



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
DIVISION OF INSURANCE

Report on the Comprehensive Market Conduct Examination of

*Merrimack Mutual Fire Insurance Company
Andover, Massachusetts*

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

NAIC COMPANY CODE: 19798
EMPLOYERS ID NUMBER: 04-1614490

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COMMISSIONER OF INSURANCE

August 12, 2010

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

Dear Commissioner Murphy:

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

MERRIMACK MUTUAL FIRE INSURANCE COMPANY

at their home office located at:

95 Old River Road Andover, Massachusetts 01810.

The following report thereon is respectfully submitted.

SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (“Division”) conducted a comprehensive market conduct examination of Merrimack Mutual Fire Insurance Company (“Merrimack” or “Company”) for the period January 1, 2009 through December 31, 2009. 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 INS Regulatory Insurance Services, Inc. (“The examiners”) were engaged to complete certain agreed-upon procedures.

EXAMINATION APPROACH

A tailored audit approach was developed to perform the examination of the Company using the guidance and standards of the *2009 NAIC Market Regulation Handbook* (“Handbook”), the market conduct examination standards of the Division, and 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. 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, regulations and bulletins related to market conduct activities.

The controls assessment process is comprised of three significant steps:

- (a) Identifying controls;
- (b) Determining if the control has been reasonably designed to accomplish its intended purpose in mitigating risk (i.e., a qualitative assessment of the controls); and
- (c) Verifying that the control is functioning as intended (i.e., the actual testing of the controls). For areas in which controls reliance was established, sample sizes for transaction testing were accordingly adjusted.

The form of this report is “Report by Test,” as described in Chapter 15, Section A of the Handbook.

The Company shares its information systems and personnel with Cambridge Mutual Fire Insurance Company and Bay State Insurance Company through an inter-company pooling arrangement. Testing of

the control environment was conducted on the overall operating environment, while maintaining an understanding of each company within the organization.

EXECUTIVE SUMMARY

This summary of the comprehensive market conduct examination is intended to provide a high-level overview of the examination results. The body of the report provides details of the scope of the examination, tests conducted, findings and conclusions, recommendations and required actions 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 is also recommended that Company management evaluate any substantive issues or “findings” for applicability to potential occurrence in other jurisdictions. When applicable, corrective action should be taken for all jurisdictions, and a report of any such corrective actions taken shall be provided to the Division.

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

This comprehensive market conduct examination resulted in no recommendations with regard to Company Operations/Management, Complaint Handling, Marketing and Sales, Producer Licensing and Policyholder Services. Examination results showed that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in these sections. Further, the tested Company practices appear to meet industry best practices in these areas.

II. COMPLAINT HANDLING

Standard II-1

Finding(s): The examiners find that there is no procedure to direct independent agents or claim adjusters to forward written complaints or appeals to the Company. The Company failed to properly address one homeowners’ complaint appropriately.

Observations: The examiners found that the Division and the Company had each logged 7 complaints made to the Division during the examination period. Merrimack also received 7 complaints directly from consumers, for a total of 14 complaints received against Merrimack for the examination period. Based upon testing, the examiners found that the Company accepts, records, and appropriately resolves complaints sent directly to the Company, and those from the Division. However, the Company does not direct independent producers or claims adjusters to forward to the Company any written or oral complaints they receive relating to Merrimack policies.

Recommendation(s): The Company should create and implement complaint procedures that require producers and all adjusters to forward all written complaints to the Company. Once received, the Company should follow the established Complaint Register procedures as described in Standard II-1, Standard II-2, and Standard II-3

Standard II-3

Findings: The Company failed to fully address one homeowners' complaint of 14 tested, when it failed to address interior damage described by the complainant and documented by the adjuster.

Observations: Except as noted above, the Company otherwise responded to the tested complaints in a complete manner through the formalized complaint process, with adequate supporting documentation. Further, the Company appears to treat complainants with similar fact patterns in a consistent and reasonable fashion.

Recommendations: The Company should reiterate its complaint handling procedures to all staff who handle complaints, to ensure that its complaint responses address all issues raised by the complainant.

V. POLICYHOLDER SERVICE

Standard V-6

Findings: None.

Observations: Although the Company has procedures for locating missing policyholders, the procedures did not include reference to the Division's *Best Practices* document.

Recommendations: The Company should include a review of the Division's *Property and Casualty Policyholder Search and Escheatment Policy and Best Practices* (10/2009) document in its procedures relating to unclaimed funds to ensure that it complies with the requirements for the distribution of unclaimed property.

VI. UNDERWRITING AND RATING

Standard VI-26

Findings: Three policy applications of 45 new business files tested did not contain the required agent signatures.

Observations: The signatures on 13 additional policy applications of the 45 new business files tested were illegible, and could not immediately be verified as genuine signatures from properly licensed or appointed producers.

Recommendations: The Company should review and update its New Business Underwriting procedures to require that all submitted applications are complete, including required signatures.

VII. CLAIMS

Standard VII-3

Findings: None.

Observations: The Company did not include benchmark goals for finalizing claims in their written claim procedures. Fifty of the 70 paid claims were closed in 60 days or less. Seventy-two of the 95 closed without payment claims were closed in 60 days or less. Based upon the results of testing, the Company's processes to resolve claims timely are functioning in accordance with their policies and procedures, as well as statutory and regulatory requirements.

Recommendations: The Company should revise its written claim procedures to include benchmark goals for the number of days in which claims should be settled.

Standard VII-13

Findings: The Company did not timely refund the deductible for one subrogation claim settled during the examination period to the policyholder. The Company promptly made payment including interest once notified the examiners of the finding.

Observations: The examiners noted that subrogation recoveries for all paid and closed without payment claims selected for testing were not timely according to the Company's *Outstanding Subrogation Reports*. The Company states that each subrogation file should have been followed up every 90 days. The *Outstanding* report reflected that follow up was outside of the 90 day period. Based upon the results of our testing, it appears that the Company's processes to make subrogation recoveries to insureds are not functioning in accordance with their policies and procedures.

Required Action: The Company shall review its subrogation procedures, and all outstanding subrogation files, to ensure prompt notification and refunds are made to policyholders. The Company shall complete an audit of all subrogated claims. The audit will include, but not be limited to the time required for settlement of subrogated claims as well as the payment status of those claims. The Company will report the results of this audit to the Division by June 30, 2011.

COMPANY BACKGROUND

The Andover Group is comprised of three property and casualty companies connected through an inter-company pooling arrangement. Merrimack Mutual Fire Insurance Company (“Merrimack” or “Company”), the founding company, began operations in 1828. Cambridge Mutual Fire Insurance Company was incorporated in 1833, and was acquired by Merrimack in 1913. Bay State Insurance Company was added in 1955, and is organized as a stock company.

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

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

Merrimack’s breakout by line of business for direct written premium during 2009 appears in Table 1, and shows that the Company primarily writes homeowners and commercial multiple peril lines. Merrimack has approximately 386 licensed local independent producers who distribute the various products throughout the Northeast region. The Company utilizes a standard producer contract with automatic renewal to establish and maintain the business relationship with producers, so that the arrangement is perpetual until cancelled by one of the parties.

Table1

Line of Business	Direct Premium	Percent of Total
Homeowners	\$ 152,081,000	55%
Commercial Multi Peril	48,578,000	18%
Fire	31,887,000	11%
Other Liability Occurrence	16,480,000	6%
Allied Lines	20,945,000	8%
Inland Marine	6,000,000	2%
Total Direct Business	\$ 275,971,000	100%

The Company is rated A+ (Superior) by AM Best Company, and ratings were stable over the examination period.

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

I. COMPANY OPERATIONS/MANAGEMENT

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

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

Objective: This Standard is concerned with whether the Company has an audit program function that provides meaningful information to management.

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

- The Company stated that it had no internal audit function, but is audited annually by an independent accounting firm.
- Formal procedure records are kept for the major business areas of the company, and are updated on an annual basis.
- The Company uses a job rotation system within the accounting department to mitigate fraud.
- The Company responds to external audit recommendations to correct, modify and implement procedures.

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

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

Transaction Testing Results: Not applicable

Recommendations: None.

<u>Standard I-2.</u> The regulated entity has appropriate controls, safeguards and procedures for protecting the integrity of computer information.
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The examiners reviewed work performed by the Division's financial examination team and found adequate coverage. All required activity for this Standard is included in the scope of the statutory financial examination of the Company.

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

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

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

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

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

Transaction Testing Procedure: The examiners reviewed the Company's anti-fraud policies and procedures as part of various complaint, underwriting and claims standards.

Transaction Testing Results:

Findings: None

Observations: None

Recommendations: None

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

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

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

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

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

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

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

Transaction Testing Procedure: The examiners interviewed management about its use of third parties to perform Company functions, and reviewed a standard agent contract and addendums.

Transaction Testing Results:

Findings: None.

Observations: The Company entered into a marketing agreement during the examination period with the Quincy Mutual Insurance Company. The Andover Quincy Underwriting Association ("AQUA") agreement provides for a discount on Andover homeowners policies, where producers representing both companies sell automobile insurance underwritten by Quincy. One aspect of the AQUA agreement involved a quota share reinsurance agreement, thus requiring the Company amend its Massachusetts licenses to add reinsurance authority. The Division granted the amendment effective September 9, 2008. Based upon testing, it appears that the Company's contracts with entities assuming a business function or acting on their behalf comply with statutory and regulatory requirements.

Recommendations: None.

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.

Objective: This Standard addresses the Company's efforts to adequately monitor the activities of the contracted entities that perform business functions on its behalf.

Controls Assessment: See Standard I-5.

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

Transaction Testing Procedure: The examiners interviewed management about its monitoring of third parties who perform Company functions, and reviewed related contracts.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice addendum in the standard producer contract, it appears that the Company's privacy policy minimizes any improper intrusion into the privacy of applicants and policyholders. Based on the review of the contract relating to emergency claim intake, there is no issue with the contractor obtaining personal information. Through review of the contract language, the Company appears to adequately monitor the business functions of these entities.

Recommendations: None.

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

Objective: This Standard is concerned with the organization, legibility and structure of files, as well as with determining if the Company is in compliance with its record retention requirements.

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

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

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

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

Transaction Testing Procedure: The examiners performed various procedures throughout this examination which related to review of documentation and record retention.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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 is concerned with whether the Company is operating within the requirements of its Certificate of Authority.

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

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

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

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

Transaction Testing Procedure: The examiners traced each line of business written in Massachusetts, as listed on the annual statement, to the Certificate of Authority obtained from the Division.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

M.G.L. c. 175, § 4.

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

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

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

Controls Reliance: Not applicable.

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

Objective: This Standard is concerned with the Company's policies and procedures for minimizing improper intrusion into the privacy of applicants and policyholders.

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

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

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

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed privacy notices and other documentation supporting its privacy policies and procedures. The examiners also reviewed claim documentation for any evidence the Company used pretext interviews.

Transaction Testing Results:

Findings: None.

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

Recommendations: None

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

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

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

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

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

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information.

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

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

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

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

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed documentation supporting its privacy policies and procedures. As part of underwriting and claims testing, the examiners reviewed underwriting documentation for any evidence that the Company improperly provided personal information to parties other than the applicant.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing, it appears that the Company's policies and procedures adequately protect consumers' nonpublic personal information. The examiners noted no instances where the Company improperly provided personal information to parties other than the applicant.

Recommendations: None.

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

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

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

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

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

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

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

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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

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

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

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed documentation supporting its' privacy policies and procedures, including opt-out requirements.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, the Company provides consumer information to business partners or other third parties

only to help provide essential services to the consumer, and therefore is not required to provide an opt-out option.

Recommendations: None.

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

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

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

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

Controls Assessment: Refer to Standard I-14.

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

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

Objective: This Standard is concerned with ensuring that the Company's policies and procedures regarding nonpublic personal health information are in compliance with applicable statutes.

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

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

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

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed documentation supporting its privacy policies and procedures. The examiners also reviewed claims documentation for any evidence that the Company improperly disclosed nonpublic personal health information in conjunction with testing of claims.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of the Company's privacy notice and discussion with Company personnel, it appears that the Company's policies and procedures are adequate to protect nonpublic personal health information. The examiners found no instances where the Company improperly disclosed nonpublic personal health information in conjunction with testing of claims.

Recommendations: None.

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

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

Objective: This Standard is concerned with ensuring that the Company has written information security policies and procedures regarding the protection of nonpublic policyholder information.

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

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

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

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

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

II. COMPLAINT HANDLING

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

Standard II-1. All complaints are recorded in the required format on the regulated entity's complaint register.

M.G.L. c. 176D, § 3(10).

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

Pursuant to M.G.L. c. 176D, § 3(10), an insurer is required to maintain a complete record of all complaints received since 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 it took to process each complaint.

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

- Written Company policies and procedures govern the complaint handling process.
- The Company records all complaints in a consistent format in the complaint log.
- The Company's definition of complaint is similar to the statutory definition.
- The Company has a centralized function for receiving and processing complaints to ensure consistency in handling and documentation.

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: The examiners obtained complaint listings from the Company and the Division for the examination period, and compared the two listings to ensure completeness. The examiners reviewed all complaints received by the Division, and those received directly by the Company, to ensure that complaints were being properly handled.

Transaction Testing Results:

Finding(s): The examiners find that there is no procedure to direct independent agents or claim adjusters to forward written complaints or appeals to the Company. The Company failed to properly address one homeowners' complaint appropriately.

Observations: The examiners found that the Division and the Company had each logged 7 complaints made to the Division during the examination period. Merrimack also received 7 complaints directly from consumers, for a total of 14 complaints received against Merrimack for the examination period.

Based upon testing, the examiners found that the Company accepts, records and appropriately resolves complaints sent directly to the Company, and those from the Division. However, the

Company does not direct independent agents or claims adjusters to forward to the Company any written or oral complaints they receive relating to Merrimack policies.

Recommendations: The Company should create and implement complaint procedures that require producers and all adjusters to forward any and all complaints to the Company. Once received, the Company should follow the established Complaint Register procedures as described in Standard II-1, Standard II-2, and Standard II-3

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

Controls Assessment: Refer to Standard II-1.

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

Transaction Testing Procedure: The examiners reviewed a complete listing of the Massachusetts complaint files from both the Company and the Division for the examination period. The examiners also interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. To determine whether the Company provides contact information for consumer inquiries, a sampling of forms and billing notices sent to policyholders was reviewed for compliance.

Transaction Testing Results:

Findings: None

Observations: The Company appears to maintain adequate complaint handling procedures and communicates these procedures policyholders.

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.

Controls Assessment: Refer to Standard II-1.

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

Transaction Testing Procedure: The examiners reviewed a complete listing of the Massachusetts complaint files from the Company and the Division for the examination period, and examined each complaint file to determine if any had exceeded the 14 day response time required by the Division.

Transaction Testing Results:

Findings: The Company failed to fully address one homeowners' complaint of 14 tested, when it failed to address interior damage described by the complainant and documented by the adjustor.

Observations: Except as noted above, the Company otherwise responded to the tested complaints in a complete manner through the formalized complaint process, with adequate supporting documentation. Further, the Company appears to treat complainants with similar fact patterns in a consistent and reasonable fashion.

Recommendations: The Company should reiterate its complaint handling procedures to all staff who handle complaints, to ensure that its complaint responses address all issues raised by the complainant.

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 is concerned with the time required for the Company to process each complaint.

Massachusetts does not have a specific time standard in the statutes or regulations. However, established Division practice requires insurers to respond to the Division within 14 days of the date it receives any notice of complaint from the Division. For complaints received by the Company directly, the Company policy is to diligently respond to the complaint as soon possible.

Controls Assessment: Refer to Standard II-1

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

Transaction Testing Procedure: The examiners reviewed a complete listing of the Massachusetts complaint files from the Division and the Company for the examination period to evaluate this Standard. In addition, the examiners reviewed all complaints to determine whether any exceeded the 14 day response time required by Division.

Transaction Testing Results:

Findings: The Company exceeded the required response time on one Division complaint by one day.

Observations: The Company timely handled non-Division complaints, averaging less than 10 days to adequately respond. The Company appears to have adequate complaint procedures and appropriate complaint file documentation.

Recommendations: The Company should reiterate its complaint handling procedures to all staff that handle complaints, to ensure that it timely responds to all complaints within the required time frame.

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 Bulletin 2001-02.

Objective: This Standard is concerned with whether the Company maintains a system of control over the content, form and method of dissemination for all advertising materials.

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 Bulletin 2001-02, an insurer who maintains an Internet website must disclose on that website the exact name of the company appearing on its 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:

- All advertising and sales materials produced by the Company are reviewed by management for approval and compliance with statutory and regulatory requirements prior to use.
- The Company has a website designed for use by its producers.
- The Company does not utilize marketing to directly solicit consumers, but instead relies upon appointed agencies to market the Company's business through the independent producer relationship.

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: The examiners reviewed producer-developed and direct advertising and sales materials produced by the Company for compliance with statutory and regulatory requirements. The examiners also reviewed the Company's website for appropriate disclosure of its name and address, and consistency with statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: The Company's sales materials are accurate and reasonable, and the examiners found no conflicts with statutory and regulatory requirements. The Company's website disclosure complies with the requirements of Division Bulletin 2001-02.

Recommendations: None.

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

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

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

- The Company has periodic meetings with all producers, and currently accepts both paper and internet submissions for underwriting and claims information.
- The Company provides its producers with training on products, as well as use of the web interface.

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: The examiners performed no testing beyond inquiry and observation.

Transaction Testing Results:

Findings: None

Observations: The Company stated that they did not use any printed training materials, and did not produce any new product brochures during the examination period that might be used as internal producer training materials.

Recommendations: None.

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

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

Controls Assessment: The Company stated that they periodically communicate information to producers through various methods including face-to-face meetings, as well as paper and electronic communication.

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: The examiners conducted interviews with key Company personnel to determine what type of communication with producers generally occurs, and reviewed examples of communications that occurred during the examination period.

Transaction Testing Results:

Findings: None.

Observations: The Company's communications to producers on its website are 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.

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

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

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

- Written Company underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company does not mass market its policies, nor does it offer affinity group discounts.

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: The examiners interviewed Company personnel with responsibility for the marketing and underwriting processes. In addition, the examiners selected 45 homeowners', dwelling fire and business owners' policies issued during the examination period to test premium discounts. The examiners verified that each policy discount was properly applied, and that no affinity group discounts were given.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing it appears that each of the premium discounts was properly applied and approved by the Division. Based on a review of the underwriting files, there was no evidence of mass marketing strategies or efforts conducted by the Company.

Recommendations: None.

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's records of licensed and appointed (if applicable) producers agree with department of insurance records.

M.G.L. c. 175, §§ 162I and 162S.

Objective: The Standard is concerned with ensuring that the Company's appointed producers are appropriately licensed by the Division.

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

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

- The Company tracks the license status of producers through an Excel spreadsheet. All producers are required to enter into a written contract with the Company prior to their appointment, which includes providing a listing of all the agency's individual producers if it has more than one.
- The Company stated that it verifies that all producers are properly licensed for the lines of business they will solicit, sell or negotiate in Massachusetts prior to contracting with them.
- Producers are also required to send updated listings to the Company of all individuals employed to sell insurance products for the producer when employment changes occur.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear not to be sufficiently reliable to be considered in determining the extent of transaction testing procedures, the exceptions are noted below.

Transaction Testing Procedure: The examiners interviewed individuals with responsibility for producer contracting and processing of appointment, and selected a sample of 45 homeowners', business owners' and dwelling fire policies issued during the examination period for testing. The examiners sought to verify that the Company's producer for each sale was included on the Division's list of the Company's appointed producers. The Division also provided evidence of licensure for each producer not located on the Company's list. There were additional procedures required to reconcile the Company's list to the Division's list.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the examiners noted no violations of M.G.L. c. 175, §§ 162I and 162S, as all sales were produced by properly licensed producers.

Recommendations: None.

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

M.G.L. c. 175, §§ 162I and 162S.

Objective: The Standard is concerned with ensuring that the Company's producers are appropriately licensed and appointed by the Division.

Pursuant to M.G.L. c. 175, § 162I, all persons who solicit, sell or negotiate insurance in the Commonwealth are required to be licensed for that line of authority. Further, producers shall not act as an agent of the Company unless they have been appointed by them pursuant to M.G.L. c. 175, § 162S.

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

- The Company tracks the license status of producers via an Excel spreadsheet. All producers are required to enter into a written contract with the Company prior to their appointment, which includes providing a listing of all the agency's individual producers if it has more than one.
- The Company stated that it verifies that all producers are properly licensed for the lines of business they will solicit, sell or negotiate in Massachusetts prior to contracting with them.
- Producers are also required to send updated listings to the Company of all individuals employed to sell insurance products for the producer when employment changes occur.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear not to be sufficiently reliable to be considered in determining the extent of transaction testing procedures, the exceptions are noted below.

Transaction Testing Procedure: The examiners interviewed individuals with responsibility for producer contracting and processing of appointments, and selected a sample of 45 homeowners', business owners' and dwelling fire policies issued during the examination period for testing. The examiners sought to verify that the Company's producer for each sale was included on the Division's list of the Company's appointed producers. The Division also provided evidence of licensure for each producer not located on the Company's list. There were additional procedures required to reconcile the Company's list to the Division's list.

Transaction Testing Results:

Findings: None.

Observations: It was difficult at times to reconcile the Company's and the Division's producer records, as some application signatures for the sampled policies were missing or illegible, or represented individuals who could not be initially located on the licensing listings provided by the Company. It was ultimately determined that the producer for all sales tested was properly licensed at the time of sale.

Recommendations: None.

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, § 162T.

Objective: This Standard is concerned with whether the Company's termination of producers complies with applicable statutes requiring notification to the state and the producer.

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

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

- The Company has implemented procedures to notify producers of their termination.
- The Company has implemented procedures to notify the Division of terminations using a format the Division developed.

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: The examiners reviewed a sample of 38 producers from the Company's records that were terminated during the examination period, and requested documentation supporting the reporting of the terminations to the Division

Transaction Testing Results:

Findings: None.

Observations: Based on the information provided, the Company appeared to appropriately notify the Division and the producer of each termination. The Company's records indicated that there were no terminations for cause during the examination period.

Recommendations: None.

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

Objective: The Standard is concerned that the Company has a policy for ensuring that producer appointments and terminations do not unfairly discriminate against policyholders.

Controls Assessment: Refer to Standard IV-3.

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

Transaction Testing Procedure: The examiners reviewed documentation such as zip codes for 45 homeowners', business owners' and dwelling fire policies issued during the examination period, for 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 noted above, the examiners noted no evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Recommendations: None.

<p>Standard IV-5. Records of terminated producers adequately document the reasons for terminations.</p>
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<p>M.G.L. c. 175, §§ 162R and 162T.</p>
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Objective: The Standard is concerned that the Company's records for terminated producers adequately document the action taken.

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

Controls Assessment: Refer to Standard IV-3.

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

Transaction Testing Procedure: The examiners obtained a listing of producers terminated during the examination period, and reviewed the reasons for each termination.

Transaction Testing Results:

Findings: None.

Observations: Based on the testing noted above, the Company's internal records adequately document reasons for producer terminations. None of the terminations tested were for cause as defined in M.G.L. c. 175, § 162R. The Company has procedures in place to notify the Division of terminations whether "for cause" or "not for cause."

Recommendations: None.

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

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 is concerned with whether the Company provides policyholders with sufficient advance notice of premiums due.

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

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

- A majority of business is conducted using the Company's direct bill program.
- Policyholders under the direct bill program receive a renewal notice from the Company 51-72 days prior to the renewal effective date, asking the policyholder to report requested changes in coverage.
- Billing notices are generated automatically through policy administration, and are sent with the renewal notice for the direct bill program. The premium payment is due upon the renewal effective date.
- Four payment plans are available for the direct bill program including:
 1. Annual payment.
 2. Pay 3 equal installments.
 3. Pay 5 payments with 20% down payment and 4 equal payments.
 4. Pay 9 payments with a 20% down payment and 8 equal monthly installments.
 5. The multiple payment plans have additional fixed fees ranging from \$10-\$40 depending on the number of installments selected.
- Some producers on the "Optional" direct bill program may choose to use the producer billing system rather than the Company's system. This is only available to insureds that are extremely important to the producer, and the producer must keep a majority of the business under the Company's direct bill program.

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: The examiners interviewed Company personnel with responsibility for policyholder service. In conjunction with the underwriting and rating testing, The examiners reviewed billing notice dates, fees and interest charges for 245 homeowners', business owners' and dwelling fire

policies issued or renewed during the examination period. For each renewed policy, the date the renewal letter was sent to the policyholder, as tracked in the Company's database, was compared with the policy's renewal effective date.

Transaction Testing Results:

Findings: None.

Observations: Review of the tested policies appeared to show that billing notices for renewal policies were mailed 51-72 days prior to the policy expiration date, in compliance with Company policies. Fees and interest charges on installment payments appeared to be properly calculated and applied.

Recommendations: None.

<u>Standard V-2. Policy issuance and insured requested cancellations are timely.</u>

M.G.L. c. 175, § 187B; Division Bulletin 2008-10.
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Objective: This Standard addresses the Company's procedures to ensure 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. Division Bulletin 2008-10 addresses the requirements for insurers to accept private passenger automobile transfer requests.

Objectives pertaining to policy issuance are included in Underwriting and Rating Standard VI-6. Return of premium testing is included in Policyholder Service Standard V-7.

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 when the producer notifies them of the policyholder's request and to process premium refunds in a timely manner.
- The Company refunds unearned premium to policyholders on a pro-rata or short rate basis, pursuant to statutory and regulatory guidelines.

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: The examiners interviewed Company personnel responsible for policyholder service, and reviewed 150 policy cancellations in the testing sample of 245 homeowners', business owners' and dwelling fire policies, to ensure that proper notice of cancellation was given, and that any unearned premium was timely returned. Calculation of unearned premium is also covered in the financial examination.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of general correspondence between policyholders and the agent or Company with regard to requests for policy cancellation, the Company processes cancellations in a timely and responsive manner in accordance with their policies and procedures.

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

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

- The Company considers its producers as having the primary relationship with the policyholder.
- The policyholder must request most endorsements and policy changes through the producer.
- Most correspondence policyholders direct to the Company involves billing.
- The Billing Department is the first department notified when a policyholder telephones the Company about a billing issue, or includes billing-related correspondence with a premium payment.
- The Billing Department will forward the situation to a customer service representative in the Underwriting Department if it cannot resolve a billing inquiry.
- If the policyholder service representative cannot provide an answer, they may get the producer involved to properly resolve the situation.
- The Company has no formal guidelines for the timeliness of responses to correspondence.
- Issues that require additional review are handled separately from those that require standard responses.

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: The examiners discussed correspondence procedures with Company personnel, and reviewed actual correspondence between policyholders and the Company in conjunction with underwriting and rating, policyholder service and claims standards.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of general correspondence between policyholders and the Company with regard to underwriting and rating, policyholder service and claims, it appears that correspondence directed to the Company is answered in a timely and responsive manner by the appropriate department in accordance with their policies and procedures. The complaint testing performed also supports the timeliness of responses by the Company.

Recommendations: None.

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

There was no work performed for this standard. The Company did not enter into assumption reinsurance agreements during the examination period.

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

Objective: This Standard addresses procedures for processing policy changes and other transactions initiated by the policyholder.

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

- The Company considers its producers as having the primary relationship with the policyholder.
- Policyholders must request most endorsements and policy changes through the producer.
- Company policy is to timely process policy changes and endorsements when the producer notifies them of the policyholder's 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: The examiners discussed the Company's policies and procedures for processing policyholder initiated changes and endorsements with Company personnel. The examiners included timely response testing in the Underwriting section as part of the transaction testing procedures.

Transaction Testing Results:

Findings: None.

Observations: The Company's procedures for processing policyholder transactions appear adequate.

Recommendations: None.

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

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

Objective: This standard is concerned with whether the Company makes reasonable attempts to locate missing policyholders or beneficiaries when necessary.

M.G.L. c. 200A, § 1 includes insurance policies in the definition of property, requires annual reporting to the State Treasurer's Office regarding efforts to locate policyowners, and further requires payment of escheated property to the State Treasurer's Office. Pursuant to M.G.L. c. 200A, §§ 2, 7-7B, 8A and 9, the amounts due to policyholders or beneficiaries are presumed abandoned if unclaimed for more than three years after the funds become payable.

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

- The Company has formal procedures in place for contacting missing policyholders and beneficiaries.
- The Company has a formal process for resolving returned mail.

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: The examiners discussed with Company personnel its policies and procedures for informing the State Treasurer's Office regarding unclaimed funds, and reviewed actual correspondence from the Company in conjunction with attempts to locate missing policyholders.

Transaction Testing Results:

Findings: None.

Observations: Although the Company has procedures for locating missing policyholders, the procedures did not include reference to the Division's *Best Practices* document.

Recommendations: The Company should include a review of the Division's *Property and Casualty Policyholder Search and Escheatment Policy and Best Practices* (10/2009) document in its procedures relating to unclaimed funds to ensure that it complies with the requirements for the distribution of unclaimed property.

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

M.G.L. c.175, §§ 187C and 187D.

Objective: This standard is concerned with whether the Company returns unearned premiums accurately and to the appropriate person.

Pursuant to M.G.L. c.175, § 187C, written notices of cancellations are required from insurers. 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 has procedures in place for accurately calculating return premiums.
- The Company has a process for obtaining US Postal Service receipts as evidence of mailing.

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: The examiners interviewed Company personnel with responsibility for policyholder service, and reviewed 150 insured requested policy cancellations from the examination period to test for timely payment of properly calculated premium refunds where appropriate.

Transaction Testing Results:

Findings: None.

Observations: The Company's procedures for returning properly calculated unearned premiums to policyholders appear adequate.

Recommendations: None.

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

Objective: This Standard is concerned with whether the Company provides history and loss information to the insured in a timely manner.

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

- All claims are supervised and handled by the Company's claims examiners.
- The examiners receive claim notifications by mail, e-mail, or telephone from the producer, adjuster or the insured.
- Claim adjusters typically contact the insured the same day as receiving the assignment.

- The Company timely provides claims history and paid loss information directly to policyholders upon request.

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

Transaction Testing Procedure: The examiners discussed the Company's policies and procedures for responding to policyholder inquiries on claims history and paid loss information with Company personnel. The examiners included timely response testing in the Claims Handling section as part of the transaction testing procedures.

Transaction Testing Results:

Findings: None.

Observations: The Company's process for providing claims history information appears adequate.

Recommendations: None.

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; Division Bulletin 2008-08; 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; Division Bulletin 2008-04.

Objective: This Standard is concerned with ensuring that the rates charged by the Company are filed with and approved by the Division.

Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. 211 CMR 131.00 outlines requirements for forms and rates for liability coverage for lead in housing. Pursuant to M.G.L. c. 174A, § 5, rates for fire, marine and inland marine coverage shall be experienced based and not unfairly discriminatory. Affiliates may make the same rate filings or use the same rates. M.G.L. c. 174A § 6 describes the annual rate filing requirements related to the fire and marine lines of business. Pursuant to M.G.L. c. 174A, § 9, members of rating organizations must use their filed rates, or must file separate rates. M.G.L. c. 175, § 111H requires that insurers cover lead exposure claims on liability policies providing coverage to an owner of premises for which a letter of interim or full compliance is in effect. M.G.L. c. 175A, §§ 5, 6 and 9 pertains to ratemaking standards, and Division Bulletin 2008-04 discusses procedures for filing forms and rates for commercial terrorism coverage and required disclosures.

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.
- Policy rates, premiums and discounts are determined by past experience, and such rate information is submitted annually to the Division on a timely basis.
- Company policy requires a signed application to support discounts of 5% or less.

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: The examiners interviewed the Company's underwriting personnel to gain an understanding of the underwriting process. The examiners selected a sample of 45 homeowners', dwelling fire and business owners' policies issued during the examination period to test rates, classifications and premium discounts. The examiners verified that the policy premium, discounts and surcharges for multiple coverages in each policy complied with statutory and regulatory requirements, and had documentation to support the discounts and surcharges given. In addition, the examiners reviewed database information to ensure that sufficient underwriting information was available at the time the underwriting decision was made.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing of new business policies, the Company is utilizing filed rates. Through examining available documentation of discounts and surcharges given, the examiners believe that the Company is properly applying discounts.

Recommendations: None.

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

M.G.L. c. 175, §§ 99 and 99A; M.G.L. c. 174A, § 11; Division Bulletin 2008-04.

Objective: This Standard is concerned with whether all mandated disclosures for rates and coverages are documented in accordance with statutes and regulations, and are timely provided to insureds.

Pursuant to M.G.L. c. 175, §§ 99 and 99A the fire policy form must include the March 2005 amendment covering tenant relocation, and fire policies must disclose exclusion of coverage for nuclear contamination. Under M.G.L. c. 174A, § 11, the insurer will furnish any requested rate information to the insured in a timely manner. Finally, Division Bulletin 2008-04 discusses procedures for filing forms and rates for commercial terrorism coverage and 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.
- If information or forms are missing from new business or renewal applications, a letter is sent to the producer requesting the missing information, along with an updated listing of the information required to accompany all applications.
- The Company's supervisory procedures are designed to ensure that new business submissions from producers are accurate and complete, including use of all Company required forms and instructions.
- The Company provides training to producers to remind them that they must give the information guide describing general policy provisions to consumers when new business is written. Company policy is to provide the information guide to policyholders upon policy renewal, while producers provide the information guide when a new application is taken.

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: The examiners interviewed Company personnel with responsibility for the underwriting process, and reviewed the information guides utilized for new and renewal business. Since distribution of information guides is not tracked as part of the underwriting process by either the

producers or the Company, The examiners substantiated distribution of the guides through document observation and corroborating inquiry.

Transaction Testing Results:

Findings: None.

Observations: Based upon inquiries and observation of documents, the Company appears to provide required coverage disclosures to insureds upon initial application and renewal in accordance with statutory guidelines. Although the Company stated that the information guide for new business is provided by the producer, no evidence is available supporting these assertions. The examiners are not aware of any information suggesting that policyholders have not received the information guide.

Recommendations: None.

Standard VI-3. The 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 prohibits illegal rebating, commission cutting or inducements in Company correspondence to producers, and in advertising/marketing materials.

Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, no Company, or agent thereof may pay, allow, or offer to pay or allow, any valuable consideration or inducement not specified in the contract, or any other special favor. Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to make or offer an insurance or annuity contract other than as expressed in the contract, or to pay, allow or give, any premium rebate, valuable consideration or inducement not specified in the contract as inducement to purchase such a contract.

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

- The Company has procedures for paying producers' commissions in accordance with written producer contracts.
- Company policies, procedures and producer contracts prohibit special inducements and rebates.
- The Company's policy is to discourage internal replacements by paying reduced commissions if the replaced policy was in force less than eight years.

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: The examiners interviewed company personnel with responsibility for commission processing and producer contracting. The examiners inspected producer contracts, new business materials, advertising materials, producer training materials and manuals for indications of rebating, improper commission cutting or inducements. The examiners also selected a sample of 45 new homeowners', dwelling fire and business owners' policies issued during the examination period to look for indications of rebating, improper commission cutting or inducements.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted no evidence of rebating, improper commission cutting or inducements.

Recommendations: None.

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

M.G.L. c 175, §§ 4C, 95B and 193T; M.G.L. c. 174A, § 5.

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

Pursuant to M.G.L. c. 175, § 4C, insurers may not discriminate based on 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 when issuing, renewing or canceling homeowners' policies. M.G.L. c. 175, § 95B prohibits discrimination against abuse victims in residential property insurance. M.G.L. c. 175, § 193T prohibits discrimination based on 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. 174A, § 5 states 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.

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

- The Company does not offer affinity group discounts.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks on a proper, consistent and fair basis.

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 45 homeowners', dwelling fire and business owners' policies issued during the examination period, to test for unfair discrimination in underwriting.

Transaction Testing Results:

Findings: None.

Observations: Based The examiners noted no evidence that the Company's underwriting practices are unfairly discriminatory.

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, 22A, 99, 99B, 111H and 192; Division Bulletins 2008-04 and 2008-08; 211 CMR 131.00.

Objective: This Standard addresses the required filing of all policy forms and endorsements.

Pursuant to M.G.L. c. 175, § 2B, no policy form of insurance may be delivered to more than 50 policyholders until it has been on file with the Division for 30 days, or the Division approves the form during that time. Further, no property and casualty form may be delivered unless it complies with readability guidelines. M.G.L. c. 175, § 22A sets forth unauthorized policy provisions. M.G.L. c. 175, § 192 allows policies in loose leaf form. Division Bulletin 2008-04 requires that form filings be accompanied by a fully-completed form-filing checklist. Division Bulletin 2008-08 sets forth guidelines for filing rate and form filings for all lines of business. M.G.L. c. 175, § 99 outlines policy form requirements, including coverage for tenant relocation for landlord multi-unit residential property. M.G.L. c. 175, § 99B outlines form authority and approval for commercial property and multi-peril condominium risks. M.G.L. c. 175, § 111H requires that insurers cover lead exposure claims on liability policies providing coverage to an owner of premises for which a letter of interim or full compliance is in effect. Regulation 211 CMR 131.00 details the requirements, forms and rates for liability coverage for lead in housing.

Controls Assessment: The following key observation was noted in conjunction with the review of this Standard:

- Company policy requires the use of the standard Massachusetts policy forms and endorsements 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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 95 homeowners, business owners' and dwelling fire policies issued or renewed during the examination period, to test whether new and renewal policies, including endorsements, were filed with the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company issues new and renewal policies, including endorsements, using forms filed with the Division.

Recommendations: None.

Standard VI-6. Policies and endorsements are issued or renewed accurately, timely and completely.

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 the standard Massachusetts policy forms and endorsements approved by the Division.
- Producers are required to use such forms and endorsements as guidelines when providing quotes to consumers.
- Company supervisors review all applications completed by producers to ensure that they are complete and consistent with internal company policies.
- Company procedures include mailing renewal notices to policyholders 51-72 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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 95 homeowners', business owners' and dwelling fire policies issued or renewed during the examination period, to test whether new and renewal policies, including endorsements, were issued timely and accurately. The date renewal letters were sent was compared to the effective date of coverage.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company issues new and renewal policies, including endorsements, timely and accurately.

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 whether unfair discrimination is occurring in the sale of insurance.

Pursuant to M.G.L. c. 175, § 4C, no insurance company shall take into consideration the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran

status, the receipt of public assistance or the disability of the applicant when deciding whether to provide, renew or cancel homeowners insurance. M.G.L. c. 175, § 95B states discrimination against abuse victims is prohibited in the course of underwriting property insurance. M.G.L. c.175, § 193T prohibits discrimination based on blindness, mental retardation, or physical impairment unless verified by actuarial support.

Controls Assessment: The following key observation was noted in conjunction with the review of this Standard:

- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 245 homeowners', business owners' and dwelling fire policies issued, renewed or cancelled during the examination period, to test for evidence of unfair discrimination in underwriting or cancellation of coverage.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the examiners noted no evidence that the Company's underwriting practices or cancellation policies are unfairly discriminatory. The Company has not instructed the producers to retain and report information supporting homeowners' applicants declined for coverage and has not monitored their producers for compliance with this requirement.

Recommendations: None

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

M.G.L. c. 175, §§ 99, 187C, 193P and 193R.

Objective: This standard is concerned that adequate notice to policyholders is provided prior to policy cancellations and non-renewals, and that policy declinations state the reasons for such declinations.

Pursuant to M.G.L. c. 175, § 99, there are numerous disclosures and requirements that must be included on a standard fire policy. 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. According to M.G.L. c. 175, § 193P, a minimum of 45 days written notice to policyholders, with reasons stated, is required to non-renew homeowners fire policy coverage. M.G.L. c. 175, § 193R allows cancellation of an individual certificate holder within a group policy only due to fraud or non-payment.

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

- The Company sends cancellation notices for non-payment of premium 3-7 business days after the due date, depending on the premium payment plan.
- Company policy requires that cancellation notices provide at least 17 days notice prior to cancellation. The notice must include the cancellation date, and possible remedies available to the insured to prevent cancellation.
- The Company does not send reminder notices prior to the notice of cancellation.
- Company policy requires that notices of non-renewal be sent to the insured or producer of record at least 45 days in advance of the non-renewal effective date.
- Producers so notified must provide such notice to their insured within 15 days of their receipt of notice.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 150 cancelled, non-renewed or declined policies to ensure that the policy was cancelled only due to reasons in compliance with statutory requirements, and that policyholders were given adequate prior notice. The reason for each policy's cancellation or non-renewal was traced to the Company's underwriting policy cancellation guidelines. The examiners verified that the cancellation form used was the standard approved form. The examiners also compared the date each policy's cancellation notice was sent to the effective end date of coverage, to ensure that notices were timely sent within statutory guidelines.

Transaction Testing Results:

Findings: None

Observations: Based on the results of the sample tested, the Company appears to be in compliance with statutory requirements for policy declinations, cancellations and non-renewals. However, the Company had no record of homeowners' declination notices provided by producers on the Company's behalf during the examination period. For this reason, homeowners' declination notices could not be tested as noted in Standard VI-7.

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 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 in accordance with statutory requirements.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 245 policies issued, renewed or cancelled during the examination period for underwriting and rating testing. Of the 245 selected policies, 95 were newly issued and 150 were cancelled or non-renewed. The reason for cancellation of each policy was inspected, to ensure it was within statutory guidelines. There were no policies listed as rescinded.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, policies and procedures for rescissions appeared reasonable.

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 and 193R; M.G.L. c. 175A, §§ 5, 6 and 9; 211 CMR 131.00.

Objective: This Standard addresses the consistent application of debits and deviations on a non-discriminatory basis

M.G.L. c. 174A §§ 5, 6 and 9 mandate that fire and inland marine rates be experience based, that rates must be filed 15 days prior to use, and that members of rating organizations must use their filed rates or must file separate rates. Pursuant to M.G.L. c. 175, § 193R, group rating is allowed, but companies must offer no higher than the same rate in the individual market, and cannot cancel anyone in group except for fraud or non-payment. M.G.L. c. 175, § 111H requires that insurers cover lead exposure claims on liability policies providing coverage to an owner of premises for which a letter of interim or full compliance is in effect. 211 CMR 131.00 details requirements, forms and rates for liability coverage for lead in housing. M.G.L. c. 175A, § 5 states rates for commercial insurance shall be based on experience and shall not be unfairly discriminatory.

M.G.L. c. 175A, § 6 states insurers and rating organizations must file certain casualty insurance rates 15 days prior to their effective date. M.G.L. c. 175A, § 9 state members or rating organizations must use their filed rates, or must file separate rates.

Controls Assessment: The following key observation was noted in conjunction with the review of this Standard:

- Company policy requires the application of credits, debits and deviations that are filed with and approved by the Division.

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

Transaction Testing Procedure: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 45 homeowners', business owners' and dwelling fire policies issued during the examination period, to test whether credits and deviations were applied consistently on a non-discriminatory basis.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company issues new policies with debits, credits and deviations in accordance with those filed with the Division.

Recommendations: None.

Standard VI-11. Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.

No work was performed for this standard. This Standard is not covered in the scope of this examination because the Company does not write workers' compensation insurance.

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 insurance department.

No work was performed for this standard. This Standard is not covered in scope of this examination because the Company does not write workers' compensation insurance.

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

No work was performed for this standard. This Standard is not covered in the scope of this examination because the Company does not write workers' compensation insurance.

Standard VI-14. Verification of experience modification factors.

No work was performed for this standard.. This Standard is not covered in the scope of this examination because the Company does not write workers' compensation insurance.

Standard VI-15. Verification of Loss Reporting, premium audit accuracy and the proper application of rating factors.

No work was performed for this standard.. This Standard is not covered in the scope of this examination because the Company does not write workers' compensation insurance.

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

No work was performed for this standard. This Standard is not covered in the scope of this examination because the Company does not write workers' compensation insurance

Standard VI-17. Underwriting, rating and classification are based on adequate information developed at or near the inception of coverage, rather than near expiration or following a claim.

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

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

- Written Company policies and procedures are designed to reasonably assure that required information is obtained and maintained by either the Company or its producers.
- The Company educates producers through various means including on-site training, online information and written guidelines.
- Company policy requires a signed application to support discounts of 5% or less.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 95 homeowners', business owners' and dwelling fire policies issued or renewed during the examination period, to test whether underwriting, rating and classification decisions are based on adequate information developed at or near the inception of coverage.

Transaction Testing Results:

Findings: None.

Observations: Through examining available file documentation, 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.

<u>Standard VI-18. Audits when required are conducted accurately and timely.</u>

No work was performed for this standard. The Company does not offer policies where premium audits are conducted.

<u>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 insurance department (if applicable).</u>

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.

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. M.G.L. c. 175, § 22A states that such policy forms 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 be filed with the Division for approval prior to use. M.G.L. c. 175, § 99 outlines policy form requirements, including coverage for tenant relocation for landlord multi-unit residential property. M.G.L. c. 175, § 99B outlines form authority and approval for commercial property and multi-peril condominium risks. M.G.L. c. 175, § 111H states insurers shall cover lead exposure claims on liability policies providing coverage to an owner of premises for which a letter of interim or full compliance is in effect, and 211 CMR 131.00 prescribes requirements for the filing of lead liability coverage rates with the Division.

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

- The Company utilizes industry standard forms for homeowners insurance, and has all forms and endorsements approved by the Division prior to their use.
- Producers are required to use such forms and endorsements as guidelines when providing a quote to consumers.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 95 homeowners, business owners' and dwelling fire policies issued or renewed during the examination period, to test the use of standard policy forms and approved endorsements in compliance with statutory requirements. The standard forms used for each policy, along with all endorsements effective on the policy, were compared to the forms approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: The results of testing showed that the Company is using the approved standard policy forms and endorsements 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 was performed for this standard. This standard is not covered in the scope of this examination because the Company does not write automobile insurance.

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 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:

- Homeowners' premium rates are determined annually by the Company using past loss history.
- The Company timely submits the rate filings to the Division for approval prior to use.

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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected a sample of 95 homeowners', business owners' and dwelling fire policies issued or renewed during the examination period, to test whether any underwriting

practices appeared collusive or anti-competitive. All available paper and electronic documentation in each policy file was examined, including on-screen notes prepared by the underwriters.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company's underwriting policies and practices do not appear to be collusive or anticompetitive.

Recommendations: None.

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

M.G.L. c. 175, § 193R.

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

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

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

- The Company's written underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges, and to assure that underwriting practices are not unfairly discriminatory.
- The Company does not offer affinity group discounts.

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: The examiners interviewed Company personnel with responsibility for the marketing and underwriting processes. The examiners selected a sample of 95 homeowners', business owners' and dwelling fire policies issued or renewed during the examination period, to test premium discounts. Policy documentation was also inspected to ensure the Company did not offer affinity group discounts.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that each of the premium discounts was properly applied and that the application was not unfairly discriminatory. The Company adheres to its policy of not offering affinity group discounts.

Recommendations: None.

Standard VI-23. All group personal lines property and casualty policies and programs meet minimum requirements.

M.G.L. c. 175, § 193R.

No work was performed for this standard. This standard is not covered in the scope of this examination because the Company does not offer group products.

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

M.G.L. c. 175, §§ 187C, 99, 193P and 193R.

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

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 which are designed to reasonably assure consistency in classification and rating.
- Rates, premiums and discounts are annually submitted to and approved by the Division, and the Company applies such rates to information provided by the applicant.
- The Company's policies and procedures require that Company personnel confirm that the coding reported by the producer is correct and current.
- The Company has a process to correct data errors and make changes as needed.

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: The examiners interviewed Company personnel with responsibility for the underwriting process, and tested 45 homeowners', business owners' and dwelling fire policies issued during the examination period, to test data coding for selected policy determinants.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing 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 addresses whether policy file documentation adequately supports decisions made in underwriting and rating.

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

- Written Company policies and procedures are designed to reasonably assure that required information is obtained and maintained by either the Company or its producers.
- The Company educates producers through various means including on-site training, online information and written guidelines.
- Company policy requires that applications be signed by the insured and the 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: The examiners interviewed Company personnel with responsibility for the underwriting process. The examiners selected 45 homeowners', business owners' and dwelling fire policies issued during the examination period, to test whether applications were properly completed, and policy files support the Company's underwriting decisions.

Transaction Testing Results:

Findings: Three policy applications of 45 new business files tested did not contain the required agent signatures.

Observations: The signatures on 13 additional policy applications of the 45 new business files tested were illegible, and could not immediately be verified as genuine signatures from properly licensed or appointed producers.

Recommendations: The Company should review and update its New Business Underwriting procedures to require that all submitted applications are complete, including required signatures.

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 is concerned with the timeliness of the Company's initial contact with the claimant.

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

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

- The Company has written policies and procedures governing the claims handling process.
- For a majority of reported claims, the Company is first contacted by the insured's producer, who then contacts an independent insurance adjuster to inspect the claim.
- In some instances, the insured will contact the Company directly by either mail or telephone to file a claim.
- The independent insurance adjuster is then contacted to inspect the claim, and ensure all the proper paperwork is completed.
- Claim forms are received by fax, mail, e-mail or telephone, and are then compared to the Company's database records to verify coverage.
- The independent insurance adjusters typically contact the claimant the day they receive the assignment.
- All claim notifications and related correspondence are recorded on a mainframe based automated claims management system. Claims management accesses the claims system on a weekly basis to monitor open claims.
- Upon receipt of the initial adjuster's report, the Company's examiners adjust reserves accordingly.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claims policies.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to test the timeliness of the Company's initial contact with claimants.

The examiners verified the date that each selected claim was first reported to the Company, and noted whether the Company's initial response was made in a timely manner according to applicable statutes and Company procedures.

Transaction Testing Results:

Findings: None

Observations: The examiners noted that all paid or closed-without-payment claims selected for testing were reported according to the Company's policies and procedures, and that the Company's initial contact with the claimant was timely.

Recommendations: None.

Standard VII-2. Timely investigations are conducted.

M.G.L. c. 176D, § 3(9)(c).

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

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

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

- The Company has written policies and procedures governing the claims handling process.
- For a majority of reported claims, the Company is first contacted by the insured's producer, who then contacts an independent insurance adjuster to inspect the claim.
- Claim forms are received by fax, mail, e-mail or telephone, and are then compared to Company database records to ensure coverage.
- The independent insurance adjusters typically contact the claimant the day they receive an assignment.
- All claim notifications and related correspondence are recorded on a mainframe based automated claims management system.
- Claims management accesses the claims system on a weekly basis to monitor open claims. Upon receipt of the initial adjuster's report, the Company's examiners adjust reserves accordingly.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claims policies.

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: The examiners interviewed Company personnel with responsibility for the claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate the Company's compliance with its claims handling policies and procedures.

The examiners verified the date each selected claim was reported to the Company, and noted whether the investigation by the Company was conducted in a timely manner.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted that the tested claims were reported according to the Company's policies and procedures, and claims investigations appeared timely. Based upon the results of testing, it appears that the Company's processes for reporting and investigating claims are functioning in accordance with their policies and procedures, and statutory requirements.

Recommendations: None.

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

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

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

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

M.G.L. c. 175, § 112 states that 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: The following key observations were noted in conjunction with the review of this Standard:

- The Company has written policies and procedures governing the claims handling process.
- The Company's policy is to resolve all claims in a timely manner.
- The Company's claim examiners review the claim, and have the authority to settle claims up to \$50,000.
- Any claims larger than \$50,000 require management review.
- The Company's policy is to resolve claims in compliance with M.G.L. c. 175, § 112.
- Coverage for the reported claim is affirmed or denied immediately upon receiving notice of the claim.
- The independent insurance adjusters typically contact the claimant the day they receive an assignment.
- The Company's claims management personnel access the claims system on a weekly basis to monitor open claims.

- The Company's claims managers perform periodic claims reviews throughout each calendar year, to examine compliance with Company claims policies.
- The Company reports all fraudulent claims activity to the Massachusetts Insurance Fraud Bureau.
- The Company also hires outside investigators when arson may be the cause of a suspicious claim.

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: The examiners interviewed Company claims personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with the Company's claims handling policies and procedures. Seventy of the tested claims were paid claims, and 95 were closed without payment. The examiners verified the date that each selected claim was reported to the Company, and noted whether it was resolved by the Company in a timely manner.

Transaction Testing Results:

Findings: None.

Observations: The Company did not include benchmark goals for finalizing claims in their written claim procedures. Fifty of the 70 paid claims were closed in 60 days or less. Seventy-two of the 95 closed without payment claims were closed in 60 days or less. Based upon the results of testing, the Company's processes to resolve claims timely are functioning in accordance with their policies and procedures, as well as statutory and regulatory requirements.

Recommendations: The Company should revise its written claim procedures to include benchmark goals for the number of days in which claims should be settled.

<p><u>Standard VII-4. The regulated entity responds to claim correspondence in a timely manner.</u></p>
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<p>M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e).</p>

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

Pursuant to M.G.L. c. 176D, § 3(9)(b), unfair claims settlement practices include failure to act reasonably promptly upon communications with respect to claims arising under insurance policies. M.G.L. c. 176D, § 3(9)(e) considers failure to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed an unfair trade practice.

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

- Company policy is to respond to questions about claims in a timely manner.
- Company policy is to investigate and resolve all claims according to Company performance standards.

- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claims policies.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.
- Coverage for the reported claim is affirmed or denied immediately upon receiving notice of the claim.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners verified the date that each selected claim was reported to the Company, and noted whether it timely responded to claims correspondence.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted that all tested claims were reported and investigated according to the Company's policies and procedures, and that responses to claims correspondence were timely. Based upon the results of testing, the Company's processes for providing timely responses to claims correspondence are functioning in accordance with their policies and procedures

Recommendations: None.

<p><u>Standard VII-5. Claim files are adequately documented.</u></p>

Objective: The Standard is concerned with the adequacy of information maintained in the Company's claim records related to claim decisions.

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

- The Company's written claim processing guidelines require that key information be completed, signed, and maintained in the file, including, but not limited to:
 1. Notice of loss with relevant loss date, description, and involved parties;
 2. Relevant investigative correspondence;
 3. Pertinent written communication;
 4. All legal correspondence;
 5. Documented or recorded telephone communication;
 6. Claim activity is logged and documented in chronological order;
 7. Claim reserve evaluations, adjustments and assessments are documented;

8. Source correspondence and investigative reports are scanned and maintained electronically.

- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with the Company's claims policies.

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: The examiners interviewed Company claims personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners reviewed the files for each selected claim, and noted whether its documentation was adequate.

Transaction Testing Results:

Findings: None

Observations: The examiners noted that the tested claims were reported and investigated according to the Company's policies and procedures, and claim file documentation was adequate.

Recommendations: None

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

M.G.L. c. 139, § 3B; M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f); M.G.L. c. 175, §§ 22B, 22I, 24D, 24E 24F, 96, 97, 97A, 100, 102 111F, 112 and 112C.

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

Per M.G.L. c. 139, § 3B no insurer shall pay any claims equal to or greater than \$1,000 without having at least ten days previously given written notice to the building commissioner or inspector in the city or town where the insured property is located. Pursuant to M.G.L. c. 176D, § 3(9)(d), unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information.

Moreover, M.G.L. c. 176D, § 3(9)(f) considers failure to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear an unfair trade practice. Pursuant to M.G.L. c. 175, § 22B, waiver provisions are prohibited in insurance contracts except as expressly provided. 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 nonrecurring payments for past due child support. Pursuant to M.G.L. c. 175, § 24E, insurers must exchange information with the Commonwealth not less than 10 business days prior to making payment to a claimant who has received public assistance benefits. Pursuant to M.G.L. c. 175, § 24F, insurers must communicate with the Commonwealth regarding claimants with unpaid taxes.

According to M.G.L. c. 175, § 96, the Company is not liable beyond the actual cash value of the property at the time of the loss for buildings destroyed by fire.

Pursuant to M.G.L. c. 175, § 97 companies must pay fire losses to mortgagees of property upon satisfactory proof of rights and title in accordance with the insurance policy. M.G.L. c. 175, § 97A states that real property claims greater than \$5,000 must be checked against any municipal liens.

Insurance companies must furnish medical reports to injured persons or their attorney pursuant to M.G.L. c. 175, § 111F. In addition, M.G.L. c. 175, § 112C requires companies to reveal to an injured party making a claim against an insured, the amount of the limits of said insured's liability coverage, upon receiving a request in writing for such information. M.G.L. c. 175, § 112 states that liability of any regulated entity under a motor vehicle liability policy, or under any other policy insuring against liability for loss or damage on account of bodily injury, death, or damage to property, shall become absolute whenever the loss or damage for which the insured is responsible occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the company to make payment on account of said loss or damage. M.G.L. c. 175, § 100 sets forth standards for selecting a referee when parties to a claim fail to agree on the amount of loss.

Under M.G.L. c. 175, § 102, insureds under a fire policy are not precluded from recovery by failing to render a sworn statement if they do so upon the Company's appropriate written request.

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

- The Company has written policies and procedures governing the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- All claim notifications and related correspondence are recorded on a mainframe based automated claims management system.
- Independent claim adjusters examine the claim, and submit an initial adjustor's report to the Company's claim examiners.
- The Company's claim examiners review the claim, and have the authority to settle claims up to \$50,000. Any claims larger than \$50,000 require management review.
- The Company has procedures to comply with the requirements in M.G.L. c. 175, §§ 111F and 112C to furnish medical reports and/or the amount of the insured's policy limits, upon receiving requests for such information from a claimant or their attorney.
- The Company has procedures to comply with requirements in M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support for certain defined claim payments.
- The Company's policy prohibits discrimination in the reimbursement of proper expenses paid to certain professions and occupations as required by M.G.L. c. 175 § 193K.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claim reviews throughout each calendar year to examine compliance with regulated entity claims policies.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners verified whether each

selected claim was handled in accordance with policy provisions, and statutory and regulatory requirements.

Further, as part of complaint testing, the examiners evaluated claims-related complaints to determine whether the related claims appeared to be properly handled.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted each of the tested claims was handled according to the Company's policies and procedures. Based upon testing, it appears that the Company's processes for handling claims are functioning in accordance with its policies, procedures and statutory requirements. Further it appears that the Company properly handled the claims which were the subject of related complaints.

Recommendations: None.

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

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

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

- The Company uses industry standardized claim reporting forms appropriate for the line of business.
- Claim processing guidelines require that key documentation be completed, signed and maintained in the file, including but not limited to: notice of loss with relevant loss date, loss description and involved parties.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claims reviews throughout each calendar year, to examine compliance with Company claims policies.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners reviewed the files for each selected claim, and noted whether the claim reporting was appropriate.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted that all claims selected for testing were documented on appropriate claim forms, and according to the Company's policies and procedures. The Company's processes for documenting reported claims are functioning in accordance with their policies and procedures.

Recommendations: None.

<u>Standard VII-8. Claim files are reserved in accordance with the regulated entity's established procedures.</u>
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Objective: The Standard is concerned with the Company's timely refund of deductibles from subrogation proceeds.

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

- The Company's written claims policies and procedures address subrogated claims.
- Company policy is to resolve all subrogated claims in a timely manner.
- When liability or coverage issues are undisputed with another carrier, the Company waives the deductible to its insured.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claim policies.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners reviewed the files for each selected claim, and noted whether subrogation recoveries were timely and accurate.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

- Company policy requires that claim denials include the contractual basis for non-payment, and inform the claimant of their right to appeal, including the timeframe and specific steps necessary to do so.
- All claim notifications are recorded on a mainframe based automated claims management system.
- Independent claim adjusters examine the claim, and submit an initial adjustor's report to the Company's claim examiners.
- The Company's claim examiners review the claim, and have the authority to settle claims up to \$50,000. Any claims larger than \$50,000 require mandatory management review.
- The Company provides the claimant with a written explanation of all denied and closed-without payment claims.

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: The examiners interviewed company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners verified the date the 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: Documentation for all denied or closed-without-payment claims tested appeared complete, including correspondence and other documentation. Based upon the results of testing, the claims were handled according to policy provisions and statutory requirements.

Recommendations: None.

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

Objective: The Standard is concerned with the Company's procedures for issuing claim checks as it relates to appropriate claim handling practices.

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

- The Company has written policies and procedures governing the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- Independent claim adjusters examine the claim, and submit an initial adjustor's report to the Company's claim examiners.
- The Company's claim examiners review the claim, and have the authority to settle claims up to \$50,000. All claims larger than \$50,000 require management review.
- Company procedures verify the proper payee and claim payment amount prior to check issuance.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claims policies.
- Independent investigators are hired to examine suspicious claims prior to payment.

Transaction Testing Procedure: The examiners interviewed Company personnel to understand its claims payment processes, and obtained documentation supporting such processes. The examiners selected a sample of 50 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims payment policies and procedures. The examiners reviewed the files for each selected claim, and noted whether claim payment practices were appropriate.

Transaction Testing Results:

Findings: None.

Observations: The examiners noted that all claims selected for testing were reported and investigated according to Company policies and procedures, with adequate claim payment documentation.

Recommendations: None.

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 regulated entity'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 such findings to the General Court.

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

- Company claims handling guidelines require the uniform and consistent handling of claim settlements and payments.
- Claims management uses exception reports to measure operational effectiveness and claim processing times.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claims policies.

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: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a total sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners verified the date each claim was reported, reviewed correspondence and investigative reports, and noted whether the Company handled the claim timely and properly.

Transaction Testing Results:

Findings: None.

Observations: For the claims selected that involved litigation, documentation was complete and the Company's conclusions appropriate.

Recommendations: None.

<p>Standard VII-12. The regulated entity uses the reservation of rights and excess of loss letters, where appropriate.</p>

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-10.

Transaction Testing Procedure: The examiners interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. The examiners selected a total sample of 165 claims paid or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. The examiners reviewed the files for each selected claim, and noted whether reservations of rights or excess loss letters were warranted.

Transaction Testing Results:

Findings: None

Observations: For the claims selected that involved reservation of rights, documentation was complete and the Company's conclusion reasonable.

Recommendations: None.

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

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

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

- The Company's written claims handling policies and procedures address subrogated claims.
- Company policy is to resolve all subrogated claims in a timely manner.
- When liability or coverage issues are undisputed with another carrier, the Company waives the deductible to its insured.
- Claims management accesses the claims system on a weekly basis to monitor open claims.
- Claims managers perform periodic claims reviews throughout each calendar year to examine compliance with Company claim policies.

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

Transaction Testing Procedure: Refer to Standard VII-8.

Transaction Testing Results:

Findings: The Company did not timely refund the deductible for one subrogation claim settled during the examination period to the policyholder. The Company promptly made payment including interest once notified by the examiners.

Observations: The examiners noted that subrogation recoveries for all paid and closed without payment claims selected for testing were not timely according to the Company's *Outstanding Subrogation Reports*. The Company states that each subrogation file should have been followed up every 90 days. The *Outstanding* report reflected that follow up was outside of the 90 day

period. Based upon the results of our testing, it appears that the Company's processes to make subrogation recoveries to insureds are not functioning in accordance with their policies and procedures.

Required Action: The Company shall review its subrogation procedures, and all outstanding subrogation files, to ensure prompt notification and refunds are made to policyholders. The Company shall complete an audit of all subrogated claims. The audit will include, but not be limited to the time required for settlement of subrogated claims as well as the payment status of those claims. The Company will report the results of this audit to the Division by June 30, 2011.

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

M.G.L. c. 175A, § 15(a); 211CMR 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. The Commissioner may designate a rating agency or agencies to assist in the compilation of such data. In accordance with 211 CMR 15.00, the Commissioner established and fixed various statistical plans to be used in relation to homeowners insurance and related coverages, in accordance with M.G.L. c. 175A, § 15(a).

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

- Company policy is to timely report complete and accurate loss data to appropriate rating bureaus.
- Claims management personnel reconcile the underlying data for completeness and accuracy. Exceptions reports are generated to ensure that the loss data is properly reported.
- The Company's statistical reports are completed by the accounting department.

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

Recommendations: None.

SUMMARY

Based upon the procedures performed in this comprehensive examination, The examiners 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 2009 *NAIC Market Regulation Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. The examiners made recommendations and a required action to address various concerns related to Company complaint handling, policyholder service, underwriting and rating and claims.

ACKNOWLEDGEMENT

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

The undersigned’s participation in this comprehensive examination as the Examiner-In-Charge encompassed responsibility for the coordination and direction of the examination performed, which was in accordance with, and substantially complied with, those standards established by the National Association of Insurance Commissioners (NAIC) and the 2009 *NAIC Market Regulation Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the comprehensive examination report. In addition, Dorothy K. Raymond, of the Division’s Market Conduct Section, participated in the examination and in the preparation of this report.

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

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