



THE COMMONWEALTH OF MASSACHUSETTS

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS
REGULATION**

Division of Insurance

Report on the Comprehensive Market Conduct Examination of

Hingham Mutual Fire Insurance Company

Hingham, Massachusetts

For the Period January 1, 2008 through December 31, 2008

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NAIC COMPANY CODE: 14192

EMPLOYER'S ID NUMBER: 04-1442510



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

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NONNIE S. BURNES
COMMISSIONER OF INSURANCE

July 23, 2009

Nonnie S. Burnes
Commissioner of Insurance
Commonwealth of Massachusetts
Division of Insurance
One South Station
Boston, Massachusetts 02110-2208

Dear Commissioner Burnes:

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

HINGHAM MUTUAL FIRE INSURANCE COMPANY

at its home office located at:

230 Beal Street
Hingham, Massachusetts 02043

The following report thereon is respectfully submitted.

TABLE OF CONTENTS

	<i>PAGE</i>
SCOPE OF EXAMINATION	4
EXAMINATION APPROACH	4
EXECUTIVE SUMMARY	5
COMPANY BACKGROUND	10
I. COMPANY OPERATIONS/MANAGEMENT	11
II. COMPLAINT HANDLING	21
III. MARKETING AND SALES	24
IV. PRODUCER LICENSING	27
V. POLICYHOLDER SERVICE	31
VI. UNDERWRITING AND RATING	37
VII. CLAIMS	55
SUMMARY	67
ACKNOWLEDGEMENT	68

SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (the “Division”) conducted a comprehensive market conduct examination of Hingham Mutual Fire Insurance Company (“Hingham Mutual” or “the Company”) for the period January 1, 2008 to December 31, 2008. 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 Eide Bailly, LLP (“Eide”) 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 National Association of Insurance Commissioners’ *2008 Market Regulation Handbook*, the market conduct examination standards of the Division, the Commonwealth of Massachusetts insurance laws, regulations and bulletins, and selected federal laws and regulations. All procedures were performed under the management, control and general supervision of the market conduct examination staff of the Division, including procedures more efficiently addressed by the concurrent Division financial examination. For those objectives, market conduct examination staff discussed, reviewed and used procedures performed by the Division’s financial examination staff to the extent deemed necessary, appropriate and effective, to ensure that the objective was adequately addressed. The following describes the procedures performed and the findings for the workplan steps thereon.

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

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

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

The controls assessment process is comprised of three significant steps: (a) identifying controls; (b) determining if the control has been reasonably designed to accomplish its intended purpose in mitigating risk (i.e., a qualitative assessment of the controls); and (c) verifying that the control is functioning as intended (i.e., the actual testing of the controls). For areas in which controls reliance was established, sample sizes for transaction testing were accordingly adjusted. The form of this report is “Report by Test,” as described in Chapter 15 of the Handbook.

EXECUTIVE SUMMARY

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

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

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

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

SECTION I - COMPANY OPERATIONS/MANAGEMENT

STANDARD I-3

Findings: The Company does not have procedures in place for conducting criminal background checks on employees or appointed producers, and has not performed such checks on these employees or producers.

Observations: The Company does not have a whistleblower program in place for employees to anonymously report fraudulent activity.

Recommendations: The Company should establish procedures for conducting criminal background checks on all current and prospective Company employees and appointed producers, and should conduct a criminal background check on these employees and producers according to the procedures. Also, the Company should consider putting into place an anonymous whistleblower program.

STANDARD I-7

Findings: None.

Observations: The Company’s home office record retention policies appear reasonable, but are not documented as part of any written underwriting, or claim handling policies and procedures, or as a separate written policy.

Recommendations: The Company should document its record retention policy as part of its claim handling policies and procedures, or as a separate written policy.

SECTION II - COMPLAINT HANDLING

STANDARD II-3

Findings: The file for one non-Division complaint did not contain documentation supporting the company's response to the complaint, or how it was resolved.

Observations: None.

Recommendations: The Company should maintain all required documentation supporting the receipt and resolution of complaints in its complaint files.

STANDARD II-4

Refer to Standard II-3 for Findings, Observations and Recommendations also applicable to this standard.

SECTION IV - PRODUCER LICENSING

STANDARD IV-1

Findings: The Company's record of licensed and appointed agencies for the examination period does not reconcile to the Division's records as follows: (1) thirty-three agencies appointed on company records are licensed, but do not show as appointed on Division records and; (2) one agency appointed on Company records is not licensed according to Division records. Eide also noted the Company does not verify whether individual producers affiliated with an appointed agency are licensed by the Division.

Observations: None.

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, to reconcile its agency appointment records with the Division's records as of a certain date, and shall verify that each of an appointed agency's affiliated producers is licensed in Massachusetts.

Subsequent Actions: The Company states that based on the findings of this examination, it is now appointing agencies after first verifying that agency principals, and the agency's affiliated individual producers, are licensed. In addition, the Company states it will update its policy issuance/writing system to verify that an agency is appointed, and the agency's affiliated individual producers are licensed, prior to issuing any policy written by that agency. If the agency is not appointed, or the individual producer affiliated with the agency is not licensed, the Company will not issue the policy.

STANDARD IV-2

Refer to Standard IV-1 for Findings, Observations, and Required Actions and Subsequent Actions also applicable to this standard.

STANDARD IV-3

Findings: None.

Observations: The results of Eide's testing showed that the Company's policy is to terminate agent appointments using the Division's OPRA system. Eide noted that the Company provides agents 180 days written notice prior to the effective date of termination, but does not terminate the appointment through OPRA until 180 days after the effective date of termination.

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which ensures compliance with M.G.L. c. 175, § 162T.

Subsequent Actions: The Company states that it is now using the OPRA system to terminate agent appointments upon the effective date of termination.

STANDARD IV-5

Findings: The Company issued seven agent termination notices during the examination period that failed to state the reason for termination.

Observations: None.

Recommendations: The Company should adopt policies and procedures to ensure that its agent termination notices state the reason for termination.

Subsequent Actions: The Company states that it will immediately begin documenting the reason for all producer terminations in its termination notices.

SECTION VI - UNDERWRITING AND RATING

STANDARD VI-1

Findings: The Company incorrectly calculated one homeowners' premium credit, and one commercial policy special rating group credit, of the policies tested from the examination period. The homeowners' policy error was due to the manual entry of the policy, which was not prevented or detected by the premium system. The resulting error undercharged the policyholder's premium by \$55. The commercial policy error was due to manual selection of the wrong special rating group, which can't be detected by the premium system. The resulting error undercharged the policyholders' premium by \$110.

As a result of these findings, the Company ran a system inquiry, which identified 26 additional homeowners' policies from the examination period with incorrectly calculated premium credits. These incorrectly calculated credits resulted in premium undercharges ranging from \$27 to \$96 per policy, and totaled \$1191 for the group of affected policies.

Observations: Except as noted above, testing otherwise showed that the Company correctly calculates policy premiums, discounts and surcharges in compliance with statutory requirements, and in accordance with rates filed with the Division.

Required Action: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which prevents future system and manual entry errors.

Subsequent Actions: The Company states it has corrected the premium system to prevent subsequent errors in calculating premium credits, and will adjust the undercharged policy premiums upon renewal.

STANDARD VI-10

Refer to Standard VI-1 for Findings, Observations and Required Actions also applicable to this Standard.

STANDARD VI-11

Refer to Standard VI-1 for Findings, Observations and Required Actions also applicable to this Standard.

SECTION VII – CLAIMS

STANDARD VII-1

Findings: None.

Observations: The Company's initial contact with claimants on the claim transactions tested was timely. Based upon the results of testing, it appears that the Company's processes for making initial contact with claimants are functioning in accordance with its policies, procedures, and statutory requirements. Eide noted that the Company does not have written claim handling policies and procedures.

Recommendations: The Company should develop written claim handling policies and procedures as a best practice to ensure consistent claim handling.

STANDARD VII-2

Findings: The Company did not promptly investigate and timely settle one of the 107 claim files tested, which took 127 days from the date the claim was filed to resolve. A claim adjuster was assigned on 12/10/07, but no additional documentation is contained in the claim file until the Company requested the claim status on 1/30/08 – a period of 51 days. No response was received from the adjuster, and an additional request was made on 2/13/08. The claim was settled on 4/10/08, but no information explaining the delay in settlement was documented in the claim file.

Observations: Except as noted above, the Company appeared to timely investigate and settle the remaining 106 tested claims.

Recommendations: The Company should develop written claim policies and procedures that require all claim files to adequately document the timely investigation and settlement of claims.

STANDARD VII-3

Refer to Standard VII-2 for Findings, Observations and Recommendations also applicable to this standard.

STANDARD VII-5

Findings: The Company did not adequately document the investigation and settlement for one of the 107 claim files tested. A claim adjuster was assigned on 12/10/07, but no additional documentation is contained within the claim file until the Company requested the claim status on 1/30/08 – a period of 51 days. No response was received from the adjuster, and an additional request was made on 2/13/08. The claim was settled on 4/10/08, but no information explaining the delay in settlement was documented in the file.

Observations: Except as noted above, the Company appeared to timely investigate and settle the remaining 106 claims tested.

Recommendations: The Company should develop written claim policies and procedures that require all claim files to adequately document the timely investigation and settlement of claims.

STANDARD VII-6

Findings: The Company did not provide 10 days written notice to the building commissioner prior to payment for damages in excess of \$1,000, in 21 of 107 files tested from the examination period. Fifteen claim files contained no notification to the building commissioner, and six claim files contained notification to the building commissioner that was sent less than 10 days prior to paying the claim.

Observations: None

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which ensures compliance with M.G.L. c. 139, § 3B. Also, the Company shall require that copies of these notices be retained in the Company's claim files.

COMPANY BACKGROUND

The Hingham Mutual Fire Insurance Company (“Hingham”) was incorporated under the laws of the Commonwealth of Massachusetts on March 1, 1826, and commenced business on September 1, 1826. Hingham writes primarily homeowners, fire and allied coverage through 339 independent agencies in suburban areas of Massachusetts, Connecticut, Rhode Island, New Hampshire and Maine, with a significant portion also being written in Boston and some of the smaller, urban areas of New England. Over 95% of Hingham’s written premium from the examination period is homeowners, fire and allied coverage, with the remaining 5% consisting of a small commercial multi-peril book of business. The Company is rated B+ (Good) by A.M. Best.

All Company premiums, losses and expenses are combined and prorated 82% to Hingham and 18% to Hingham’s fully owned subsidiary Danbury Insurance Company, under an intercompany pooling arrangement effective January 1, 2008.

Hingham also owns 41.4% of the N.E. Corporation, parent company of the Casco Indemnity Company, which is licensed to write personal automobile policies in all of the New England states. Hingham’s statutory surplus as of December 31, 2008 was \$39.8 million, with statutory admitted assets of approximately \$102.5 million.

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

I. COMPANY OPERATIONS/MANAGEMENT

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

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

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

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

- The Company does not have an internal audit program.
- The Company's financial statements are audited annually by an independent accounting firm.
- The Company's Audit Committee oversees the financial reporting process through meetings with the external auditors twice annually, and reports to the Board of Directors at each meeting.
- The Company's Audit Committee oversees related party transactions, statutory accounting policies and compliance with National Association of Insurance Commissioners' rules and regulations via meetings with external auditors several times a year.

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

Transaction Testing Procedure: Due to the nature of this standard no transaction testing was performed.

Transaction Testing Results:

Findings: None.

Observations: None.

Recommendations: None.

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

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

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

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

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

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

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

- The Company does not have a written plan to address fraud throughout the organization.
- The Company does not have a Special Investigative Unit within the Claim Department, but trains its claim examiners to review claims to detect and prevent fraudulent claim activities.
- The Company has procedures for preventing claim fraud, including: tracking information through the ImageRight system, where loss history can be reviewed; tracking information through the index system, where all property and liability claims are stored; identifying loss trends; and reporting possible fraud to the appropriate enforcement agency.
- The Company has an ethics policy for employees that provides for the reporting of unethical conduct or improper deeds to Human Resources.

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: Eide reviewed the Company’s anti-fraud policies and procedures, and discussed them with Company personnel.

Transaction Testing Results:

Findings: The Company does not have procedures in place for conducting criminal background checks on employees or appointed producers, and has not conducted such checks on these employees or producers.

Observations: The Company does not have a whistleblower program in place for employees to anonymously report fraudulent activity.

Recommendation: The Company should establish procedures for conducting criminal background checks on all current and prospective Company employees and appointed producers, and should conduct a criminal background check on these employees and producers according to the procedures. Also, the Company should consider putting in place an anonymous whistleblower program.

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

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

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

No work performed. The Company does not utilize MGAs, GAs, TPAs or management agreements, therefore this standard is not applicable to this examination.

Standard I-6. The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.

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

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

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

Controls Assessment: The Company's record retention policy requires that claim and underwriting documentation be retained for at least seven years from the date a policy is issued or a claim is paid.

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: Eide performed various procedures throughout this examination which related to review of documentation and record retention. Such testing results are noted in the various examination areas, with any exceptions noted in the Executive Summary along with the applicable standard.

Transaction Testing Results:

Findings: None.

Observations: The Company's home office record retention policies appear reasonable, but are not documented as part of any written underwriting or claim handling policies and procedures, or as a separate written policy.

Recommendations: The Company should document its record retention policy as part of its underwriting and claims handling policies and procedures, or as a separate written policy.

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

M.G.L. c. 175, §§ 32 and 47.

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

Pursuant to M.G.L. c. 175, § 32, domestic insurers must obtain a certificate authorizing it to issue policies or contracts. 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: Eide reviewed the Company's Certificate of Authority, and compared it to the lines of business which the Company writes in the Commonwealth.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

M.G.L. c. 175, § 4.

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

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

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

Controls Reliance: Not applicable.

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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

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

- The Company's practice is to provide the Privacy Policy when the policy is delivered.
- The Company's Privacy Policy states that it collects certain types of nonpublic personal information from third parties or other sources, and gives examples of such third parties or other sources. The Privacy Policy further notes that the Company may disclose this nonpublic personal information as permitted by law, and that consumers have the right to access and to correct inaccuracies in this information.
- The Company's Privacy Policy states that it does not disclose any nonpublic personal information to any affiliate or non-affiliated third party, other than those permitted by law.
- The Company annually provides the Privacy Policy to customers via mail upon renewal.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic customer, personal and health 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: Eide interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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

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

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

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

Controls Assessment: Refer to Standard I-10.

Controls Reliance: Refer to Standard I-10.

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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

Controls Assessment: Refer to Standard I-10.

Controls Reliance: Refer to Standard I-10.

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for privacy compliance, and examined whether the Company's privacy notice provided sufficient information and disclosures.

Transaction Testing Results:

Findings: None.

Observations: It appears from Eide's review that the Company provides a sufficient privacy notice to applicants and policyholders regarding its collection and disclosure of nonpublic personal financial information, in accordance with Company policy.

Recommendations: None.

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

Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505; 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 regulated entity's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.

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

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

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

Controls Assessment: Refer to Standard I-10.

Controls Reliance: Refer to Standard I-10.

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for privacy compliance, and reviewed the privacy notice given to applicants and policyholders for disclosures regarding its collection and use of non-public personal financial information.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

Health Insurance Portability and Accountability ACT of 1996; Public Law 104-191; 45 CFR Parts 160 and 164.

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

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

Controls Assessment: Refer to Standard I-10.

Controls Reliance: Refer to Standard I-10.

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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

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

Controls Assessment: Refer to Standard I-10.

Controls Reliance: Refer to Standard I-10.

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for privacy compliance.

Transaction Testing Results:

Findings: None.

Observations: It appears from Eide's review of the Company's privacy notice that it has adequate and properly documented policies and procedures for the protection of nonpublic policyholder and consumer information.

Recommendations: None.

FOR INFORMATIONAL PURPOSES ONLY

II. COMPLAINT HANDLING

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

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

M.G.L. c. 176D, § 3(10).

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

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

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

- The Company logs all written complaints in the complaint register in a consistent format.
- The complaint register includes the date received, the date closed, line of business, name and address of the person making the complaint, the policy number, the nature of the complaint, name of Company personnel responsible for handling the complaint and the complaint disposition.
- The Company's practice is to respond to Division complaints within 14 calendar days of receipt.

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: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide reviewed all 11 Massachusetts complaint files from the examination period, to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). Eide reviewed the complaint files, noting the response date and the documentation supporting the resolution of the complaint. Eide also compared the Company's complaint register to the Division's complaint records, to ensure that the Company's records were complete.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company's format for recording the 11 complaints reviewed included all necessary information.

Recommendations: None.

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

M.G.L. c. 176D, § 3(10).

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

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

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide reviewed 11 Massachusetts complaint files from the examination period, to evaluate the Company's compliance with M.G.L. c. 176D, § 3(10). Eide also reviewed the Company's website, and various forms sent to policyholders, to determine whether the Company provides contact information for consumer inquiries as required.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that Company's contact information is contained on the billing notices and on its website.

Recommendations: None.

Standard II-3. The regulated entity 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's response to the complaint fully addresses the issues raised, is properly documented, includes appropriate remedies and complies with statutes, regulations and contract language.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide reviewed 11 Massachusetts complaint files from the examination period, to evaluate the Company's actions related to complaint disposition.

Transaction Testing Results:

Findings: The file for one non-Division complaint did not contain documentation supporting the company's response to the complaint, or how it was resolved.

Observations: None.

Recommendations: The Company should maintain all required documentation supporting the receipt and resolution of complaints in its complaint files.

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

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

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

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide reviewed 11 Massachusetts complaint files from the examination period, to evaluate the Company's complaint response times.

Transaction Testing Results:

Findings: Refer to Standard II-3.

Observations: None.

Recommendations: Refer to Standard II-3.

III. MARKETING AND SALES

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

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

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

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

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

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

- The Company has a website designed for use by consumers and producers which complies with Division of Insurance Bulletin 2001-02.
- Company marketing materials are approved by the Company prior to use.
- The Company relies primarily on independent agents to generate business.

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

Transaction Testing Results:

Findings: None.

Observations: The results of Eide's testing showed that the Company's advertising and sales materials comply with Massachusetts M.G.L. c. 176D, § 3. The Company's website disclosure complies with the requirements of Division of Insurance Bulletin

2001-02. The Company did not develop any new advertising materials during the examination period.

Recommendations: None.

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

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

Controls Assessment: The following key observations were noted in conjunction with the review of Standards III-2 through III-3:

- The Company provides producer training via webinars, in-house and off-site at producer locations.
- Producer training focuses on Company policies, practices and procedures, including those relating to underwriting and rating and policyholder service.
- The Company's producers have access to policy and rate information through the Company's agent 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: Eide interviewed Company personnel with responsibility for developing and distributing producer training materials, and reviewed such materials in use during the examination period for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

Controls Assessment: Refer to Standard III-2.

Controls Reliance: Refer to Standard III-2.

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for developing and circulating written producer communications, and reviewed underwriting manuals and examples of communications to producers used during the examination period.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

Standard III-4. The regulated entity's mass marketing of property/casualty insurance is in compliance with applicable statutes, rules and regulations.

M.G.L. c. 175, § 193R.

No work performed. This standard not covered in the scope of the examination because the Company does not offer mass merchandising or group marketing plans as defined by statute, or any affinity group discounts.

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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. Regulated entity records of licensed and appointed (if applicable) producers agree with department of insurance records.

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

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

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

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

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

- The Company does not perform criminal background checks on producers.
- The Company does not verify that each of an agency's affiliated producers is licensed in Massachusetts.
- The Company requires producers to provide a copy of Errors and Omissions insurance coverage prior to appointment.
- The Company obtains a copy of the producer license prior to appointment.
- The Company appoints and terminates producers using the Division's OPRA system.
- The Company notifies a producer of termination at least 180 days prior to the effective date of termination.

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: Eide interviewed individuals with responsibility for producer contracting and processing of agency appointments. Eide reconciled the Divisions producer listing to the Company's producer listing.

Transaction Testing Results:

Findings: The Company's record of licensed and appointed agencies for the examination period does not reconcile to the Division's records as follows: (1) thirty-three agencies appointed on company records are licensed, but do not show as appointed on Division records and; (2) one agency appointed on Company records is not licensed according to Division records. Eide also noted the Company does not verify whether individual producers affiliated with an appointed agency are licensed by the Division.

Observations: None.

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, that reconciles its agency appointment records with the Division's records as of a certain date, and shall verify that each of an appointed agency's affiliated producers is licensed in Massachusetts.

Subsequent Actions: The Company states that based on the findings of this examination, it is now appointing agencies after first verifying that agency principals, and the agency's affiliated individual producers, are licensed. Also, the Company states it will update its policy issuance/writing system to verify that the agency is appointed, and the agency's affiliated individual producer is licensed, prior to issuing any policy written by that agency. If the agency is not appointed, or the affiliated individual producer is not licensed, the Company will not issue the policy.

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

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

Refer to Standard IV-1 for control assessments, testing procedures and testing results also applicable to this standard.

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

M.G.L. c. 175, §§ 162R and 162T.

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

M.G.L. c. 175, § 162R defines the reasons for which the Division may terminate a producer's license, and the reasons for which companies may terminate a producer's agent appointment.

Pursuant to M.G.L. c. 175, § 162T, the Company must notify the Division within 30 days of the effective date of a producer's termination, and if the termination was "for cause" as defined in M.G.L. c. 175, § 162, 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.
- The Company's policy and practice is to notify the Division of the reason for agent terminations when the termination is "for cause."
- The Company has a process for notifying agents that they have been terminated which complies with statutory and contractual requirements.

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

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

Transaction Testing Results:

Findings: None.

Observations: The results of Eide's testing showed that the Company policy is to terminate agent appointments using the OPRA system. Eide noted that the Company provides agents 180 days written notice prior to the effective date of termination, but does not terminate the appointment through OPRA until 180 days after the effective date of termination.

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which ensures compliance with M.G.L. c. 175, § 162T.

Subsequent Actions: The Company states that it is now using the OPRA system to terminate agent appointments upon the effective date of termination.

Standard IV-4. The regulated entity'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: Refer to Standards IV-1 and IV-3.

Transaction Testing Procedure: Eide interviewed individuals with responsibility for producer contracting, appointments and terminations. Eide reviewed documentation for 98 homeowners' and 11 commercial policies issued or renewed during the examination period, for any evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Transaction Testing Results:

Findings: None.

Observations: Through testing of homeowners' and commercial policies, Eide noted no evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Recommendations: None.

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

M.G.L. c. 175, §§ 162R and 162T.

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

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

Controls Assessment: Refer to Standard IV-3.

Controls Reliance: Refer to Standard IV-3.

Transaction Testing Procedure: Eide selected 14 agents whose appointments were terminated during the examination period, and reviewed the reasons for each termination.

Transaction Testing Results:

Findings: The Company issued seven agent termination notices during the examination period that failed to state the reason for termination.

Observations: None.

Recommendations: The Company should adopt policies and procedures to ensure that its agent termination notices state the reason for termination.

Subsequent Actions: The Company states that it will immediately begin documenting the reason for all producer terminations in its termination notices.

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

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

V. POLICYHOLDER SERVICE

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

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

M.G.L. c. 175, §§ 193B and 193B ½.

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

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

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

- The Company direct bills approximately 95% of its policyholders, who generally receive a renewal and billing notice from the Company 30 - 60 days prior to the renewal effective date.
- The Company issues a reminder for payment approximately 25 days before the due date. The Company's policy administration system automatically generates installment billing notices approximately 21 days before payments are due.
- Company policy generally requires a 25% premium down payment at the time an application is taken. The remaining premium and applicable service charges are direct billed to policyholders in 5 installments. If no payment is received with the application, the applicant has 30 days to pay in full, or to pay the first of 6 installments.

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: Eide interviewed Company personnel with responsibility for policyholder service, and reviewed billing notice dates, and installment and interest charges, for 98 homeowners' policies and 11 commercial policies issued or renewed during the examination period.

Transaction Testing Results:

Findings: None.

Observations: The premium and billing transactions tested were processed according to the Company's policies and procedures. Based upon the results of testing, the Company's processes for mailing billing notices with adequate advance notice, and properly applying monthly service charges on installment payments, appear to be functioning in accordance with its policies, procedures, and statutory requirements.

Recommendations: None.

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

M.G.L. c. 175, § 187B.

Objective: This Standard addresses the Company's procedures for ensuring that customer cancellation requests are processed timely.

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

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

- Company policy is to cancel policies upon notification from the producer of the policyholder's request, and to process premium refunds in a timely manner.
- The Company refunds unearned premium to policyholders on a daily pro-rata 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: Eide interviewed Company personnel with responsibility for policyholder service, and reviewed evidence that all 7 of the insured requested homeowners' policy cancellations, from the larger testing sample of 98 homeowners and 11 commercial policies from the examination period, were timely processed.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

Objective: This Standard addresses the Company's procedures for providing timely and responsive information to customers by the appropriate department. Complaints are covered in the Complaint Handling Section II. Claims are covered in the Claims Section VII.

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

- The Company has 3 customer service representatives who answer policyholders' general questions about their policies or billing matters.
- The Company considers its producers as having the primary relationship with the policyholder. Since customer service representatives are not licensed producers, policyholders must request endorsements and policy changes through the producer.

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: Eide discussed correspondence procedures with Company personnel, and reviewed correspondence in conjunction with underwriting, rating, policyholder service and claim standards.

Transaction Testing Results:

Findings: None.

Observations: Based upon a review of general correspondence between policyholders and the Company regarding underwriting, rating, policyholder service and claims, it appears that the Company handles customer inquiries and correspondence directed to it in a timely and responsive manner. The complaint testing performed also supports the timeliness of the Company's responses to correspondence.

Recommendations: None.

Standard V-4. Whenever the regulated entity transfers the obligations of its contracts to another company pursuant to an assumption reinsurance agreement, the company has gained the prior approval of the insurance department and the company has sent the required notices to affected policyholders.

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

Standard V-5. Policy transactions are processed accurately and completely.

Objective: This Standard is concerned with whether the Company processes insured requests accurately and completely from the information they receive.

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

- The Company has a variety of ways in which an insured may contact them, including calling the Company, via the Company's website or by notifying the insured's producer.
- Changes and endorsements to existing policies are usually processed through the insured's producer.

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: Eide discussed endorsements, cancellations and change in information procedures with Company personnel, and reviewed actual correspondence between policyholders and the Company, in conjunction with review of the 98 homeowners' and 11 commercial policies from the examination period in the underwriting and rating section.

Transaction Testing Results:

Findings: None.

Observations: Based upon the review of general correspondence between policyholders, agents, and the Company with regard to requested policy changes, it appears that the Company accurately and completely processes policy transactions.

Recommendations: None.

Standard V-6. Reasonable attempts to locate missing policyholders or beneficiaries are made.

M.G.L. c. 200A, §§ 1, 2, 7-7B, 8A and 9.

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

Standard V-7. Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

M.G.L. c. 175, §§ 187C and 187D.

Objective: This Standard is concerned with whether the Company refunds unearned premium from cancellation in a timely manner in accordance with the statutes of the Commonwealth.

Pursuant to M.G.L. c. 175, § 187C, insurers must provide written notices of cancellation.

Pursuant to M.G.L. c. 175, § 187D, insurers have the right to cancel a policy for non-payment of premium.

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

- The Company sends a premium billing notice to the insured 21 days before the payment due date, and a payment reminder 4 days prior to the payment becoming delinquent.
- Forty days after the due date, a legal notice is sent to the policyholder providing an additional 15 days from the date of the notice to make payment. The company will cancel a policy if required premium is not received after the 15 days has expired.
- The Company manually processes all cancellations due to non-payment.
- The Company utilizes a daily pro-rata method to calculate the amount of unearned premium due to policyholders upon cancellation.

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: During Eide's review of 98 homeowners' policies and 11 commercial policies written or renewed during the examination period, 7 homeowners' policies and 1 commercial policy were cancelled by the Company for non-payment. All cancellations were investigated to ensure that proper notice of cancellation was given, and that any unearned premium was returned within a reasonable time period.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the selected policies, the Company appears to be providing proper notice to policyholders for cancellations due to non-payment. Eide noted no instances where the unearned premium from a cancellation was not returned to the insured within a reasonable time frame.

Recommendations: None.

Standard V-8. Claims history and loss information is provided to insured in timely manner.

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

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

- The Company's producers and its claims personnel have access to claims history and paid loss information for its policyholders.
- The Company's policy is to directly provide, or ask the producer to provide, a policyholder's claims history and paid loss information upon written request.

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

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

FOR INFORMATIONAL PURPOSES ONLY

VI. UNDERWRITING AND RATING

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

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

M.G.L. c. 175, § 193R.

Property/Liability: M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175, § 111H; 211 CMR 131.00; Division of Insurance Bulletin 2008-04 and 2008-08.

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

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

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

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

Division of Insurance Bulletin 2008-04 discusses procedures for filing forms and rates for commercial terrorism coverage and required disclosures, and Division of Insurance Bulletin 2008-08 provides rate and form filing guidelines for all lines of business

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

- The Company has written underwriting and rating policies and procedures which are designed to reasonably assure consistency in classification and rating.
- Company policy prohibits unfair discrimination in the application of premium discounts and surcharges, and in the application of the general rating methodology, in accordance with statutory and regulatory requirements.
- Company policy requires that homeowners' rates be based on American Association of Insurance Services ("AAIS") rates. The Company files such rates with the Division to comply with statutory and regulatory requirements. Homeowners' rating criteria include

territory, coverage amount and type, protection class, structure type, construction age, loss credits and deductible choice.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and reviewed other rating information. Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, to test rate classifications and premiums charged. Eide verified that each policy's premium, discounts and surcharges complied with statutory and regulatory requirements, and with homeowners' and commercial rates filed with the Division.

Transaction Testing Results:

Findings: The Company incorrectly calculated one homeowners' premium credit, and one commercial special rating group credit, of the policies tested from the examination period. The homeowners' policy error was due to the manual entry of the policy, which was not prevented or detected by the premium system. The resulting error undercharged the policyholder's premium by \$55. The commercial policy error was due to manual selection of the wrong special rating group, which cannot be detected by the premium system. The resulting error undercharged the policyholder's premium by \$110.

As a result of these findings, the Company ran a system inquiry, which identified 26 additional homeowners' policies from the examination period with incorrectly calculated premium credits. These incorrectly calculated credits resulted in premium undercharges ranging from \$27 to \$96 per policy, and totaled \$1191 for the group of affected policies.

Observations: Except as noted above, testing otherwise showed that the Company correctly calculates policy premiums, discounts and surcharges in compliance with statutory requirements, and in accordance with rates filed with the Division.

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which prevents future system and manual entry errors.

Subsequent Actions: The Company states it has corrected the premium system to prevent subsequent errors in calculating premium credits, and will adjust the undercharged policy premiums upon renewal.

Standard VI-2. All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.

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

Commercial Automobile and Commercial Multi-Peril: M.G.L. c. 175A, § 11; Division of Insurance Bulletin 2008-04.

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

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 rate information to any insured within a reasonable time after receiving a written request.

M.G.L. c. 175A, § 11 requires rating organizations and insurers to furnish rate information for commercial automobile and multi-peril policies to any insured within a reasonable time after receiving a written request. Division of Insurance Bulletin 2008-04 discusses procedures for filing forms and rates for commercial terrorism coverage, including required disclosures.

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

- The Company has written policies and procedures for processing new and renewal business.
- The Company's supervisory procedures are designed to ensure that new business submissions from producers are accurate and complete, including the use of all Company required forms and instructions.
- The Company's insurance policies provide disclosures as required by statutory and regulatory guidelines.
- If the Company denies an application, the producer is contacted by e-mail with the reason for denial. Producers are then responsible for communicating the denial in writing 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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide also selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, to test for timely disclosure of rates and coverage.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, the Company appears to provide required coverage disclosures to insureds upon initial application and renewal, in accordance with statutory guidelines.

Recommendations: None.

Standard VI-3. Regulated entity does not permit illegal rebating, commission cutting or inducements.

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

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

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

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

- The Company reviews all submitted applications to determine that only appropriate discounts have been allowed.
- The Company has procedures for paying producers' commissions in accordance with home office approved written contracts.

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: Eide reviewed new business materials, including advertising and underwriting manuals, for indications of rebating, commission cutting or inducements. Eide also selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, for evidence of illegal rebates, commission cutting or special inducements.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

Standard VI-4. The regulated entity underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and regulated entity guidelines in the selection of risks

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

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

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

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

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.” M.G.L. c. 175A, § 5 requires that rates for commercial multi-peril policies be based on past and prospective loss experience, for not less than the most recent five year period for which such experience is available.

Pursuant to M.G.L. c. 174A, § 5, fire rates for commercial multi-peril policies shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available, and shall consider a reasonable margin for underwriting profit and contingencies. Finally, such rates shall not be excessive, inadequate or unfairly discriminatory.

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

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- Written underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks 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: Eide interviewed the Company’s marketing and underwriting departments regarding risk acceptance and treatment of policyholders. Eide also selected 98 homeowners’ policies and 11 commercial policies issued, renewed, or cancelled during the examination period, and reviewed the policy, underwriting notes, and supporting documentation for evidence of discriminatory treatment. Eide also reviewed the reasons for which the Company declined coverage for six policies during the examination period.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company's processes for prohibiting discrimination are functioning in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

Recommendations: None.

Standard VI-5. All forms, including contracts, riders, endorsement forms and certificates are filed with the Department of Insurance, if applicable.

M.G.L. c. 175, §§ 2B, 99, 99B, 111H and 192; 211 CMR 131.00; Division of Insurance Bulletins 2008-04 and 2008-08.

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

Pursuant to M.G.L. c. 175, § 2B, policy form language, size and content standards for all policies must meet statutory requirements for readability and understanding. Pursuant to M.G.L. c. 175, § 99, homeowners policy forms must conform to the standards for policy language set forth in that section and, according to M.G.L. c. 175, § 99B, condominium and tenant policies must be filed with the Division for approval prior to use. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and must also be filed with the Division for approval prior to use. M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage be subject to rules and regulations set forth by the Commissioner, and 211 CMR 131.00 requires that forms for homeowners' lead liability coverage be filed with and approved by the Division.

Division of Insurance Bulletin 2008-04 discusses procedures for filing forms and rates for Commercial terrorism coverage and required disclosures.

Division of Insurance Bulletin 2008-08 contains guidelines for filing rate and form filings for all lines of business.

Controls Assessment:

- Company policy requires that agents use one of the Company's approved policy forms and endorsements when providing a quote to consumers.
- Company policy requires that all changes to policy forms and endorsements be 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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 98 homeowners' and 11 commercial policies issued, renewed or cancelled during the examination period, to test for the use of Company approved

policy forms and endorsements. Eide also reconciled all Company System for Electronic Rate and Form Filing (SERFF) filings to the Division's SERFF filings for the examination period.

Transaction Testing Results:

Findings: None

Observation: The Company appears to be filing all forms, contracts, certificates, endorsements and riders with the Division as required.

Recommendations: None.

Standard VI-6. Policies, riders and endorsements are issued or renewed accurately, timely and completely.
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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 Company policy forms and endorsements which are approved by the Division.
- Agents are required to use such forms and endorsements as guidelines when providing quotes to consumers.
- Company supervisors review all applications completed by agents to ensure that they are complete and internally consistent.
- Company procedures include mailing renewal notices 30-60 days prior to the policy renewal 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: Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period., to ensure that all policies, riders and endorsements were handled accurately, timely and completely.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company is processing policies, endorsements, and riders in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

Recommendations: None.

Standard VI-7. Rejections and declinations are not unfairly discriminatory.

M.G.L. c. 175, §§ 4C, 95B and 193T.

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

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.
- Written underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks 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: Eide interviewed the Company’s underwriting department regarding cancellations and declinations. Eide also selected 98 homeowners’ policies and 11 commercial policies issued, renewed, or cancelled during the examination period, and reviewed the policy, underwriting notes, and supporting documentation, for evidence of discriminatory cancellations or declinations. Eide also reviewed reasons for which the Company declined coverage for six policies during the examination period.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide’s testing, it appears that the Company’s processes for prohibiting discrimination are functioning in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

Recommendations: None.

Standard VI-8. Cancellation/Nonrenewal, discontinuance and declination notices comply with policy provisions, state laws and regulated entity guidelines.

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.

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

- The Company's cancellation policy requires that written notice be given in accordance with statutory requirements.
- Company policy requires that written notice of non-renewal be sent to the insured at least 45 days in advance of the termination 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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected a sample of 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, for underwriting testing. Cancelled policies were examined to ensure that the reasons for cancellation, and the prior notice of cancellation, complied with statutory requirements. Eide verified that the date of the cancellation letter, when compared to the cancellation effective date, showed that timely notice was given within statutory guidelines.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to comply with statutory guidelines for timely notification to insureds prior to cancellations and nonrenewals.

Recommendations: None.

Standard VI-9. Rescissions are not made for non-material misrepresentation.

M.G.L. c. 175, § 187D.

Objective: This Standard is concerned with whether decisions to rescind and to cancel coverage are made appropriately.

M.G.L. c. 175, § 187D allows the cancellation of the 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.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks.
- The Company's policy is to cancel policies for non-payment if no payment is received by 55 days after the due date. If payment is subsequently received after the due date, only the underwriting department can reinstate the policy.

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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected a sample of 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, for underwriting and rating testing. Eide reviewed the reason for cancellation of each of the 12 cancelled policies, to ensure that it was within statutory guidelines.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing of cancellations, it was noted that the Company does not rescind policies for non-material misrepresentation.

Recommendations: None.

Standard VI-10. Credits, debits and deviations are consistently applied on a non-discriminatory basis.

M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175, § 111H; 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 credits and deviations.

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.

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.

M.G.L. c. 175A, § 5 rates for commercial insurance shall be based on experience and shall not be unfairly discriminatory. Affiliates shall have the right to make the same filings or use the same rates. M.G.L. c. 175A, § 6 insurers and rating organizations must file certain casualty insurance rates 15 days prior to their effective date. M.G.L. c. 175A, § 9 members of rating organizations must use their rates or file separate rates.

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.
- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating.
- Company policy requires that homeowners rates be based on AAIS rates, and requires that Company rates be filed with the Division prior to use to comply with statutory and regulatory requirements.
- Rating criteria include territory, coverage amount and type, property age, protection class, structure type, new construction, security features and loss free accounts.
- The Company uses an electronic rating process designed to ensure that consistent and filed rates are used when business is written.

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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, for underwriting and rating testing. Eide compared the credits and debits applied to the policies across the sample to ensure they were consistently applied on a non-discriminatory basis.

Transaction Testing Results:

Findings: Refer to Standard VI-1.

Observations: Refer to Standard VI-1.

Required Actions: Refer to Standard VI-1.

Standard VI-11. 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.

Objective: This Standard is concerned with whether unfair discrimination is occurring in the application of credits and deviations.

Pursuant to M.G.L. c. 175A, § 5, rates for commercial insurance shall be based on experience and shall not be unfairly discriminatory.

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

- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating.
- Company policy requires that commercial rates be based on AAIS rates, and requires that Company rates be filed with the Division prior to use to comply with statutory and regulatory requirements.
- The Company uses an electronic rating process designed to ensure that consistent and filed rates are used when business is written.

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: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 11 commercial policies issued or renewed during the examination period, for underwriting and rating testing. Eide compared the credits and debits applied to the policies across the sample, to ensure they were consistently applied on a non-discriminatory basis.

Transaction Testing Results:

Findings: Refer to Standard VI-1.

Observations: Refer to Standard VI-1.

Required Actions: Refer to Standard VI-1.

Standard VI-12. Verification of use of the filed expense multipliers; the regulated entity should be using a combination of loss costs and expense multipliers filed with the Department of Insurance.

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

Standard VI-13. Verification of premium audit accuracy and the proper application of rating factors.

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

Standard VI-14. Verification of experience modification factors.

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

Standard VI-15. Verification of loss reporting.

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

Standard VI-16. Verification of regulated entity data provided in response to the NCCI call on deductibles.

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

Standard VI-17. 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 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:

- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating at or near the inception of coverage.
- Rating criteria include territory, coverage amount and type, property age, protection class and structure type, as well as discounts for new construction, security features and loss free accounts.
- The Company uses an electronic rating process designed to ensure that consistent and filed rates are used when business is written.

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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 98 homeowners' policies and 11 commercial policies issued,

renewed, or cancelled during the examination period, to test whether underwriting, rating and classification are based on adequate information developed at or near the inception of coverage.

Transaction Testing Results:

Findings: None

Observations: Based on the results of Eide's testing, 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.

Standard VI-18. Audits, when required, are conducted accurately and timely.
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Objective: This Standard is concerned with whether auditable commercial policies have audits conducted on a payroll, or other audits to verify premium.

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

- The Company performs audits on commercial artisan policies to verify premium.
- The Company uses an independent firm to conduct commercial artisan premium audits.
- The Company performs audits based on criteria including the number of full and part time employees, whether the insured is a corporation or sole proprietor, whether the policyholder has a workers' compensation policy or to review any unusual activity.

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: Eide interviewed Company personnel with responsibility for overseeing the commercial artisan audits. Eide selected 5 commercial artisan policies issued or renewed during the examination period to test whether underwriting, rating and classification are adequate based on the Company's underwriting guidelines.

Transaction Testing Results:

Findings: None.

Observations: None.

Recommendations: None.

Standard VI-19. All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the department of insurance (if applicable).

M.G.L. c. 175, §§ 2B, 22A, 99, 99B, 111H and 192; 211 CMR 131.00.

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

M.G.L. c. 175, § 2B describes policy form language, and requires that all items forming a part of the contract be listed on the declaration page and filed with the Division. M.G.L. c. 175, § 22A states that such policy forms must be filed with the Division for approval. 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 M.G.L. c. 175, § 99B states condominium and tenant policies must be filed with the Division for approval prior to use. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and must also 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.

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

- Company policy requires that all changes to policy forms and endorsements be 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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, to ensure that all relevant aspects of the contract were listed on the policy declaration page. The standard forms used for each policy, along with all endorsements effective on the policy, were compared to the forms approved by the Division during the examination period.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing of 109 policies issued during the examination period, it appears that the Company is using the standard policy forms and endorsements approved by the Division, in compliance with statutory requirements.

Recommendations: None.

Standard VI-20. Regulated entity verifies that VIN number submitted with application is valid and that the correct symbol is utilized.

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

Standard VI-21. The regulated entity does not engage in collusive or anti-competitive underwriting practices.

M.G.L. c. 176D, §§ 3(4) and 3A.

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:

- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating at or near the inception of coverage.
- Rating criteria include territory, coverage amount and type, property age, protection class, structure type, new construction, security features and loss free accounts.
- The Company uses an electronic rating process designed to ensure that consistent and filed rates are used when business is written.

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: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, for evidence of anti-competitive language or collusive trends in the underwriting process.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

Standard VI-22. The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations in application of mass marketing plans.

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

Standard VI-23. 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 the examination because the Company does not offer group products.

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

M.G.L. c. 175, §§ 99, 187C and 193P.

Refer to Standard VI-8 for control assessments, testing procedures and testing results also applicable to this Standard.

Standard VI-25. All policies are correctly coded.

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 that are designed to assure reasonable consistency in classification and rating.
- The Company's policies and procedures require that Company personnel confirm that the coding reported by the producer is correct and current.
- The Company uses AAIS rating manuals 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: Eide interviewed Company personnel with responsibility for the underwriting process, to determine whether there are sufficient controls to ensure accurate and timely completion of statistical reports.

Transaction Testing Results:

Findings: None.

Observations: Through testing performed on the selected policies, the Company's statistical coding appears accurate.

Recommendations: None.

Standard VI-26. Application or enrollment forms are properly, accurately and fully completed, including any required signatures, and file documentation supports decisions made.

Objective: This standard is concerned that applications and enrollment forms are fully completed and signed, and that file documentation supports the Company's decisions.

Controls Assessment:

- Company policy requires the use of Company policy forms and endorsements which are approved by the Division.
- Company supervisors review all applications completed by agents to ensure that they are complete and internally consistent.

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: Eide interviewed company personnel responsible for the underwriting process. Eide selected 98 homeowners' policies and 11 commercial policies issued, renewed, or cancelled during the examination period, to verify whether the application and enrollment forms were properly completed, including any required signatures, and that file documentation supported the company's decisions.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the company fully and accurately completed documentation contained within the application file, and this documentation supported the company's decisions.

Recommendations: None.

VII. CLAIMS

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

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

M.G.L. c. 176D, § 3(9)(b).

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

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

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

- The Company does not have written policies and procedures governing claims handling.
- All claims are processed by approximately 20 independent adjusters.
- Claim notices are received via fax, e-mail, phone, or through the Company website.
- Company policy requires that a claim file be established and an adjustor assigned within 24 hours of the receipt of the notice of loss. Company policy also requires contact with the claimant upon assignment.
- Company policy requires adjusters to report their findings within 30 days of assignment.
- The Company establishes initial reserves of \$5,000 for first party property claims, and \$7,500 for liability bodily injury claims.
- The Company maintains all loss claim files on a Phoenix mainframe based automated claims management system.
- Company claims management can access the claims system to monitor open claims.
- Claims management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- The adjusters assess the possibility of subrogation early in the claim process, and the Company uses outside subrogation counsel for large losses.
- The Company procedures for preventing fraud include: tracking information through ImageRight system to review loss history; tracking information through the index system, where all property and liability claims are stored; identifying loss trends; and reporting possible fraud to the appropriate enforcement agency.

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: Eide interviewed Company personnel to understand its claim handling processes, and reviewed documentation supporting these processes. Eide selected 96 homeowners' and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted whether its initial contact with the claimant was timely.

Transaction Testing Results:

Findings: None.

Observations: The Company's initial contact with claimants on the claim transactions tested was timely. Based upon the results of testing, it appears that the Company's processes for making initial contact with claimants are functioning in accordance with its policies, procedures, and statutory requirements. Eide noted that the Company does not have written claim handling policies and procedures.

Recommendations: The Company should develop written claim handling policies and procedures as a best practice to ensure consistent claim handling.

Standard VII-2. Timely investigations are conducted.

M.G.L. c. 176D, § 3(9)(c).

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

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

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and reviewed documentation supporting these processes. Eide selected 96 homeowners' and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted whether claim investigations were timely.

Transaction Testing Results:

Findings: The Company did not promptly investigate and timely settle one of the 107 claim files tested, which took 127 days from the date the claim was filed to resolve. A claim adjuster was assigned on 12/10/07, but no additional documentation is contained in the claim file until the Company requested the claim status on 1/30/08 – a period of 51 days. No response was received from the adjuster, and an additional request was made on 2/13/08. The claim was settled on 4/10/08, but no information explaining the delay in settlement was documented in the file.

Observations: Except as noted above, the Company appeared to timely investigate and settle the remaining 106 claims tested.

Recommendations: The Company should develop written claim policies and procedures that require all claim files to adequately document timely investigation and settlement of claims.

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

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

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

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

M.G.L. c. 175, § 112 states that 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.

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners' and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted whether the claim was resolved timely.

Transaction Testing Results:

Findings: Refer to Standard VII-2.

Observations: Refer to Standard VII-2.

Recommendations: Refer to Standard VII-2.

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

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

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

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

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners' and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified whether claim correspondence was conducted in a timely manner.

Transaction Testing Results:

Findings: None.

Observations: None.

Recommendations: None.

Standard VII-5. Claim files are adequately documented.

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

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners' and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide noted whether the claim files adequately documented the Company's decisions.

Transaction Testing Results:

Findings: The Company did not adequately document the investigation and settlement for one of the 107 claim files tested. A claim adjuster was assigned on 12/10/07, but no additional documentation is contained within the claim file until the Company requested the claim status on 1/30/08 – a period of 51 days. No response was received from the adjuster, and an additional request was made on 2/13/08. The claim was settled on 4/10/08, but no information explaining the delay in settlement was documented in the file.

Observations: Except as noted above, the Company appeared to timely investigate and settle the remaining 106 claims tested.

Recommendations: The Company should develop written claim policies and procedures that require all claim files to adequately document timely investigation and settlement of claims. .

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

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

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

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

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

M.G.L. c. 175, § 22B prohibits insurance contracts containing provisions that waive requirements of M.G.L. c. 175, unless expressly authorized thereby. M.G.L. c. 175, § 22I allows companies to retain unpaid premium due from claim settlements. Claim payments must also comply with M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support. M.G.L. c. 175, § 24E requires the insurer to exchange information with the Commonwealth not less than 10 business days prior to making payment to a claimant who has received public assistance benefits. M.G.L. c. 175, § 24F requires communication with the Commonwealth regarding unpaid taxes. Medical reports must be furnished to injured persons or their attorney pursuant to M.G.L. c. 175, § 111F.

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

Property/Liability Claims:

M.G.L. c. 175, § 96 limits the Company's liability to the actual cash value of the insured property when a building is totally destroyed by fire. Also, 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. Also, when a claim for loss or damage to property exceeds five thousand dollars, M.G.L. c. 175, § 97A requires the Company to ensure that the claimant submits to them a certificate of municipal liens from the collector of taxes for 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 first having given 10 days written notice to the building commissioner or inspector of buildings appointed pursuant to the state building code, to the fire department, and to the board of health, in the city or town where the property is located.

M.G.L. c. 175, § 100 sets forth standards for selecting a referee if the parties to a claim fail to agree on the amount of loss. Also, 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: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to verify that claims were handled in accordance with applicable policy provisions, and statutory and regulatory requirements.

Transaction Testing Results:

Findings: The Company did not provide 10 days written notice to the building commissioner prior to payment for damages in excess of \$1,000 in 21 of 107 claim files tested from the examination period. Fifteen claim files contained no evidence of notification to the building commissioner, and six claim files contained notification to the building commissioner that was sent less than 10 days prior to paying the claim.

Observations: None

Required Actions: The Company shall develop a corrective action plan to be submitted to the Division, for its review and approval, which ensures compliance with M.G.L. c. 139, § 3B. Also, the Company shall require that copies of these notices be retained in the Company's claim files.

Standard VII-7. Regulated entity claim forms are appropriate for the type of product.

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

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether claims were reported on Company forms appropriate for the product. .

Transaction Testing Results:

Findings: None.

Observations: Eide noted that all paid or closed without payment claims selected for testing were reported according to the Company's policies and procedures, and that claim file documentation was adequate. Based upon the results of Eide's testing, it appears that the Company's processes for documenting reported claims are functioning in accordance with their policies and procedures.

Recommendations: None.

Standard VII-8. Claims are reserved in accordance with the regulated entity's established procedures.

Objective: The Standard is concerned with the Company's process for establishing and monitoring claim reserves for reported losses.

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claims reserving processes, and obtained documentation supporting these processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate compliance with Company claims reserving policies and procedures. Eide verified the date each selected 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: Eide noted that claim reserves for each tested claim were evaluated, established and adjusted according to the Company's policies and procedures. Based upon the results of Eide's testing, it appears that the Company's processes for evaluating, establishing and adjusting claim reserves are functioning in accordance with the Company's policies and procedures.

Recommendations: None.

Standard VII-9. 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 claim settlement practices include attempting to settle a claim for an amount less than a reasonable person would have believed he or she was entitled to receive. M.G.L. c. 176D, § 3(9)(n) considers failure to provide a reasonable and prompt explanation of the basis for denial of a claim an unfair claim settlement practice.

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each denied claim was reported, reviewed correspondence and investigative reports, and noted whether the Company handled each claim timely and properly before closing or denying it.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that each tested claim was handled according to the Company's policies and procedures. Based on the 107 claims tested, it appears that the Company's claim handling and denial practices are appropriate and comply with applicable statutes and standards.

Recommendations: None.

Standard VII-10. Cancelled benefit checks and drafts reflect appropriate claim handling practices.

No work performed. This standard will be reviewed as part on the ongoing financial examination.

Standard VII-11. Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

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

Objective: The Standard 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: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and reviewed documentation supporting these processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claims handling policies and procedures. Eide verified the date the tested claim was reported, reviewed related correspondence and investigative reports, and noted whether it was handled timely and properly.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that documentation of tested claims involving litigation appeared complete and supported the Company's conclusions. Based upon the results of Eide's testing, it appears that the Company's processes do not deny claims unreasonably or compel claimants to initiate litigation.

Recommendations: None.

Standard VII-12. The regulated entity uses the reservation of rights and excess of loss letters, when appropriate.

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: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate compliance with Company claims handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether reservations of rights or excess loss letters were warranted.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that all claims selected for testing were reported and investigated according to the Company's policies and procedures, and that claim file documentation was adequate. Eide noted four instances where a reservation of rights letter or excess loss letter was used. Based upon the results of Eide's testing, it appears that the Company's processes for utilizing reservation of rights and excess loss letters for claims are functioning in accordance with their policies and procedures.

Recommendations: None.

Standard VII-13. Deductible reimbursement to insured's upon subrogation recovery is made in a timely and accurate manner.

Objective: The Standard is concerned with the Company's timely and accurate reimbursement of a collected deductible when subrogation recoveries are made.

Controls Assessment: Refer to Standard VII-1.

Controls Reliance: Refer to Standard VII-1.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. Eide selected 96 homeowners and 11 commercial claims processed during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether subrogation recoveries were reasonably timely and accurate.

Transaction Testing Results:

Findings: None.

Observations: Based upon the results of testing, it appears that the Company's processes for making subrogation recoveries to insureds are functioning in accordance with their policies and procedures.

Recommendations: None.

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

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

Objective: The Standard 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, and the rating system on file with the Commissioner. The Commissioner may designate a 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 the Automobile Statistical Plan for Fire, Theft, Comprehensive, Collision and Allied Coverages (dated April 8, 1971) as the statistical plan to be used in accordance with M.G.L. c. 175A, § 15(a).

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

- Company policy is to timely report complete and accurate loss data to appropriate rating bureaus..
- The Company reports loss data to the AAIS in a format acceptable to AAIS.
- Detailed claim data is reported quarterly to AAIS.
- Claims management personnel reconcile the underlying data for completeness and accuracy. The AAIS provides letters to the Company which confirms its receipt of the loss data.

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: Eide interviewed Company personnel to understand its loss statistical reporting processes, and obtained documentation supporting such processes.

Transaction Testing Results:

Findings: None.

Observations: The Company 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 and regulatory requirements.

Recommendations: None.

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SUMMARY

Based upon the procedures performed in this comprehensive examination, Eide 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 National Association of Insurance Commissioners' *2008 Market Regulation Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. We have recommendations and required actions to address various concerns in the areas of company operations/management, complaint handling, producer licensing, underwriting and rating and claims.

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ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with Eide Bailly, LLP, 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 and the *2008 Market Regulation Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the comprehensive examination report. In addition to the undersigned, Dorothy K. Raymond of the Division’s Market Conduct Section participated in this examination and in the preparation of the report.

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

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