is concerned with whether the Company has engaged in any collusive or anti-competitive underwriting practices. Pursuant to both M.G.L. c. 176D, § 3(4) and M.G.L. c. 176D, § 3A, it is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance to enter into any agreement, or to commit any act of boycott, coercion or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

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

- Company policy requires that the underwriting department apply consistent underwriting practices for all lines of business and that no underwriter or producer shall engage in collusive or anti-competitive practices.
- Company policy is to accept all private passenger auto risks, except the Company may decline a risk if the applicant or any person who usually drives the motor vehicle has failed to pay premiums during the preceding 12 months, or if the applicant does not hold or is not eligible to obtain a license.
- For private passenger auto, premium rates are determined annually by the Division and are consistent among all private passenger auto insurers. As such, anti-trust pricing concerns are minimal for these policies.
- The Company conducts audits of producer operations to ensure that certain statutory and regulatory guidelines for auto policies are properly implemented.

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 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing whether any underwriting practices appear to be collusive or anti-competitive.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, RNA noted no instances where the Company's underwriting policies and practices appear to be collusive or anti-competitive.

Recommendations: None.

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**Standard VI-20. The company underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules and regulations in application of mass marketing plans. M.G.L. c. 175, § 193R**

Objective: This Standard is concerned with whether the Company's mass marketing efforts are in compliance with applicable statutes, rules and regulations. Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise.

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

- Written underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company provides a premium discount of 3-10% to members of various affinity groups. The Company is required to provide the same discount to each member of the affinity group.
- Premium discounts available to affinity groups are filed with and approved by the Division.
- The Company conducts audits of producer operations to ensure that certain statutory and regulatory guidelines for auto policies are properly implemented.

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 marketing and underwriting processes. RNA selected 85 new and renewal private passenger auto policies for the period January 1, 2003 through June 30, 2004 for testing of premium discounts to affinity group members. For each of the policies, RNA verified that the affinity group discount was properly applied and that the group discount was approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 85 new and renewal private passenger auto policies, it appears that each of the premium discounts to affinity group members were properly applied and that each was approved by the Division.



Recommendations: None.

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**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.

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

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

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

Objective: This Standard is concerned with the fairness of application rejections and declinations.

For auto 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.

For property/liability policies pursuant to M.G.L. c. 175, § 4C, no insurer shall take into consideration when deciding whether to provide, renew, or cancel homeowners insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. M.G.L. c. 175, § 95B notes that no insurer shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a residential property insurance policy based upon information that an applicant or policy owner, or any member of their family, has been a victim of domestic abuse. M.G.L. c. 175, § 193T prohibits discrimination based on blindness or partial blindness, mental retardation or physical impairment, unless such discrimination is based on "sound actuarial principles or is related to actual experience."

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

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- Company policy is to accept all private passenger auto risks, except the Company may decline a risk if the applicant or any person who usually drives the motor vehicle has failed to pay premiums during the preceding 12 months, or if the applicant does not hold or is not eligible to obtain a license.
- Written underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks for all lines of business on a 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 and selected 25 auto and 20 property/liability company-initiated cancellations for the period January 1, 2003 through June 30, 2004 for review to ensure that treatment was not unfairly discriminatory.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 25 auto and 20 property/liability company-initiated cancellations, RNA noted no instance where the cancellation was unfairly discriminatory.

Recommendations: None.

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

**Auto: M.G.L. c. 175, §§ 22C, 113A, 113F and 187C.**

**Property/Liability: M.G.L. c. 175, §§ 99, 187C and 193P.**

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

For auto policies, M.G.L. c. 175, § 22C states that a motor vehicle policy shall not be cancelled by the company except for nonpayment of premiums, the failure to complete the application, fraud or material misrepresentation in the application or unless the operator's license or motor vehicle registration of the named insured or of any other person who resides in the same household as the named insured and who usually operates a motor vehicle insured under the policy has been under suspension or revocation during the policy period, or if the insured refuses to comply with a request for inspection of his vehicle by the insurer. Pursuant to M.G.L. c. 175, § 113A, no cancellation of the policy shall be valid unless written notice of the specific reason or reasons for such cancellation is given at least 20 days prior to the effective date thereof, which date shall be set forth in the notice. M.G.L. c. 175, § 113F states that any Company which does not intend to issue, extend or renew a motor vehicle liability policy shall give written notice to the insured (or agent in certain circumstances) of its intent 45 days prior to the termination effective date. Such notice also must be sent to the Registry of Motor Vehicles. Every insurance agent or broker receiving such a notice from a company shall, within 15 days of its receipt, send a copy of such notice to the insured, unless another insurer has issued a motor vehicle policy covering that insured's vehicles. Pursuant to M.G.L. c. 175, § 187C any Company shall effect cancellation by serving written notice thereof as provided by the policy and by paying the full return premium due.

For property/liability policies, pursuant to M.G.L. c. 175, § 99, any Company may cancel coverage by giving the insured five days written notice of cancellation, and to the mortgagee to whom the



policy is payable 20 days written notice of cancellation, except where the stated reason for cancellation is nonpayment of premium, where 10 days written notice of cancellation is required. M.G.L. c. 175, § 193P requires an insurer to give written notice of intent not to renew a policy to the insured at least 45 days prior to the expiration of the policy accompanied by a writing stating the specific reasons for such decision. 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.

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

- Company policy requires written cancellation notice be given in accordance with statutory requirements. The Company's practice is to give at least 20 days written notice to the policyholder prior to the effective date for private passenger auto and commercial auto cancellations. The Company's practice is to give notice to the producer approximately 30 days prior to the effective date for cancellation of other policies. The producer is responsible for communicating the pending action to the policyholder.
- Private passenger auto declination notice is generally given to the insured at the application date as a result of an invalid driver's license or having outstanding balances due to insurers over the previous year. In instances where an applicant has a history of non-payment of premium over the past two years, the Company, as permitted by statute, may require a 100% premium deposit rather than decline the application.
- Non-renewal notice for homeowners and commercial habitational policies is given to the producer approximately 50 days prior to the policy renewal date, and the producer is responsible to communicate the pending action to the policyholder.

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

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for the underwriting process and selected 25 auto and 20 property/liability company-initiated cancellations for the period January 1, 2003 through June 30, 2004 for compliance with notice requirements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 25 auto and 20 property/liability company-initiated cancellations, the Company appears to comply with notice requirements.

Recommendations: None.

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**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.**

**Auto: M.G.L. c. 175, §§ 113A, 113F and 187C.**

**Property/Liability: M.G.L. c. 175, §§ 99, 187C and 193P.**

Objective: Refer to Standard VI-23.

Controls Assessment: Refer to Standard VI-23.

Controls Reliance: Refer to Standard VI-23.

Transaction Testing Procedure: Refer to Standard VI-23.

Transaction Testing Results: Refer to Standard VI-23.

Recommendations: Refer to Standard VI-23.

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**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. M.G.L. c. 175, §§ 113A, 176A, 187B and 187C; 211 CMR 85.00.**

Objective: This Standard is concerned with return of the correctly calculated unearned premium when policies are cancelled in a timely manner. 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. 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. Additionally, pursuant to 211 CMR 85.00, short rate tables may be required to be used to calculate auto premium refunds, depending on when the policy is cancelled.

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

- Company policy requires that premium refunds be calculated properly and paid timely.
- The Company uses a pro-rata method or short rate table method for auto premium refunds depending upon when the cancellation occurred.
- Unearned premium for homeowners policies is calculated using the pro-rata method, while unearned premiums for commercial property/liability are calculated on a pro-rata basis unless the policyholder does not want the policy outside the free look period. In such cases, the unearned premium may be calculated using a short rate 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 and tested 25 private passenger and commercial auto and 20 homeowners and commercial property/liability insured-requested cancellations for the period January 1, 2003 through June 30, 2004 for proper premium refund calculation and timely payment.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 25 private passenger and commercial auto and 20 homeowners and commercial property/liability insured-requested cancellations, premium refunds appear to be calculated properly and returned timely.

Recommendations: None.

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<b>Standard VI-26. Rescissions are not made for non-material misrepresentation. M.G.L. c. 175, §§ 22C and 187D.</b>
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Objective: This Standard is concerned with whether decisions to rescind and to cancel coverage are made appropriately. M.G.L. c. 175, § 22C states that a motor vehicle policy shall not be cancelled by the company except for nonpayment of premiums, the failure to complete the application, fraud or material misrepresentation in the application or unless the operator's license or motor vehicle registration of the named insured or of any other person who resides in the same household as the named insured and who usually operates a motor vehicle insured under the policy has been under suspension or revocation during the policy period, or if the insured refuses to comply with a request for inspection of his vehicle by the insurer. M.G.L. c. 175, § 187D also 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 M.G.L. c. 175, §§ 22C and 187D.
- Written 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 the effective date of policy inception; instead, the Company cancels policies as of the cancellation effective date.

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 tested 25 auto and 20 property/liability company-initiated cancellations for the period January 1, 2003 through June 30, 2004 for proper treatment.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 25 auto and 20 property/liability company-initiated cancellations, such cancellations do not appear to be made in violation of statutory requirements.

Recommendations: None.

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<b>Standard VI-27. All policies are correctly coded.</b>
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Objective: This Standard is concerned with 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.
- The Company's policies and procedures require that Company personnel confirm that the coding as reported by the producer is correct and current.
- The Company has a process to correct data coding errors and make subsequent changes, as needed.
- For private passenger auto, rates, and discounts are determined by the Division annually, and such rate information is incorporated in the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Registry of Motor Vehicles.
- The Company contracts for auto rating and policy issuance with a third party. Annually, the Company performs extensive testing to ensure that rate changes are properly incorporated in the third party's software.
- For commercial auto risks ceded to CAR, such underwriting practices and rates are determined by CAR and filed with the Division. For all other commercial auto, forms and rates are filed with and/or approved by the Division prior to use, as applicable.
- CAR conducts periodic audits of the Company's compliance with CAR requirements for auto business ceded to CAR and conducted audits for the 2002 calendar year.
- Company policy requires that homeowners and commercial property/liability rates are based on ISO rates, and the Company files such rates with the Division for use to comply with statutory and regulatory requirements. The Company's process for rating is electronic and is designed to ensure that consistent and filed rates are used when business is written.
- Homeowners rating criteria include territory, coverage amount and type, property age, protection class, structure type as well as discounts for home and auto coverage, seniors, new construction, security features, safety features, multi-year renewals, and higher deductibles.

- Commercial property/liability rating criteria include territory, coverage amount and type, property age, protection class and structure type. For business owner policies, rates are generally based on the number of employees, payroll and type of business code.
- The Company conducts audits of producer operations to ensure that certain statutory and regulatory guidelines for auto policies are properly implemented.

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 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies for the period January 1, 2003 through June 30, 2004 for testing of data coding. Additionally, RNA reviewed the latest audit reports from CAR as well as the latest CAR profile reports on the Company's compliance with CAR statistical coding requirements for key policy determinants for auto business ceded to CAR. RNA also reviewed the latest reports from ISO that summarize Company submitted premium data.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 95 sales of auto policies and 30 sales of homeowners and commercial property/liability policies, it appears that the Company uses proper data coding procedures. With regard to the CAR audits of statistical reporting, the reports noted that the Company does a reasonably effective job of ensuring that premium statistical errors are minimized with only minimal data coding errors noted. The CAR profile reports as of December 31, 2003 showed that the Company scored well and compared favorably to the Massachusetts industry. RNA also noted recent reports from ISO indicate Company submitted premium data was accepted with low data submission error rates.

Recommendations: None.

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## VII. CLAIMS

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

**Standard VII-1. The initial contact by the company with the claimant is within the required time frame. M.G.L. c. 176D, § 3(9)(b).**

*Objective:* The Standard is concerned with the timeliness of the Company's 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.

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

- Written policies and procedures govern the claims handling process.
- Written claim forms are received via fax, mail, electronically or from agents. Company policy requires a loss creation file be established within two business days after notification of the claim is received. Once a loss creation file is established, Company policy requires contact with the claimant within one business day.
- Company policy and claims 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 creation 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 from the receipt of a loss report as required by CAR standards. Appraisers are dispatched to adjudicate all physical damage claims.
- 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.
- Claims management can access the claims system to monitor open claims.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including the timing of initial contact with a claimant. The CQE department renders reports to senior management describing the results of its audits.

*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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA verified the date the claim was reported to the Company and noted the initial response by the Company was acknowledged in a reasonably timely manner.

Transaction Testing Results:

Findings: None.

Observations: For each of the closed claims selected for testing, RNA noted the claims were reported according to the Company's policies and procedures and that the initial contact by the Company with the claimant was timely. Based upon the results of our testing, it appears that the Company's processes to report and respond to claims are functioning in accordance with their policies and procedures and are reasonably timely.

Recommendations: None.

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**Standard VII-2. Timely investigations are conducted. M.G.L. c. 176D, § 3(9)(c).**

Objective: The Standard is concerned with the timeliness of the Company's claims investigations. Pursuant to M.G.L. c. 176D, § 3(9)(c), unfair claims settlement practices include failure to adopt and implement reasonable standards for the prompt investigation of a claim.

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

- Written policies and procedures govern the claims handling process.
- All loss creation files are maintained on a mainframe based automated claims management system.
- Company policy and claims 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.
- Company policy is to respond to all physical damage claims within two business days from the receipt of a loss report as required by CAR. Appraisers are dispatched to adjudicate all physical damage claims.
- Company policy is to complete physical damage appraisals within five days of the date of the appraisal assignment as required by CAR.
- Company policy is to contact all injured persons, or legal representatives, within one business day of receipt of a claim.



- All injured persons claims are handled by claims staff dedicated to handling bodily injury claims in which the claimant is typically represented by an attorney.
- Claims adjustors maintain a chronological diary system to ensure timely activity on claims investigations.
- Claims management can access the claims system to monitor open claims.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including the timeliness of claims investigations. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA verified the date the claim was reported to the Company and noted the investigation by the Company was conducted in a reasonably timely manner.

Transaction Testing Results:

Findings: None.

Observations: For each of the closed claims selected for testing, RNA noted the claims were reported according to the Company's policies and procedures and that the claims investigation by the Company appeared timely. Based upon the results of our testing, it appears that the Company's processes to report and investigate claims are functioning in accordance with their policies and procedures and are reasonably timely.

Recommendations: None.

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

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

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

*Objective:* The Standard is concerned with the timeliness of the Company's claims settlements.

General:

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 findings to the general court.

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

Auto Specific:

M.G.L. c. 175, § 113O states payments to the insured under theft or comprehensive coverage shall not be paid until a claim form has been received from the insured stating that the repair work described in an appraisal made pursuant to regulations promulgated by the auto 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, in the event of theft, reporting to the police by the insured is also required. The company must pay such claims within 60 days after filing a proof of loss. The statute also sets forth a process to select a disinterested appraiser in the event the insured and the company fail to agree as to the amount of loss.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to resolve all claims in a timely manner.
- Company policy and claims 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 creation files are recorded in the claims system when reported.
- All claims investigations are handled by adjusters not to exceed a defined dollar limit to their settlement authority.
- Company policy is to respond to all physical damage claims within two business days from the receipt of a loss report as required by CAR. Appraisers are dispatched to adjudicate all physical damage claims.
- For non-direct payment plan physical damage claims, the Company's policy is to make payment within seven business days upon receipt of an appraisal in accordance with M.G.L. c. 175, § 113O.
- The Company's direct payment plan for physical damage claims complies with 211 CMR 123.00. Company policy is to make direct payments as required by the plan within five days upon completion of an appraisal.
- The Company's policy is to resolve claims in compliance with M.G.L. c. 175, § 112.
- Property damage claims are paid within sixty days of receipt of a proof of loss as required by M.G.L. c. 175, § 191A. Further, although very a rare occurrence, the Company's policy is to abide by the statutory requirements to select a disinterested appraiser in the event the Company and the insured fail to agree on the amount of a loss.
- Company policy is to contact all injured persons or their legal representatives within one business day of receipt of a claim.
- All injured persons claims are handled by claims staff dedicated to handling bodily injury claims in which the claimant is typically represented by an attorney.
- Claims management can access the claims system to monitor open claims.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including claims resolution timeliness. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA verified the date the claim was reported to the Company and noted the claim was resolved by the Company in a reasonably timely manner.

Transaction Testing Results:

Findings: None.

Observations: For all of the closed claims selected for testing except for one claim, RNA noted the claims were handled and adjudicated according to the Company's policies and procedures and resolved in a timely manner. Of the claims tested, 14 were property damage claims and paid within sixty days of receipt of a proof of loss as required by M.G.L. c. 175, § 191A. RNA verified the Company's direct payment complies with 211 CMR 123.00. One subrogation claim was not paid timely as it was not paid until approximately eight months after the subrogation request was made. Generally, based upon the results of our testing, it appears that the Company's processes to resolve claims timely are functioning in accordance with their policies and procedures, as well as statutory and regulatory requirements.

Recommendation: The Company should ensure that through its monitoring procedures of the aging of subrogation payables, all subrogation claim payments are made timely.

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<b>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).</b>
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Objective: The Standard is concerned with the timeliness of the Company's response to all claim correspondence. Pursuant to M.G.L. c. 176D, § 3(9)(b), unfair claims settlement practices include failure to act reasonably promptly upon communications with respect to claims arising under insurance policies. M.G.L. c. 176D, § 3(9)(e) considers failure to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed an unfair trade practice.

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

- Company policy is to respond to questions about claims in a timely manner.
- Company policy is to investigate and resolve all claims according to Company performance standards.
- Company policy and claims 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.
- Claims management performs periodic claims audits to examine compliance with Company claims policies.
- Claims management periodically reviews open claims each month based upon an aging of all claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on

the Company's claims functional departments using numerous defined and measurable performance standards, including timeliness of Company responses to claims correspondence. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA verified the date the claim was reported to the Company and noted the Company's timely responses to claims correspondence.

Transaction Testing Results:

Findings: None.

Observations: For each of the closed claims selected for testing, RNA noted the claims were reported and investigated according to the Company's policies and procedures and responses to claims correspondence were timely. Based upon the results of our testing, it appears that the Company's processes to provide timely responses to claims correspondence are functioning in accordance with their policies and procedures and are reasonably timely.

Recommendations: None.

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<b>Standard VII-5. Claim files are adequately documented.</b>
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Objective: The Standard is concerned with the adequacy of information maintained in the Company's claim records related to the decision on the claim.

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

- Claim processing guidelines require that key information be completed, signed, and included in the file, including:
  - o Notice of loss with relevant date of loss, description, and involved parties.
  - o Relevant reports from investigating police authorities.
  - o Applicable medical reports and other investigative correspondence.
  - o Other pertinent written communication.

- o All legal correspondence.
- o Documented or recorded telephone communication.
- o Claim activity is logged and documented in chronological order.
- o Claim reserve evaluations, adjustments and assessments are documented.
- o Source correspondence and investigative reports are scanned and maintained electronically.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- Company policy and claims 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.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including adequate claim file documentation. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department, and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA reviewed the claim files and noted whether claim file documentation was adequate.

Transaction Testing Results:

Findings: None.

Observations: For all closed claims selected for testing, RNA noted the claims were reported and investigated according to the Company's policies and procedures and claim file documentation was adequate. Based upon the results of our testing, it appears that the Company's processes to document claims are functioning in accordance with their policies and procedures.

Recommendations: None.

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

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

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

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

*Objective:* The Standard is concerned with whether the claim appears to have been paid for the appropriate amount to the appropriate claimant/payee.

General:

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

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. 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, licensed in Massachusetts pursuant to M.G.L. c. 112.

Auto Specific:

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

211 CMR 133.00 sets forth uniform standards for repair of damaged motor vehicles and only applies when an insurer pays for the costs of repairs. The regulation addresses how damage and repair costs are determined, requires like kind repair parts are 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 Specific:

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

M.G.L. c. 175 § 97 requires the Company to pay fire losses to mortgagees of property upon satisfactory proof of rights and title in accordance with the insurance policy. Further, when a claim for loss or damage to property exceeds five thousand dollars, M.G.L. c. 175 § 97A requires the Company to ensure 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 covering loss or damage to a building or other structure (defined as “dangerous” pursuant to M.G.L. c. 143, § 6) in excess of one thousand dollars without having given 10 days written notice to the building commissioner or inspector of buildings appointed pursuant to the state building code, to the fire department, and to the board of health, in the city or town where the property located.

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

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

- Written policies and procedures govern the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- Company policy and claims 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 creation files are maintained on a mainframe based automated claims management system.
- All claims investigations are handled by adjustors up to a defined dollar limit to their settlement authority.

- The Company has procedures to comply with requirements in M.G.L. c. 175, §§ 111F, 113J and 112C to furnish medical reports and/or the amount of the insured's policy limits, upon receiving requests for such information from a claimant or their attorney.
- The Company has procedures to comply with requirements in M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support for certain defined claim payments.
- The Company has procedures to comply with requirements in M.G.L. c. 175, § 113O to verify a police report was properly filed prior to making payments for theft coverage. Further, the Company has procedures to report such thefts to the National Insurance Crime Bureau as required by 211 CMR 75.00.
- The Company's policy prohibits discrimination in the reimbursement of proper expenses paid to certain professions and occupations as required by M.G.L. c. 175 § 193K.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including compliance with policy provisions and state law. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. Further, for each of the selected claims, including those tested by the CQE department, RNA verified the claim was handled in accordance with policy provisions, statutory and regulatory requirements, as applicable.

Transaction Testing Results:

Findings: None.

Observations: For the 100 closed claims selected for testing, RNA ascertained whether or not 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. Of the 100 closed claims selected for testing, RNA ascertained

whether or not the paid claims were subject to the intercept procedures to comply with requirements in M.G.L. c. 175, § 24D. When required, the Company properly verified the claim recipient was not subject to the intercept requirement prior to making the claim payment.

RNA verified the Company has procedures in place to provide 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 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 our testing, it appears that the Company's processes to handle claims in accordance with policy provisions, statutory and regulatory requirements are functioning in accordance with their policies and procedures.

Recommendations: None.

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<b>Standard VII-7. The company uses the reservation of rights and excess of loss letters, where appropriate.</b>
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Objective: The Standard is concerned with the Company's usage of reservation of rights letters and its procedures for notifying an insured when it is apparent that the amount of loss will exceed policy limits.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- Company policy and claims 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 claims investigations are handled by adjusters up to a defined dollar limit to their settlement authority.
- The Company uses reservation of rights and excess of loss letters when circumstances warrant.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including the Company's use of reservation of rights and excess of loss letters. The CQE department renders reports to senior management describing the results of its audits.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department, and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA reviewed the claim files and noted whether reservations of rights or excess loss letters were warranted.

Transaction Testing Results:

Findings: None.

Observations: For all closed claims selected for testing, RNA noted the claims were reported and investigated according to the Company's policies and procedures and claim file documentation was adequate. RNA noted no instances where a reservation of rights letter or excess loss letter was used inappropriately. Based upon the results of our testing, it appears that the Company's processes to utilize reservation of rights and excess loss letters to claims are functioning in accordance with their policies and procedures.

Recommendations: None.

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<b>Standard VII-8. Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.</b>
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Objective: The Standard is concerned with the Company's timely refund of deductibles from subrogation proceeds.

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

- Written policies and procedures govern the claims handling process including subrogated claims.
- Company policy is to resolve all subrogated claims in a timely manner.
- Company policy and claims 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.
- The Company has a subrogation unit as part of its claims department. Its responsibility is to manage salvage on total loss claims.
- When liability or coverage issues are undisputed with another carrier, the Company typically waives the deductible to its insured.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.

- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including subrogation processing. The CQE department renders reports to senior management describing the results of its audits.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA reviewed the claim files and noted whether subrogation recoveries were reasonably timely and accurate.

Transaction Testing Results:

Findings: None.

Observations: For all closed claims selected for testing, RNA noted the subrogation recoveries were timely and accurate according to the Company's policies and procedures and the claim file documentation were adequate. Further, RNA noted no instances where subrogation recoveries to the insured were not timely. Based upon the results of our testing, it appears that the Company's processes to make subrogation recoveries to insureds are functioning in accordance with their policies and procedures.

Recommendations: None.

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<b>Standard VII.9. Company claim forms are appropriate for the type of product.</b>
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Objective: The Standard is concerned with the Company's usage of claim forms that are proper for the type of product.

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

- Industry standardized claims reporting forms are utilized which are appropriate for the Company's lines of business.
- Claim processing guidelines require that key documentation be completed, signed, and included in the file, including: notice of loss with relevant date of loss, description, and involved parties.

- Company policy and claims 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.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including use of appropriate claim forms. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA reviewed the claim files and noted whether the claim reporting was appropriate.

Transaction Testing Results:

Findings: None.

Observations: For each of the closed claims selected for testing, RNA noted the claims were reported according to the Company's policies and procedures and claim file documentation was adequate. Based upon the results of our testing, it appears that the Company's processes to document reported claims are functioning in accordance with their policies and procedures.

Recommendations: None.

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<p><b>Standard VII-10. Claim files are reserved in accordance with the company's established procedures.</b></p>
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Objective: The Standard is concerned with the adequacy of information maintained in the Company's claim records related to its reserving practices.

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



- Written policies and procedures govern the claims handling process.
- Company policy is to evaluate claims timely and establish adequate reserves on all reported claims.
- Company policy and claims 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.
- Claim processing guidelines require that key information be completed, signed, and included in the file, including:
  - Notice of loss with relevant date of loss, description, and involved parties.
  - Relevant reports from investigating police authorities.
  - Applicable medical reports and other investigative correspondence.
  - Other pertinent written communication.
  - All legal correspondence.
  - Documented or recorded telephone communication.
  - Claim activity is logged and documented in chronological order.
  - Claim reserve evaluations, adjustments and assessments are documented.
  - Source correspondence and investigative reports are scanned and maintained electronically.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and processing time.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including adequate claim file documentation. The CQE department renders reports to senior management describing the results of its audits.

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 claims reserving processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims reserving policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA verified the date the claim was reported to the Company and noted that claim reserves were evaluated, established and adjusted in a reasonably timely manner.



Transaction Testing Results:

Findings: None.

Observations: For each of the closed claims selected for testing, RNA noted that claim reserves were evaluated, established and adjusted according to the Company's policies and procedures and that the claims investigation by the Company appeared timely. Based upon the results of our testing, it appears that the Company's processes to evaluate, establish and adjust claim reserves are functioning in accordance with their policies and procedures and are reasonably timely.

Recommendations: None.

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**Standard VII-11. Denied and closed-without-payment claims are handled in accordance with policy provisions and state law. M.G.L. c. 176D, §§ 3(9)(d), 3(9)(h) and 3(9)(n).**

Objective: The Standard is concerned with the adequacy of the Company's decision-making and documentation of denied and closed-without-payment claims. Pursuant to M.G.L. c. 176D, § 3(9)(d), unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information. Pursuant to M.G.L. c. 176D, § 3(9)(h), unfair claims settlement practices include attempting to settle a claim for an amount less than a reasonable person would have believed he or she was entitled to receive. M.G.L. c. 176D, § 3(9)(n) considers failure to provide a reasonable and prompt explanation of the basis for denial of a claim as an unfair claims settlement practice.

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

- Company policy requires that denials must include contractual basis for non-payment and inform the claimant of their right to appeal.
- All claim notifications are maintained on a mainframe based automated claims management system.
- Company policy and claims 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 claims investigations are handled by adjustors not to exceed a defined dollar limit to their settlement authority.
- Claims management can access the claims system to monitor open claims.
- A written explanation of all denied claims and closed-without-payment claims is provided to a claimant.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including claims handling practices. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. Of the 100 claims selected, RNA noted 14 of the claims were closed without payment. For all selected claims, including those tested by the CQE department, RNA verified the date the claim was reported, reviewed correspondence and investigative reports and noted whether the Company handled the claim timely and properly before closing it.

Transaction Testing Results:

Findings: None.

Observations: For the 14 claims closed without payment tested, documentation appeared to be complete including correspondence and other documentation. Further, the Company's conclusion appeared reasonable. Based upon the results of our testing, it appears that the Company's processes do not unreasonably deny claims or delay payment of claims.

Recommendations: None.

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<b><u>Standard VII-12.</u> Cancelled benefit checks and drafts reflect appropriate claim handling practices.</b>
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Objective: The Standard is concerned with the Company's procedures for issuing claim checks as it relates to appropriate claim handling practices.

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

- Written policies and procedures govern the claims payment process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- Company policy and claims payment 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 claims investigations are handled by adjustors up to a defined dollar limit to their settlement authority.
- Company procedures verify the proper payee and amount and amount prior to check issuance.
- Claims management can access the claims system to monitor open claims.

- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including the Company's use of reservation of rights and excess of loss letters. The CQE department renders reports to senior management describing the results of its audits.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims payment processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims payment policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department, and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. For each of the selected claims, including those tested by the CQE department, RNA reviewed the claim files and noted whether claim payment practices were appropriate.

Transaction Testing Results:

Findings: None.

Observations: For all closed claims selected for testing, RNA noted the claims were reported and investigated according to the Company's policies and procedures and claim payment documentation was adequate. RNA noted no instances where claim payment practices appeared inappropriate. Based upon the results of our testing, it appears that the Company's processes to issue claim payment checks are appropriate and functioning in accordance with their policies and procedures.

Recommendations: None

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<p><b>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.</b></p>
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Objective: The Standard is concerned with 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 for. 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: The following key observations were noted in conjunction with the review of this Standard:

- Claims handling guidelines require the uniform and consistent handling of claims settlement and payment of claims.
- Company policy is to contact all injured persons or their legal representatives within two business days of receipt of a claim.
- Company policy and claims 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 injured persons claims are handled by claims staff dedicated to handling bodily injury claims in which the claimant is typically represented by an attorney.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Claims management periodically reviews open claims each month based upon an aging of all claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses reports measuring operational effectiveness and processing times to monitor claims processing activities.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including claims handling practices. The CQE department renders reports to senior management describing the results of its audits.

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 claims handling processes and obtained documentation supporting such processes. RNA selected a sample of 85 auto, 10 homeowners and five commercial property/liability claims closed during the period January 1, 2003 through June 30, 2004 to evaluate compliance with Company claims handling policies and procedures. The sampled auto policies included both private passenger and commercial auto claims. Based upon an evaluation of the CQE department and limited re-testing of the CQE department's audit work, RNA utilized the testing results from several CQE audits to complement our transaction testing procedures. Of the 100 claims selected, RNA noted several of the claims tested involved litigation in a bodily injury or collision claim. When applicable, including those tested by the CQE department, 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:* For the claims selected that involved litigation, documentation appeared to be complete including correspondence and other documentation. Further, the Company's conclusion appeared reasonable. Based upon the results of our testing, it appears that the Company's processes do not unreasonably deny claims or compel claimants to instigate litigation.

*Recommendations:* None.

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<b>Standard VII-14. Loss statistical coding is complete and accurate. M.G.L. c. 175A, § 15(a); 211 CMR 15.00</b>
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*Objective:* The Standard is concerned with the Company's complete and accurate reporting of loss statistical data to appropriate rating bureaus.

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

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

- Company policy is to report loss data to appropriate rating bureaus (i.e. CAR or ISO) timely and with complete and accurate loss data.
- The Company reports private passenger auto loss data to CAR in a format required by CAR. Participation in CAR is mandatory for all insurers writing private passenger automobile insurance in Massachusetts.
- The Company also reports loss data to AIB, which is a rating bureau that represents the insurance industry in rate hearings before the Commissioner of Insurance.
- The Company reports homeowners and commercial property/liability loss data to ISO in a format required by ISO.
- Detailed claim data is reported quarterly to CAR, AIB and ISO. The claim data includes loss experience by line of business, type of loss, dollar amounts, claim counts, accident dates, territory, etc.
- Claims management personnel reconcile the underlying data for completeness and accuracy. Exceptions reports are generated to ensure the loss data is properly reported.
- Company policy and claims 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.
- The Company has established a CQE department, which is charged with performing quality control audits of the Company's claims handling processes. Such audits are conducted on the Company's claims functional departments using numerous defined and measurable performance standards, including the completeness and accuracy of loss statistical coding. The CQE department renders reports to senior management describing the results of its audits.

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 loss statistical reporting processes and obtained documentation supporting such processes. RNA reviewed detailed reports from CAR and ISO showing the Company's loss data in summary format. RNA reviewed the CAR and ISO reports for reasonableness compared to Company statistical data for the quarter ended September 30, 2004. RNA noted no unusual results or differences in the data. Additionally, RNA reviewed the latest audit reports from CAR on the Company's compliance with CAR statistical coding requirements for key policy determinants for business ceded to CAR.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

## SUMMARY

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

FOR INFORMATION PURPOSES ONLY



### ACKNOWLEDGEMENT

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

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

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