



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

**Division of Insurance**

*Report on the Comprehensive Market Conduct Examination of*

*Plymouth Rock Assurance Corporation*

*Boston, Massachusetts*

*For the Period January 1, 2007 through December 31, 2007*

**NAIC COMPANY CODE: 14737**

**NAIC GROUP CODE: 0415**

**EMPLOYERS ID NUMBER: 04-2800590**



**COMMONWEALTH OF MASSACHUSETTS**

**Office of Consumer Affairs and Business Regulation**

**DIVISION OF INSURANCE**

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COMMISSIONER OF INSURANCE

April 9, 2009

The Honorable Nonnie S. Burnes  
Commissioner of Insurance  
The Commonwealth of Massachusetts  
Office of Consumer Affairs and Business Regulation  
Division of Insurance  
One South Station  
Boston, Massachusetts 02110-2208

Dear Commissioner Burnes:

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

**PLYMOUTH ROCK ASSURANCE CORPORATION**

at its home office located at

695 Atlantic Avenue  
Boston, MA 02111

The following report thereon is respectfully submitted.

**FOR INFORMATION PURPOSES ONLY**

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## SCOPE OF EXAMINATION

The Massachusetts Division (“Division”) conducted a comprehensive market conduct examination of Plymouth Rock Assurance Corporation (“Plymouth Rock” or “Company”) for the period January 1, 2007 through December 31, 2007. The examination was called pursuant to authority in Massachusetts General Laws Chapter (M.G.L. c.) 175, Section 4. The current market conduct examination was conducted at the direction of, and under the overall management and control of, the market conduct examination staff of the Division. Representatives from the firm of Eide Bailly, LLP (“Eide”) were engaged to complete certain agreed-upon procedures.

## EXAMINATION APPROACH

A tailored audit approach was developed to perform the examination of the Company using the guidance and standards of the *NAIC Market Regulation Handbook* (“Handbook”), the market conduct examination standards of the Division, the Commonwealth of Massachusetts’ (Commonwealth) insurance laws, regulations and bulletins, and selected federal laws and regulations. All procedures were performed under the management and control 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 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.

## EXECUTIVE SUMMARY

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

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

The following is a summary of all substantive issues found, along with related recommendations and, if applicable, subsequent Company actions made, as part of the comprehensive market conduct examination of the Company.

All Massachusetts laws, regulations and bulletins cited in this report may be viewed on the Division’s website at [www.state.ma.us/doi](http://www.state.ma.us/doi).

### SECTION I – COMPANY OPERATIONS / MANAGEMENT

#### **STANDARD I-3**

##### Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company may not have performed a criminal background check on some employees hired prior to 2003. The Company began conducting background checks in 2003, but did not perform them retrospectively. Eide noted that the Company does not currently perform background checks on producers.

Recommendations: Eide recommends that the Company conduct criminal background checks on all current and prospective Company employees and producers.

SECTION IV – PRODUCER LICENSING

**STANDARD IV-1**

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted that the Company does not currently perform background checks on producers.

*Recommendations:* Eide recommends that the Company conduct criminal background checks on all current and prospective producers.

**STANDARD IV-2.**

Refer to Standard IV-1 for discussion and recommendations also applicable to this standard.

SECTION VI – UNDERWRITING AND RATING

**STANDARD VI-26**

*Transaction Testing Results:*

*Findings:* The files for two policies tested did not contain documentation to support an anti-theft discount given to the policyholder. The file for one other policy tested did not contain documentation to support a multi-vehicle discount given to the policyholder.

*Observations:* Except as noted above, the results of testing appear to show that the remaining 49 policy files tested adequately supported the Company's decisions.

*Required Action:* The Company should ensure that its' agents present all required documentation to the Company before business is processed, and that the Company retains such documentation to support its business decisions.

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## SECTION VII – CLAIMS

### **STANDARD VII-3**

#### *Transaction Testing Results:*

*Findings:* The Company did not timely process one claim of 77 tested. The claim arose from an accident in which the Company felt the “other” driver, not the Company’s insured, was primarily at fault. The claim went to arbitration. The arbitration ruling came back in favor of the “other” driver’s insurer. The arbitration agreement specified that the claim was to be paid within 30 days of the arbitration decision. Testing of the claim indicated it was paid, but not within the 30 day timeframe as required by the arbitration agreement. Company policy is to comply with all arbitration agreements, thus the claim was not resolved in a timely manner.

*Observations:* Except as stated above, Eide noted no other violations of this standard during the remainder of the testing.

*Recommendation:* Eide recommends that the Company review its claim procedures related to claim arbitrations, and timely comply with the terms of all claims arbitration agreements.

### **STANDARD VII-6**

#### *Transaction Testing Results:*

*Findings:* The Company did not report a vehicle theft or misappropriation to the National Insurance Crime Bureau (NICB) in one of 77 tested claims. The claim involved property damage to a Company insured vehicle while it was being driven by an unknown party. The insured reported the vehicle stolen from the residence where the insured was located at the time of the theft, but later found the keys in the driveway of the theft location. The insured then reported finding the vehicle nearby after it had been in an accident, but was not aware of who had taken the vehicle.

*Observations:* Eide noted no other violations of this standard during the remainder of the testing. As a result of Eide’s testing, the noted claim has now been referred to the NICB.

*Recommendation:* Eide recommends that the Company timely report any claim involving potential theft or misappropriation to the NICB.

## COMPANY BACKGROUND

The Company is headquartered in Boston, Massachusetts and is a subsidiary of the Plymouth Rock Group. The Company offers only private passenger and commercial automobile coverage in Massachusetts. The Company's statutory surplus as of December 31, 2007 was \$122.4 million with statutory admitted assets of \$420.2 million. For 2007, premiums earned were \$220.4 million. Net income was \$12.2 million for 2007. The Company's A.M. Best rating was A- as of December 31, 2007.

As of December 31, 2007, the Company was contracted with approximately 237 Massachusetts independent producers ("producers" or "agents") and had 16 Exclusive Representative Producers ("ERP") assigned to them by Commonwealth Automobile Reinsurers ("CAR"). The ERPs cannot be terminated by the Company except in the event of certain violations of the CAR Rules of Operation.

This examination was conducted concurrently with examinations of Company affiliates Pilgrim Insurance Company and Bunker Hill Insurance Company, as certain systems, processes and controls are common to operations of one or more of these affiliated companies.

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

The commercial automobile market includes the involuntary and voluntary markets. The involuntary commercial automobile market is similar to the private passenger automobile market and covers some, but not all, classes of commercial coverage. Such remaining classes are part of the voluntary market where rates and forms are approved on an individual carrier basis by the Division.

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

## I. COMPANY OPERATIONS/MANAGEMENT

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

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

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

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

- The Company has an internal audit function, and is also audited annually by an independent accounting firm.
- The Internal Audit Department (IAD) of Plymouth Rock Assurance Group performs all internal audit related functions of the Company.
- The IAD reports to the Chief Financial Officer, but has a direct line of reporting to the Audit Committee and holds periodic executive sessions with the Audit Committee to discuss the audit plan and any potential issues.
- All businesses, functions, and geographical locations of the Company are subject to review by the IAD.
- The IAD solicits input from their external auditors to assist in properly evaluating the Company's overall risks.
- The IAD annually examines the Company's accounting and claim functions, and prepares a risk based audit plan for the other areas of the businesses. The frequency of the Company's audits is based upon IAD's overall risk and control assessment.
- The Company responds to internal and external audit recommendations to correct, modify, and implement procedures.
- The Company employs two auditors to continuously audit its independent agents.
- The two auditors conduct audit research on the agencies covering many of the Handbook areas including:
  - Use of approved marketing materials
  - Communication of mandated disclosures
  - New business procedures
  - Product suitability
  - Licensing requirements
  - General supervision
- Upon completion of the audit, the auditor produces a report of audit findings and appropriate corrective actions, and discusses the report with Company management, the agency manager and the agency.

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

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

Transaction Testing Results:

Findings: None.

Observations: None

Recommendations: None.

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

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

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

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

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 implemented appropriately.

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

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

- The Company has a written antifraud plan.
- The Company has a Special Investigative Unit (SIU) dedicated to preventing and handling fraudulent activities.

- The SIU holds periodic meetings with representatives from various departments at the Company including claims, compliance, internal audit, underwriting, sales and customer service, to identify potentially fraudulent activity.
- The SIU tracks and investigates potentially fraudulent activity with the assistance of other departments when required by statute. Such activity is reported to the regulators as necessary.
- The SIU works with the Massachusetts Insurance Fraud Bureau to investigate and properly handle potential fraud.
- The Company's claims and underwriting personnel take part in ongoing continuing education, focused on identification and proper treatment of potentially fraudulent activity.
- The Company has performed criminal background checks for all new and prospective employees since 2003.

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

Transaction Testing Procedure: Eide interviewed individuals with responsibility for ensuring that the Company does not employ prohibited persons as defined in 18 USC § 1033, and reviewed procedures followed by the Company to ensure compliance.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company may not have performed a criminal background check on some employees hired prior to 2003. The Company began conducting background checks in 2003, but did not perform them retrospectively. Eide noted that the Company does not currently perform background checks on producers.

Recommendations: Eide recommends that the Company conduct criminal background checks on all current and prospective Company employees and on producers.

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

Eide obtained and reviewed a copy of the Company's disaster recovery plan for reasonableness. All required activity for this Standard is otherwise included in the scope of the ongoing statutory financial examination of the Company.

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

No work performed. The Company does not utilize MGA's; therefore this standard is not applicable to this examination.

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

No work performed. The Company does not utilize MGA's; therefore this standard is not applicable to this examination.

**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 the Commonwealth's 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 Company's home office record retention policies are described for each Standard, as applicable. In addition:

- Company policy requires that its producers keep complete records and accounts of all insurance transactions.
- The Company's standard producer contract requires the producer to keep insurance records and accounts 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:* Eide performed various procedures throughout this examination which related to review of documentation and record retention. Such testing results are noted in the various examination areas, with any exceptions noted in the Executive Summary along with the applicable standard.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* None.

*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's policy is to operate 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: Eide reviewed the Company's Certificate of Authority, and compared it to the lines of business it writes in the Commonwealth.

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 examination.

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

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

Controls Reliance: Not applicable.

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

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

**Standard I-10. The regulated entity has procedures for the collection, use and disclosure of information gathered in connection with insurance transactions so as 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 to ensure it minimizes 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 non-public 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.

Various aspects of privacy requirements are addressed in Standards I-10 through I-17.

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 at the time an application is taken. Annual disclosure notices also are provided to policyholders via standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard customer, personal and health information.
- The Company's internal audit function has conducted reviews of privacy policies and procedures.

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

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

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's 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. The Company also appears to have proper documentation to support any adverse underwriting decisions it makes.

Recommendations: None.

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

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

Objective: This Standard is concerned with the Company's policies and procedures to ensure it properly manages insurance 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 non-public 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 has a policy for informing and training its employees regarding its practices for handling and maintaining personal information of applicants and policyholders.
- The Company has policies and procedures in place for transmitting written notice of its privacy policy to each applicant and policyholder at the time of application for or renewal of a policy.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for securing personal information about applicants and policyholders. Insurance information management standards were tested in each section on this examination.

Transaction Testing Results:

Findings: None.

Observations: Per Eide's review, the Company appears to be in compliance with applicable statutes and regulations.

Recommendations: None.

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

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

*Objective:* This Standard 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 non-public 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 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 via 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:* Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* It appears from Eide's review of the Company's privacy notice that its privacy policy minimizes any improper intrusion into the privacy of policyholders, former policyholders and consumers that are not policyholders, and is disclosed to policyholders in accordance with their policies and procedures.

Recommendations: None.

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

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

Objective: This Standard is concerned with the Company's 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 non-public 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-12.

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

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

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice, and discussion with Company personnel, it appears that the Company disclosed privacy information to policyholders in accordance with its policies and procedures.

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 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 non-public 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 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 via 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: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice.

Transaction Testing Results:

Findings: None.

Observations: It appears from Eide's review of the Company's privacy notice, and discussion with Company personnel, that the Company 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 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 non-public 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 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 via 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: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice, and discussion with Company personnel, it appears that the Company's privacy 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 and 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 (HIPAA); Public Law 104-191: 45 CFR Parts 160 and 164 sets 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 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 via 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:* Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice.

*Transaction Testing Results:*

*Findings:* None.

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

*Recommendations:* None.

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

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

*Objective:* This Standard 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 non-public 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, §§ 502, 503, 504 and 505, 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 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 via 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:* Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

*Transaction Testing Results:*

*Findings:* None.

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

*Recommendations:* None.

FOR INFORMATION PURPOSES ONLY

## II. COMPLAINT HANDLING

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

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

**M.G.L. c. 176D, § 3(10).**

*Objective:* This Standard is concerned with whether the Company formally tracks complaints or grievances.

Pursuant to M.G.L. c. 176D, § 3(10), an insurer must maintain a complete record of all complaints it 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:

- The Company has written policies and procedures governing 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 consumer service team to receive and respond to complaints.
- The Company reviews all complaints from the Division and forwards them to the appropriate manager for investigation and response.

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

*Transaction Testing Procedure:* Eide obtained complete complaint lists from the Company and the Division for the examination period, and found that both lists logged 23 complaints about the Company made to the Division during the examination period. All complaints were reviewed to ensure that they were handled in accordance with M.G.L. c.176, § 3(10).

Based on these findings and a planning risk assessment, Eide performed detail testing on claim handling and underwriting as outlined later in this report.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted that the Company appears to maintain complaint handling procedures, and a complete listing of complaints, in accordance with M.G.L. c. 176D, § 3(10).

*Recommendations:* None.

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

**M.G.L. c. 176D, § 3(10).**

*Objective:* This standard is concerned with whether the Company has adequate complaint handling procedures, and communicates those procedures to policyholders.

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

*Controls Assessment:* Refer to Standard II-1.

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

*Transaction Testing Procedure:* Eide reviewed 23 Massachusetts complaint files from both the Company and the Division for the examination period to evaluate this Standard, and to ensure that the Company performs root cause analysis of complaints. Eide also interviewed management and staff responsible for complaint handling, and examined evidence of the Company's complaint handling processes and controls. A sample of forms and billing notices was reviewed to determine whether the Company provides contact information for consumer inquiries.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* The Company appears to have adequate complaint procedures in place, including root cause analysis, and communicates such procedures to 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 is concerned with whether the Company 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:* Eide reviewed 23 Massachusetts complaint files from both the Company and the Division for the examination period to evaluate this Standard. Eide also interviewed management and staff responsible for complaint handling, and examined evidence of the Company's complaint handling processes and controls.

*Transaction Testing Results:*

*Findings:* None

*Observations:* Eide noted that the Company responded to the issues raised in all the complaints tested in an appropriate and complete manner through its' formal complaint process. The Company further appears to treat complainants with similar fact patterns in a consistent manner, and adequately documents its complaint files.

*Recommendations:* None

**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 complaint handling 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 complaint from the Division.

*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:* Eide reviewed a complete listing of the Massachusetts complaint files from the Division for the examination period to evaluate this Standard. In addition, Eide reviewed all complaints to determine the reason for delay for any which exceeded the 14 day response time required by the Division.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company responded to the issues raised in all the complaints tested in an appropriate and timely manner through its' formal complaint process. The Company further appears to treat complainants with similar fact patterns in a consistent manner, and adequately documents its complaint files. All complaints reviewed were timely handled in less than 14 days per the Division's requirements.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

### III. MARKETING AND SALES

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

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

**M.G.L. c. 175C, § 3; M.G.L. c. 175, § 18; M.G.L. c. 176D, § 3; Division of Insurance Bulletin 2001-02.**

*Objective:* This Standard is concerned with whether the Company maintains a system of control over the content, form and method of dissemination of its advertisements.

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 name of the Company appearing on the certificate of authority, and the address of its principal office. M.G.L. c. 175C, § 3 prohibits insurers from directing producers to not solicit business through the property joint underwriting association. M.G.L. c. 175, § 18 requires companies to conduct business only in their name, and any publication of assets must also include liabilities and surplus.

*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's policy is that its website discloses the Company's name and address.

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

*Transaction Testing Procedure:* Eide reviewed direct advertising and sales materials produced by the Company for compliance with statutory and regulatory requirements. Eide also reviewed the Company's website for appropriate disclosure of its name and address, and compliance with statutory and regulatory requirements.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* The results of Eide's testing showed that the Company's advertising and sales materials comply with Massachusetts M.G.L. c. 176D, § 3, and with Division Bulletin 2001-02.

*Recommendations:* None.

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

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

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

- The Company has distributed a general information packet to producers focusing on company policies, practices and procedures including underwriting and rating.
- The Company provides bulletins to producers throughout the year noting changes in policies, practices and procedures.

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

*Transaction Testing Procedure:* Eide reviewed the Company's bulletins to agents during the examination period for accuracy and reasonableness.

*Transaction Testing Results:*

*Findings:* None.

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

*Recommendations:* None.

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

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

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

- The Company periodically communicates information to agents via bulletins which note changes in policies, practices and procedures.

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

Transaction Testing Procedure: Eide reviewed the Company's bulletins to agents during the examination period for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

**Standard III-4. Regulated entity mass marketing of property and 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 motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise.

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

- Written Company underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges.
- The Company provides the same premium discount of 2-15% to each member of various affinity groups.
- Premium discounts available to affinity groups are filed with and approved by the Division.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the marketing and underwriting processes, and selected 52 policies issued or renewed during the examination period for testing premium discounts, including those to affinity groups. Eide verified that the affinity group discount for each policy was properly applied and approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that each of the premium discounts, including those given to affinity groups, was properly applied and approved by the Division.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

#### IV. PRODUCER LICENSING

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

**Standard IV-1. Regulated entity records of licensed and appointed (if applicable) producers agree with Department of Insurance records.**

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

*Objective:* The Standard is concerned with ensuring that the Company's appointed producers are appropriately licensed 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. Pursuant to 18 USC § 1033, the Violent Crime Control and Law Enforcement Act of 1994, it is a criminal offense for anyone "engaged in the business of insurance" to willfully permit a "prohibited person" to conduct insurance activity without written consent of the primary insurance regulator. A "prohibited person" is an individual who has been convicted of any felony involving dishonesty or a breach of trust or certain other offenses, who willfully engages in the business of insurance as defined in the Act. In accordance with Division Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and producers who are affected by this law. Individuals "prohibited" under the law may apply to the Commissioner for written consent, and must not engage or participate in the business of insurance unless and until they are granted such consent.

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

- The Company maintains an automated producer database that interfaces with its underwriting, policyholder service and producer compensation systems.
- All producers are required to enter into a written contract with the Company prior to their appointment.
- The Company does not perform background checks on new producers.
- The Company requires producers to provide a copy of their corporate and individual licenses during the appointment process.
- Agency contracts require them to report producer hiring's and departures to the Company in writing.
- Agencies must annually notify the Company of changes to the producer listing upon license renewal.
- The Company's appointment procedures are designed to comply with M.G.L. c. 175, § 162S, which requires that a producer be appointed by the Company within 15 days from the date their contract is executed, or from the date the first coverage application is submitted.

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

Transaction Testing Procedure: Eide interviewed individuals with responsibility for producer contracting and processing of appointments, and reconciled the Division's producer listing to the Company's producer listing.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company does not currently perform background checks on producers.

Recommendations: Eide recommends that the Company conduct criminal background checks on all current and prospective producers.

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

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

Refer to Standard IV-1 for discussion and recommendations also applicable to this standard.

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

**M.G.L. c. 175, §§ 162R and 162T.**

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

Pursuant to M.G.L. c. 175, § 162T, the regulated entity must notify the Division within 30 days of the effective date of a producer's termination, and of the cause of any "for cause" termination. M.G.L. c. 175, § 162R defines the reasons for which the Division may terminate a producer's license.

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

- Agency contracts require them to report producer hirings and departures to the Company in writing.
- Marketing representatives visit each agency monthly to inquire about any changes in personnel, to ensure they are notifying the Company of any hiring or departures.
- Agencies must annually notify the Company of changes to the producer listing upon license renewal.

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

Transaction Testing Procedure: Eide requested and reviewed documentation of the Company's reporting of all producer terminations from the examination period to the Division.

Transaction Testing Results:

Findings: None.

Observations: The Company notifies terminated producers using a letter whose contents have been approved by the Division. When the termination is "for cause" the Company sends the notice to the producer via certified mail, return receipt requested. The Company notifies the Division of the termination consistent with procedures established by the Division.

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 Standards IV-1 and IV-3.

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

Transaction Testing Procedure: Eide reviewed documentation, such as zip codes, for 52 policies issued or renewed 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: Eide's testing noted no evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Recommendations: None.

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

**M.G.L. c. 175, §§ 162R and 162T.**

*Objective:* The Standard 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 of the cause for any such termination as defined in M.G.L. c. 175, § 162R.

*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:* Eide obtained a list 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 for notifying 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:

- The policyholder receives a renewal notice from the Company prior to the effective date of the renewal asking the policyholder to request any changes in coverage or endorsements prior to the renewal date.
- Billing notices for renewal policies are generated automatically through the policy administration system approximately 30-35 days before policy expiration.
- Most policyholders elect direct billing on a monthly or annual basis. Other policyholders elect to pay through payroll deduction with participating employers, which occurs throughout the year.
- Company policy is to charge a monthly service fee for installment payments.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel with responsibility for policyholder service. In conjunction with the underwriting and rating testing, Eide reviewed billing notice dates, fees and interest charges for 52 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 effective renewal date.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide's review of the 52 tested policies issued or renewed during the examination period showed that billing notices for renewal policies were mailed 30-35 days prior to the policy expiration date.

Recommendations: None.

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

**M.G.L. c. 175, § 187B.**

Objective: This Standard addresses the Company's procedures 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.

Objectives pertaining to policy issuance are included in Underwriting and Rating Standard VI-6. Return of premium testing is included in Underwriting and Rating 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 upon notification from the producer of the policyholder's request, and to process premium refunds in a timely manner.
- The Company refunds unearned premium to policyholders on a 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: During Eide's review of 52 policies in the underwriting and rating section, any cancellations were investigated to ensure that proper notice of cancellation was given and that any unearned premium was returned within a reasonable time period. Calculation of unearned premium is also covered in the financial examination.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

*Objective:* This Standard 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's customer service representatives answer policyholders' questions about policy, billing or claims matters, and can also process policy address or name changes.
- The Company considers its agents as having the primary relationship with the policyholder. Since customer service representatives are not licensed agents, policyholders must request endorsements and policy changes through the agent. If a policyholder requests such changes through customer service, the policyholder will be transferred to the agent for servicing.

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

*Transaction Testing Procedure:* Eide discussed correspondence procedures with Company personnel, and reviewed actual correspondence between policyholders and the Company in conjunction with review of the underwriting and rating, policyholder service and claims standards.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Based upon Eide's review of general correspondence between policyholders and the Company in 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 the Company's responses to correspondence.

*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.**

No work performed. 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 is concerned with whether the Company processes insured's requests accurately and completely from the information they receive.

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

- The Company has a variety of ways in which an insured may submit claims, including calling the Company, submitting a claim document to the company or notifying the producer of the claim.
- Issues that require additional review are handled separately from those that require standard responses. A "standard" response includes when the policyholder inquires about policy effective dates, status of their claim check, and other general information. Issues that could require additional review include when a policyholder disputes the amount of a claim payment after it has been adjusted, or has a formal complaint about the Company's actions related to any area from sales and underwriting, to processing a claim.
- Changes to existing policies are usually done through the insured's agent. Minor changes may be made by the Company via direct inquiry.
- The Company's policy is to contact an insured within 24 hours of receiving any written inquiry or voice message, and phone calls are immediately responded to during business hours.

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

*Transaction Testing Procedure:* Eide discussed endorsements, cancellations and change in information procedures with Company personnel, and reviewed actual correspondence between policyholders and the Company, in conjunction with review of the 52 policies in the underwriting and rating section.

*Transaction Testing Results:*

*Findings:* None.

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

*Recommendations:* None.

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

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

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

Pursuant to M.G.L. c. 200A, §§ 7-7B, 8A and 9 the amounts due to policy holders or beneficiaries are presumed abandoned if unclaimed for more than three years after the funds become payable. Annual reporting to the State Treasurer's Office regarding efforts to locate owners is required, and the statutes require payments to the State Treasurer's Office for escheated property.

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: Eide discussed endorsements, cancellations and change in information procedures with Company personnel, and reviewed actual correspondence between policyholders and the Company, in conjunction with review of the 52 policies and 77 claims in the policyholder service, underwriting and rating, and claims sections.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

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. M.G.L. c. 175, §§ 113A and 176A, and 211 CMR 85.00 provides that insureds are entitled to return premium calculated on a pro rata basis within 30 days of the cancellation of a motor vehicle policy.

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

- The Company has a variety of ways in which an insured may file claims, including calling the Company, submitting a claim document to the company or notifying the producer of the claim.
- Issues that require additional review are handled separately from those that require standard responses. A “standard” response includes when the policyholder inquires about policy effective dates, status of their claim check, and other general information. Issues that could require additional review include when a policyholder disputes the amount of a claim payment after it has been adjusted, or has a formal complaint about the Company’s actions related to any area from sales and underwriting, to processing a claim.
- Changes to existing policies are usually done through the insured’s agent. Minor changes may be made by the Company via direct inquiry.
- The Company’s policy is to contact an insured within 24 hours of receiving their written or telephone inquiry.
- The Company will issue a notice of cancellation 2-5 business days after an account becomes delinquent.
- The Company utilizes a pro-rata method to calculate unearned premium due to policyholders upon cancellation.

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

Transaction Testing Procedure: During Eide’s review of 52 policies in the underwriting and rating section, any cancellations were investigated to ensure that proper notice of cancellation was given and that any unearned premium was returned within a reasonable time period. Calculation of unearned premium is also covered in the financial examination.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide’s review of the selected policies, the Company appears to be providing proper notice to policyholders regarding cancellations due to non-payment. Eide noted no instances where the unearned premium from a cancellation was not returned to the insured within a reasonable time frame. Eide also discussed calculation of unearned premium with the Division’s financial exam team, and noted no concerns.

Recommendations: None.

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

Objective: This Standard is concerned with whether the Company responded to insured’s requests accurately, completely, and within a reasonable time period.

Controls Assessment: Refer to Standard V-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: Eide reviewed 77 claims filed during the examination period to determine whether the Company timely and properly responded to insured requests for information.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Company timely responded to policyholder and claimant inquiries.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

## VI. UNDERWRITING AND RATING

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

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

**M.G.L. c. 175E, §§ 4 and 7; M.G.L. c. 175, §§ 113B and 193R; 211 CMR 56.04, 78.00, 86.00, 91.00, 124.00 and 134.00.**

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

Pursuant to M.G.L. c. 175E, § 7 and 211 CMR 78.00, every insurer, or rating organization authorized to file on behalf of such insurer, shall file with the Commissioner every manual of its classifications, rules and rates, rating plans and modifications of any of the foregoing, not less than 45 days before the effective date thereof. Pursuant to M.G.L. c. 175, § 113B, various discounts and surcharges are statutorily mandated. Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. Pursuant to M.G.L. c. 175E, § 4, rates shall be reduced for any insured age 65 or older. Pursuant to 211 CMR 56.04, premium discounts are mandated for election of optional repair shop endorsement plans. 211 CMR 86.00 requires premium discounts for anti-theft devices. 211 CMR 91.00 governs activities of rating organizations, form and content of automobile rate filings and the conduct of related hearings. 211 CMR 124.00 mandates premium discounts for certain safety features and 211 CMR 134.00 requires each driver to receive a step rating according to the Safe Driver Insurance Plan, which requires corresponding discounts and surcharges.

*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 are determined by the Division annually, and such rate information is incorporated into the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles, including the location of garaged vehicles.
- Insureds must annually complete the low mileage discount form, which verifies actual mileage, to receive the low mileage discount.
- Commercial automobile rates are determined by CAR for those risks ceded to CAR, and such rates are filed with the Division. All other commercial automobile rates are otherwise filed with the Division for approval prior to use.
- The Company provides the same premium discount of 2-15% to each member of various affinity groups.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 52 private passenger and commercial automobile policies issued or renewed during the examination period to test rate classifications and premium discounts. Eide verified that each policy's premium, discounts and surcharges for multiple coverages complied with statutory and regulatory requirements, and with the private passenger rates set by the Commissioner or the commercial rates filed with the Division, as applicable.

Transaction Testing Results:

Findings: None.

Observations: Eide believes from its review of available documentation that the Company applies rates and surcharges according to statutory requirements and regulatory information.

Recommendations: None.

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

**M.G.L. c. 175, § 113C; M.G.L. c. 175E, §§ 11 and 11A; M.G.L. c. 175A, § 11; M.G.L. c. 174A, § 11.**

Objective: This Standard is concerned with whether all mandated disclosures for rates and coverage's are timely provided to insured's in accordance with statutes and regulations.

Pursuant to M.G.L. c. 174A, § 11 and M.G.L. c. 175A, § 11, the insurer will furnish any requested rate information to the insured in a timely manner. Pursuant to M.G.L. c. 175E, § 11, an information guide, which outlines available coverage choices and approximate cost differences among various types of coverage and among competing carriers, shall be provided upon application. Pursuant to M.G.L. c. 175, § 113C, insurers must offer additional automobile coverages with statutory minimums. Pursuant to M.G.L. c. 175E, § 11A, producers shall disclose coverage options in simple language to every person they solicit, including the option to exclude oneself and members of one's household from personal injury protection coverage.

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

- The Company has written policies and procedures for processing new and renewal business.
- The Company sends a letter to the agent if information or forms are missing from new business applications.
- The Company's supervisory procedures are designed to ensure that new business submissions from agents are accurate and complete, including use of all Company required forms and instructions.
- The Company has provided guidance to producers to remind them to give the information guide with coverage options 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: Eide interviewed Company personnel with responsibility for the underwriting process, and reviewed the information guides utilized for new business.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's inquiries and examination of documents, the Company appears to provide required coverage disclosures to insureds upon initial application in accordance with statutory guidelines.

Recommendations: None.

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

**M.G.L. c. 175, §§ 177, 182, 183 and 184; M.G.L. c. 176D, § 3(8).**

Objective: This Standard is concerned with ensuring that the Company does not permit illegal rebating, commission cutting or inducements; and that producer commissions adhere to the commission schedule.

Pursuant to M.G.L. c. 175, § 177, insurers and producers may not pay compensation to unlicensed entities, but it is permissible to pay referral fees to unlicensed employees of licensed producers. Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, the Company, or any producer thereof, cannot pay or allow, or offer to pay or allow, any valuable consideration or inducement not specified in the policy or contract. Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to knowingly permit or make any offer to pay, allow or give as inducement any rebate of premium, any other benefits or any valuable consideration or inducement not specified in the contract.

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

- The Company's producer contracts and home office policies and procedures are designed to comply with statutory underwriting and rating requirements that prohibit special inducements and rebates.
- The Company reviews all applications to ensure that only appropriate discounts have been allowed.

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

Transaction Testing Procedure: Eide interviewed individuals with responsibility for commission processing and producer contracting. In connection with the review of producer contracts, Eide reviewed new business materials including advertising, producer training materials and manuals, for indications of rebating, commission cutting or inducements. Eide selected a sample of 52 policies issued or renewed during the examination period, and reviewed the underwriting notes and documentary evidence for existence of illegal rebates, commission cutting or special inducements.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, §§ 22, 22E, 113E, 113K, 113N and 193T; M.G.L. c. 175E, § 4.**

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

Pursuant to 175E, § 4, automobile rates shall not be excessive, inadequate or discriminatory. Automobile policyholders over age 65 get a 25% discount. Pursuant to M.G.L. c. 175, § 22, insurers may not issue policies that limit the authority of the courts of the Commonwealth. M.G.L. c. 175, § 22E, states that insurers may not refuse to issue or renew an automobile policy based on an insured's age, sex, race, occupation or marital status, or the vehicle's principal place of garaging. M.G.L. c. 175, § 113E states that insurers may require automobile premium deposits of 30% or more if the prospective insured defaulted on premium payments in the preceding 24 months. M.G.L. c. 175, § 113K states a person aged 16 or older may purchase automobile insurance, and M.G.L. c. 175, § 113N prohibits medical exams as a condition of underwriting an automobile policy. 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."

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

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- The Company will accept any private passenger automobile risk for a licensed driver, unless the consumer has outstanding balances due to insurers over the previous year.

- Written 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: Eide interviewed Company personnel with responsibility for the underwriting process, and inspected policies to determine whether the codes, rates, and discounts were being applied according to underwriting guidelines, that the guidelines conform to the state laws and are not unfairly discriminatory.

Transaction Testing Results:

Findings: None.

Observations: During Eide's inspection of 52 policies issued or renewed during the examination period, none were noted to have codes, rates or discounts applied that were inconsistent with underwriting guidelines, or state laws that govern unfair discriminatory practices.

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, 113A, 113Q and 192.**

Objective: This Standard is concerned with the Company using the appropriate industry standard forms or other forms that have been file with the Division to conduct commercial automobile insurance within the State.

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, § 192 states endorsements are part of policy forms, and must be filed with the Division prior to use. M.G.L. c. 175, § 22A requires filing of automobile policy forms. M.G.L. c. 175, § 113A, policy form approval are required. Insurers must give 20 days notice to cancel, they must obtain a certificate of mailing receipt from post office, and return premium must be mailed. M.G.L. c. 175, § 113Q states that an automobile club membership may not be part of policy, and such membership fees may not be included in any automobile policy declaration form or billing form.

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 which are approved by the Division for private passenger automobile policies, and the use of filed and approved forms for commercial automobile policies.
- Producers are required to use such forms and endorsements as guidelines when providing a quote to customers.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected 52 policies issued or renewed during the examination period for testing the use of Company approved policy forms and endorsements. Eide also reviewed evidence of the Division's approval of the Company's policy forms.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**211 CMR 94.00.**

Objective: This Standard is concerned with whether the Company issues policies and endorsements timely and accurately.

211 CMR 94.00 requires standards and procedures for pre-insurance inspections of motor vehicles, exemptions from such requirements and related provisions for suspension of physical damage coverage for no inspection.

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

- Company policy requires the use of Company policy forms and endorsements which are approved by the Division.
- Agents are required to use such forms and endorsements as guidelines when providing quotes to consumers.
- Company supervisors review all applications completed by agents to ensure that they are complete and internally consistent.
- Company procedures include mailing renewal notices 52 days prior to the policy renewal effective date.

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

Transaction Testing Procedure: Eide reviewed a sample of 52 policies issued or renewed during the examination period to ensure that all policies, riders and endorsements were handled accurately, timely and completely.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, §§ 22E, 113D and 193T.**

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

Pursuant to M.G.L. c. 175, § 22E insurers may not refuse to issue or renew an automobile policy based on an insured's age, sex, race, occupation or marital status, or the vehicle's principal place of garaging. Pursuant to M.G. L. c. 175, § 113D, automobile policyholders who are cancelled or rejected for coverage can file a complaint within 10 days with the Board of Appeals. Policies continue in force through expiration date pending appeal. M.G.L. c. 175, § 193T states that insurers may not discriminate based on blindness, mental retardation or physical impairment, unless such discrimination is "based on sound actuarial principles or is related to actual experience."

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

- Company policy prohibits unfair discrimination in underwriting in accordance with M.G.L. c. 175, §§ 22E and 113D.
- The Company will accept any private passenger automobile risk for a licensed driver, unless the consumer has outstanding balances due to insurers over the previous year.
- Written 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: Eide interviewed the underwriting department regarding policy cancellations and declinations. Eide selected a sample of 52 policies issued or renewed during the examination period, and reviewed the policy, underwriting notes, and supporting documentation for evidence of discriminatory cancellations or declinations.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, §§ 22C, 111B, 113A, 113F, 187C 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, § 22C states that automobile physical damage, personal injury protection or bodily injury coverage is only cancelable due to non-payment, fraud, driver license suspension or failure to comply with renewal requirements after 30 days notice. M.G.L. c. 175, § 111B states that insurers eliminating or reducing coverage in combination policies must give written notice. Pursuant to M.G.L. c. 175, § 113A, no cancellation of the policy shall be valid unless written notice of the specific reason or reasons for such cancellation is given at least 20 days prior to the effective date thereof, which date shall be set forth in the notice. M.G.L. c. 175, § 113F states that any Company which does not intend to issue, extend or renew a motor vehicle liability policy shall give written notice to the insured (or agent in certain circumstances) of its intent 45 days prior to the termination effective date. Such notice also must be sent to the Registry of Motor Vehicles. Every insurance agent or broker receiving such a notice from a company shall, within 15 days of its receipt, send a copy of such notice to the insured, unless another insurer has issued a motor vehicle policy covering that insured's vehicles. Pursuant to M.G.L. c. 175, § 187C any Company shall effect cancellation by serving written notice thereof as provided by the policy, and by paying the full return premium due. Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted.

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

- The Company generally gives declination notices to an insured at the application date if they do not have a valid driver's license, have outstanding balances due to insurers over the previous year or have a history of non-payment of premium over the past two years.
- Company policy requires that cancellation notices be given to the insured 23-27 days prior to cancellation.
- Company policy requires that non-renewal notices be given to the insured 45 days in advance of the termination effective date. The Company communicates the pending non-renewal and the reasons for it to policyholders in writing.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 52 policies issued or renewed during the examination period for underwriting testing. Cancelled policies were examined to ensure that the reasons for cancellation, and the prior notice of cancellation, complied with statutory requirements and Company underwriting guidelines. Eide verified that the cancellation form used was the standard approved form, and that the date of the cancellation letter, when compared to the cancellation effective date, showed that timely notice was given within statutory guidelines.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to utilize standard approved forms for all cancellation notices, and to comply with statutory guidelines for timely notification to insureds.

Recommendations: None.

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

**M.G.L. c. 175, §§ 22C and 187D.**

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

M.G.L. c. 175, § 22C states that a motor vehicle policy shall not be cancelled by any company except for nonpayment of premium, the failure to complete the application, fraud or material misrepresentation in the application. The statute allows cancellation when the operator's license, or motor vehicle registration of the named insured, or of any other person who resides in the same household as the named insured and who usually operates a motor vehicle insured under the policy, has been under suspension or revocation during the policy period, or if the insured refuses to comply with a request for inspection of his vehicle by the insurer. M.G.L. c. 175, § 187D also allows the cancellation of 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 M.G.L. c. 175, §§ 22C and 187D.
- Written Company underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks.
- The Company does not rescind policies, but instead cancels them as of the date on which it determines rescission is appropriate.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process. Eide selected 14 cancellations or non-renewals processed during the examination period to test for evidence of improper rescission.

Transaction Testing Results:

Findings: None.

Observations: None of the policies tested were rescinded, and Eide noted no improper rescission in conjunction with other underwriting tests.

Recommendations: None.

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

**M.G.L. c. 175, §§ 113B and 193R; M.G.L. c. 175E, §§ 4 and 7; 211 CMR 56.04, 78.00, 86.00, 91.00, 124.00 and 134.00.**

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

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

Pursuant to M.G.L. c. 175E, § 4, private passenger automobile rates shall not be grouped by sex or marital status, and shall not be grouped by age except to produce the reduction in rates for insureds age 65 years or older. M.G.L. c. 175, § 113B mandates various discounts and surcharges. Pursuant to M.G.L. c. 175, § 193R, affinity group discounts based upon experience are permitted. 211 CMR 56.04 requires premium discounts for election of optional repair shop endorsement plans. 211 CMR 134.00 requires each driver to receive a step rating according to the Safe Driver Insurance Plan, which requires corresponding discounts and surcharges. 211 CMR 91.00 also prescribes requirements for the filing of rates with the Commissioner at least 45 days prior to their effective date.

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

- Company policy prohibits unfair discrimination in the application of premium discounts and surcharges, and in the application of the general rating methodology.
- Rates, premiums and discounts are determined by the Division annually, and such rate information is incorporated into the Automobile Insurers Bureau (AIB) Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles, including the location of garaged vehicles.

- Company policy requires that policyholders annually complete the low mileage discount form, which verifies actual mileage, to receive the low mileage discount.
- Commercial automobile rates are determined by CAR for those risks ceded to CAR, and such rates are filed with the Division. All other commercial automobile rates are otherwise filed with the Division prior to use.
- Written Company underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges, and in the application of the general rating methodology.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 52 policies issued or renewed during the examination period for underwriting and rating testing. Eide compared the credits and debits applied to the policies across the sample to ensure they were applied consistently on a non-discriminatory basis.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing it appears that credits and debits are applied consistently based on objective criteria.

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 performed. This Standard not covered in the scope of examination because the Company does not offer commercial policies subject to schedule rating or individual risk premium modification plans.

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

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

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

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

**Standard VI-14. Verification of experience modification factors.**

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

**Standard VI-15. Verification of loss reporting.**

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

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

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

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

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

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

- Written Company policies and procedures are designed to reasonably assure consistency in application of underwriting guidelines, rating classifications, premium discounts and surcharges at the inception of coverage.
- Private passenger automobile rates, premiums and discounts are determined annually by the Division, and such rate information is incorporated into the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Massachusetts Registry of Motor Vehicles.
- CAR determines underwriting practices and rates for those commercial automobile risks ceded to CAR, and files such policies and rates with the Division. All other commercial automobile policies and rates are filed with the Division 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: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 52 policies issued or renewed during the examination period to test whether underwriting, rating and classification are based on adequate information developed at or near the inception of the coverage. Eide also reviewed database information to ensure that adequate information was available at the time of the Company's underwriting decision.

Transaction Testing Results:

Findings: None

Observations: Based on the results of Eide's testing, it appears that the Company is using underwriting, rating and classification guidelines based on adequate information developed at or near inception of the coverage

Recommendations: None.

**Standard VI-18. Audits, when required, are conducted accurately and timely.**

No work performed. This Standard is not covered in the scope of the examination because the Company does not offer policies where premium audits are conducted.

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

**M.G.L. c. 175, §§ 2B, 22A, 113A and 192.**

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

M.G.L. c. 175, § 2B describes policy form language, and requires that all items forming a part of the contract be listed on the declaration page and filed with the Division. M.G.L. c. 175, §§ 22A and 113A state that such policy forms must be filed with the Division for approval. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and must be filed with the Division for approval prior to use. Pursuant to M.G.L. c. 175, § 113A policy form approval is required; insurers must give 20 days notice to cancel, and must obtain a certificate of mailing receipt from post office. Return premium must be disclosed.

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

- Company policy requires that agents use one of the Company's approved policy forms and endorsements when providing a quote to consumers.

- Company policy requires that all changes to policy forms and endorsements be filed with and approved by the Division.
- Producers are required to use such forms and endorsements as guidelines when providing a quote to customers.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process and selected a sample of 52 policies issued or renewed during the examination period to test for the use of the 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. Eide ensured that all relevant aspects of the contract were listed on the declaration page of the policy.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, § 113S; 211 CMR 94.00.**

Objective: This Standard is concerned with whether the Company verifies that the Vehicle Identification Number ("VIN") submitted with the application is valid and accurate.

Pursuant to M.G.L. c. 175, § 113S, pre-inspection of vehicles is required for all but new cars, and cars of existing customers for the past 3 years. 211 CMR 94.00 requires that pre-insurance inspections of vehicles verify the VIN.

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

- The producer is responsible for obtaining the VIN when the application is completed.
- Company policy and procedure requires that pre-insurance inspections of vehicles verify the VIN as required by 211 CMR 94.00.
- The Company's underwriting system compares the VIN to its industry database to ensure its accuracy.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process. Eide also performed walkthroughs of transactions to gain understanding of the Company's process for entering VINs into the RMV website, and how information related to that VIN is gathered. Eide selected a sample of 52 automobile policies issued or renewed during the examination period, and examined evidence of the VIN batches for these policies being sent to and returned from the RMV website, to ensure that the VIN number was valid and accurate.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company verifies VIN numbers in a manner consistent with statutory and regulatory requirements.

Recommendations: None.

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

**M.G.L. c. 176D, §§ 3(4) and 3A.**

Objective: This Standard is concerned with whether the Company has engaged in any collusive or anti-competitive underwriting practices.

Pursuant to both M.G.L. c. 176D, § 3(4) and M.G.L. c. 176D, § 3A, it is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance to enter into any agreement, or to commit any act of boycott, coercion or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

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

- Company policy is to comply with the statutory requirement to accept any private passenger automobile risk for a licensed driver, unless the customer has outstanding balances due to insurers over the previous year or has a history of non-payment of premium over the past two years.
- The Company is assigned producers by CAR known as Exclusive Representative Producers, and must accept all business produced by them.
- The Division annually determines premium rates for private passenger automobile policies utilized by all private passenger automobile insurers. As such, anti-trust pricing concerns are minimal for these policies.
- Company policy requires the application of consistent underwriting practices for commercial automobile 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: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 52 policies issued or renewed during the examination period to test whether underwriting practices appeared collusive or anti-competitive. All available documentation in each policy file was examined.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, § 193R**

Objective: This Standard is concerned with whether the Company's underwriting practices are not unfairly discriminatory and are in compliance with applicable statutes, rules and regulations. Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise. Group rating is allowed but companies must offer no higher than the same rate in the individual market, and can't cancel anyone in the group except for fraud or non-payment.

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

- Written underwriting guidelines are designed to reasonably assure consistency in application of premium discounts and surcharges and to assure that underwriting practices are not unfairly discriminatory.
- The Company provides a premium discount of 2-15% to members of various affinity groups. The Company is required to provide the same discount to each member of the affinity group.
- Premium discounts available to affinity groups are filed with and approved by the Division.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the marketing and underwriting processes. Eide selected 52 new or renewal private passenger auto policies for the period January 1, 2007 through December 31, 2007 for testing of premium discounts including those to affinity groups. For each of the policies, Eide verified that the affinity group discount was properly applied and that the application was not unfairly discriminatory.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of our testing of 52 new and renewal private passenger auto policies, it appears that each of the premium discounts, including those to affinity groups, were properly applied and that the application was not unfairly discriminatory.

Recommendations: None

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

**M.G.L. c. 175, § 193R**

Objective: This Standard is concerned with whether the Company's underwriting practices and procedures meet minimum requirements and are in compliance with applicable statutes, rules and regulations. Pursuant to M.G.L. c. 175, § 193R, mass merchandising or group marketing is any system, design or plan whereby motor vehicle or homeowner insurance is afforded to employees of an employer, or to members of a trade union, association, or organization and to which the employer, trade union, association or organization has agreed to or in any way affiliated itself with, assisted, encouraged or participated in the sale of such insurance to its employees or members through a payroll deduction plan or otherwise. Group rating is allowed but companies must offer no higher than the same rate in the individual market, and can't cancel anyone in the group except for fraud or non-payment.

Controls Assessment: Refer to Standard VI-22.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the marketing and underwriting processes. Eide selected 52 new or renewal private passenger auto policies for the period January 1, 2007 through December 31, 2007 including those to affinity groups. For each of the policies, Eide verified that the affinity group premium was properly applied.

Transaction Testing Results:

Findings: None.

*Observations:* Based on the results of our testing of 52 new and renewal private passenger auto policies, including those to affinity groups, it appears that the affinity group premium was properly applied and met minimum requirements.

*Recommendations:* None.

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

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

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.
- The Division annually determines rates, premiums and discounts for private passenger automobile policies, and such rate information is incorporated into the AIB Rating Manual. The Company applies such rates to information provided by the applicant and obtained from the Registry of Motor Vehicles.
- CAR determines underwriting practices and rates for commercial automobile risks ceded to CAR and files these with the Division. All other commercial automobile forms and rates are filed with and/or approved by the Division prior to use, as applicable.
- CAR conducts periodic audits of the Company's compliance with CAR requirements for business ceded to CAR.
- 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 for correcting data errors and making subsequent 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:* Eide interviewed Company personnel with responsibility for the underwriting process, to determine whether there are sufficient controls to ensure accurate and timely completion of statistical reports. Eide randomly sampled 52 policies issued or renewed during the examination period to test accuracy, timeliness of completion and inclusion in statistical reports.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

Controls Assessment:

- Company policy requires the use of Company policy forms and endorsements which are approved by the Division.
- Agents are required to use such forms and endorsements as guidelines when providing quotes to consumers.
- Company supervisors review all applications completed by agents for completeness and internal consistency.

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

Transaction Testing Procedure: Eide selected 52 policies issued or renewed during the examination period to verify that policy application or enrollment forms were properly, accurately and fully completed, including any required signatures, and that file documentation supported the Company's decisions.

Transaction Testing Results:

Findings: The files for two policies tested did not contain documentation to support an anti-theft discount given to the policyholder. The file for one other policy tested did not contain documentation to support a multi-vehicle discount given to the policyholder.

Observations: Except as noted above, the results of testing appear to show that the remaining 49 policy files tested adequately supported the Company's decisions.

Required Action: The Company should ensure that its' agents present all required documentation to the Company before business is processed, and that the Company retains such documentation to support its business decisions.

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

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

- Written policies and procedures govern the claims handling process.
- The Company acknowledges written claim forms received via fax or mail within two or three business days after receipt.
- All claim notifications are maintained on a mainframe based automated claims management system.
- Company policy is to contact all injured persons, or their legal representatives, within two or three business days of receipt of a claim.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Senior management periodically reviews open claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand the claim handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to test the timeliness of the Company's initial contact with claimants. Eide verified the date 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: Eide noted that each of the 77 tested claims was reported and investigated according to the Company's policies and procedures, and that responses to claims correspondence were timely. Based upon the results of Eide's testing, it appears that the Company's processes for providing timely responses to claims correspondence are functioning in accordance with their policies and procedures.

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 claim investigations.

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

Controls Assessment:

- Company policy is to investigate all claims in a timely manner.
- Refer to Standard VII-1 for additional control assessments.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for claim handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claims handling policies and procedures. Eide verified the date that each selected claim was reported to the Company, and noted whether its investigation was conducted in a reasonable and timely manner.

Transaction Testing Results:

Findings: None

Observations: Eide noted that the Company's processes for timely reporting and investigating each of the 77 claims tested are functioning in accordance with their policies and procedures.

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, 112, 113O and 191A; 211 CMR 123.00.**

*Objective:* The Standard is concerned with the timeliness of the Company's claim 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 findings to the general court.

M.G.L. c. 175, § 113O states payments to the insured under theft or comprehensive coverage shall not be made until a claim form has been received from the insured stating that the repair work described in an appraisal made pursuant to regulations promulgated by the automobile damage appraiser licensing board has been completed. Insurers are required to make such payments within seven days of receipt of the above claim form. However, direct payments to insureds without a claim form may be made in accordance with a plan filed with and approved by the Commissioner. Any such plan filed with the Commissioner must meet stated standards with regard to procedures for selecting approved repair shops, vehicle inspection, insurer guarantees of the quality and workmanship used on making repairs, and prohibitions on discrimination for selection of vehicles for inspection. 211 CMR 123.00 sets forth procedures for the Commissioner's approval of, and minimum requirements for, direct payment and referral repair shop plans.

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

M.G.L. c. 175, § 191A requires insureds to give timely notice of a property damage loss to the company or its agent. Further, in the event of theft, reporting to the police by the insured is also required. The company must pay such claims within 60 days after a proof of loss is filed. The statute also sets forth a process for selecting a disinterested appraiser in the event the insured and the company fail to agree on the amount of loss.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to resolve all claims in a timely manner.
- Company policy and claims handling procedures do not make a distinction between claims in which the insured's policy is ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- All claim notifications are logged in the claims system when reported.
- All claims investigations are handled by adjusters up to a defined dollar limit to their settlement authority.

- Company policy is to respond to all physical damage claims within two business days from the receipt of a loss report. Appraisers are dispatched to adjudicate all physical damage claims.
- The Company's policy is to make payment for non direct payment physical damage claims within seven business days after receiving an appraisal, in accordance with M.G.L. c. 175, § 113O.
- The Company's direct payment plan for physical damage claims has been approved by the Division in accordance with 211 CMR 123.00. Company policy is to make direct payments as required by the plan within five days upon completion of an appraisal.
- The Company's policy is to resolve claims in compliance with M.G.L. c. 175, § 112.
- Property damage claims are paid within 60 days of receipt of a proof of loss as required by M.G.L. c. 175, § 191A.
- Company policy is to contact all injured persons or their legal representatives within two business days of receipt of a claim.
- Bodily injury claims are handled by claims staff specially trained to handle such claims.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Claims management uses a system where all claims are aged to review open claims each month, to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.

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

Transaction Testing Procedure: Eide interviewed Company claims personnel to understand its claims handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each selected claim was reported, and whether it was timely and reasonably resolved by the Company.

Transaction Testing Results:

Findings: The Company did not timely process one claim of 77 tested. The claim arose from an accident in which the Company felt the "other" driver, not the Company's insured, was primarily at fault. The claim went to arbitration. The arbitration ruling came back in favor of the "other" driver's insurer. The arbitration agreement specified that the claim was to be paid within 30 days of the arbitration decision. Testing of the claim indicated it was paid, but not within the 30 day timeframe as required by the arbitration agreement. Company policy is to comply with all arbitration agreements, thus the claim was not resolved in a timely manner.

Observations: Except as stated above, Eide noted no other violations of this standard during the remainder of the testing.

*Recommendation:* Eide recommends that the Company review its claim procedures related to claim arbitrations, and timely comply with the terms of all claims arbitration agreements.

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

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

*Objective:* The Standard 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:* Refer to Standard VII-2.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted whether it timely responded to claim correspondence.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted that each of the 77 claims tested was reported and investigated according to the Company's policies and procedures, and responses to claims correspondence were timely. Based upon the results of Eide's testing, it appears that the Company's processes for providing timely responses to claims correspondence are functioning in accordance with their policies and procedures.

*Recommendations:* None.

**Standard VII-5. Claim files are adequately documented.**

*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:

- Company claim processing guidelines require that key information be completed, signed, and included in the file, including:
  - Notice of loss with relevant date of loss, loss description, and involved parties.
  - Relevant reports from investigating police authorities.
  - Applicable medical reports and other investigative correspondence.
  - Other pertinent written communication.
  - All legal correspondence.
  - Documented or recorded telephone communication.
  - Claim activity is logged and documented in chronological order.
  - Claim reserve evaluations, adjustments and assessments are documented.
  - Source correspondence and investigative reports are scanned and maintained electronically.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Senior management reviews open claims periodically to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.

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

Transaction Testing Procedure: Eide interviewed Company claim personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether its documentation was adequate.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f), M.G.L. c. 175, §§ 22I, 24D, 24E, 24F, 111F, 112, 112C, 113J, 113K, 113O and 186; 211 CMR 75.00 and 133.00; 212 CMR 2.00.**

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

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

M.G.L. c. 175, § 22I allows companies to retain unpaid premium due from claim settlements. Claim payments must also comply with M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support. Medical reports must be furnished to injured persons or their attorney pursuant to M.G.L. c. 175, §§ 111F and 113J. M.G.L. c. 175, § 24E requires an insurer to exchange information with the Commonwealth not less than 10 business days prior to making payment to a claimant who has received public assistance benefits. M.G.L. c. 175, § 24F requires insurers to communicate with the Commonwealth regarding claimants with unpaid taxes. In addition, M.G.L. c. 175, § 112C requires companies to reveal to an injured party making a claim against an insured, the amount of the limits of said insured's liability coverage upon receiving a request in writing for such information.

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

M.G.L. c. 175, § 113K states that persons age 16 and older may purchase automobile insurance.

M.G.L. c. 175, § 186 states that a misrepresentation by an insured must have the intent to deceive or increase an insurer's risk of loss to void.

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

212 CMR 2.00 sets forth uniform procedures for conducting motor vehicle damage appraisals. 211 CMR 133.00 sets forth uniform standards for repair of damaged motor vehicles, but applies only when an insurer pays the costs of repairs. The regulation addresses how damage and repair costs are determined, requires that like kind repair parts be used, and sets forth methods for determining vehicle values. It further allows vehicles deemed a total loss to be repaired subject to certain requirements and limits. Lastly, the regulation requires an insurer to have licensed appraisers conduct "intensified" appraisals of at least 25% of all damaged vehicles for which the damage is less than \$1,000.00 and 75% of all damaged vehicles for which the appraised cost of repair is more than \$4,000.00 for collision, limited collision, and comprehensive claims. The "intensified" appraisal is to determine if the repairs were made in accordance with the initial appraisal and any supplemental appraisals.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- Company policy and claims handling procedures do not make a distinction between claims in which the insured's policy is ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- All claim notifications are maintained on a mainframe based automated claims management system.
- All claims investigations are handled by adjustors up to a defined dollar limit to their settlement authority.
- The Company has procedures for complying with requirements in M.G.L. c. 175, §§ 111F, 113J and 112C to furnish medical reports and/or the amount of the insured's policy limits, upon receiving requests for such information from a claimant or their attorney.
- The Company has procedures for complying with requirements in M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support for certain defined claim payments.
- The Company has procedures for complying with requirements in M.G.L. c. 175, § 113O to verify that a police report was properly filed prior to making payments for theft coverage. Further, the Company has procedures for reporting such thefts to the NICB as required by 211 CMR 75.00.
- The Company's policy prohibits discrimination in the reimbursement of proper expenses paid to certain professions and occupations as required by M.G.L. c. 175, § 193K.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claim reviews to examine compliance with Company claims policies.
- Claims management uses a system where all claims are aged to review open claims each month to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a total sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures.

*Transaction Testing Results:*

*Findings:* The Company did not report a vehicle theft or misappropriation to the NICB in one of 77 tested claims. The claim involved property damage to a Company insured vehicle while it was being driven by an unknown party. The insured reported the vehicle stolen from the residence where the insured was located at the time of the theft, but later found the keys in the driveway of the theft location. The insured then reported finding the vehicle nearby after it had been in an accident, but was not aware of who had taken the vehicle.

Observations: Eide noted no other violations of this standard during the remainder of the testing. As a result of Eide's testing, the noted claim has now been referred to the NICB.

Recommendation: Eide recommends that the Company timely report any claim involving potential theft or misappropriation to the NICB.

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

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

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

- The Company uses industry standardized claims reporting forms which are appropriate for the Company's line of business.
- Claim processing guidelines require that key documentation be completed, signed, and included in the file, including: notice of loss with relevant date of loss, loss description, and involved parties.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews 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: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a total sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether its claim reporting was appropriate.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

*Objective:* The Standard is concerned with the Company's process to establish and monitor claim reserves for reported losses.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to timely evaluate and establish adequate reserves on all reported claims.
- Claim processing guidelines require that key information be completed, signed, and included in the file, including:
  - Notice of loss with relevant date of loss, description, and involved parties.
  - Relevant reports from investigating police authorities.
  - Applicable medical reports and other investigative correspondence.
  - Other pertinent written communication.
  - All legal correspondence.
  - Documented or recorded telephone communication.
  - Claim activity is logged and documented in chronological order.
  - Claim reserve evaluations, adjustments and assessments are documented.
  - Source correspondence and investigative reports are scanned and maintained electronically.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- Senior management reviews open claims each month claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses exception reports to measure operational effectiveness and claim processing time.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand its claims reserving processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment, to evaluate compliance with Company claims reserving policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted whether claim reserves were evaluated, established and adjusted in a reasonably timely manner.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted that reserves for each claim selected for testing were evaluated, established and adjusted according to the Company's policies and procedures, and that the claims investigation by the Company appeared timely. Based upon the results of testing, it appears that the Company's processes for evaluating, establishing and adjusting claim reserves are functioning in accordance with their policies and procedures, and are reasonably timely.

*Recommendations:* None.

**Standard VII-9. Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.**

**M.G.L. c. 176D, §§ 3(9)(d), 3(9)(h) and 3(9)(n).**

*Objective:* The Standard is concerned with the adequacy of the Company's decision making and documentation of denied and closed-without-payment claims.

Pursuant to M.G.L. c. 176D, § 3(9)(d), unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information. Pursuant to M.G.L. c. 176D, § 3(9)(h), unfair claim settlement practices include attempting to settle a claim for an amount less than a reasonable person would have believed he or she was entitled to receive. M.G.L. c. 176D, § 3(9)(n) considers failure to provide a reasonable and prompt explanation of the basis for denial of a claim an unfair claim settlement practice.

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

- Company policy requires that claim denials must state the contractual basis for non-payment, and inform the claimant of their right to appeal.
- All claim notifications are maintained on a mainframe based automated claims management system.
- All claims investigations are handled by adjustors up to a defined dollar limit to their settlement authority.
- Company policy requires that a written explanation of all denied and closed without payment claims be provided to a claimant.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a total sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide verified the date each denied claim was reported, reviewed correspondence and investigative reports and noted whether the Company handled each claim timely and properly before closing or denying it.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that each tested claim was handled according to the Company's policies and procedures. Based on the 77 claims tested, it appears that the Company's claim handling and denial practices are appropriate, and comply with applicable statutes and Company policies and procedures.

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:

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

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

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim payment processes, and obtained documentation supporting such processes. Eide selected a total sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim payment policies and procedures. Eide reviewed the file for each selected claim, and noted whether claim payment practices were appropriate.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that each selected claim was reported and investigated according to Company policies and procedures, with adequate claim payment documentation. Eide noted no instances where claim payment practices, or investigation of suspicious claims, appeared inappropriate. Based upon the results of Eide's testing, it appears that the

Company's processes for issuing claim payment checks are appropriate, and functioning in accordance with their policies and procedures.

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 Company's claim handling practices force claimants to (a) institute litigation for the claim payment, or (b) accept a settlement that is substantially less than what the policy contract provides for.

Pursuant to M.G.L. c. 176D, §§ 3(9)(g) and 3(9)(h), unfair claim settlement practices include (a) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, and (b) attempting to settle a claim for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application. Moreover, if an insurer makes a practice of unduly engaging in litigation, or of unreasonably and unfairly delaying the adjustment or payment of legally valid claims, M.G. L. c. 175, § 28 authorizes the Commissioner to make a special report of findings to the General Court.

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

- Company claims handling guidelines require the uniform and consistent handling of claims settlements and payments.
- Company policy is to contact all injured persons or, their legal representatives, within two business days of receipt of a claim.
- All bodily injury claims are handled by claims staff specially trained to handle such claims.
- Claims management performs periodic claim reviews to examine compliance with Company claims policies.
- Senior management reviews open claims each month claims to evaluate settlement issues and ensure appropriate reserves have been established.
- Claims management uses reports measuring operational effectiveness and claim processing times to monitor claims processing activities.

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

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claim handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claims handling policies and procedures. Eide verified the date

each tested claim was reported, reviewed related correspondence and investigative reports, and noted whether it was handled timely and properly.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

<b>Standard VII-12. The regulated entity uses the reservation of rights and excess of loss letters, when appropriate.</b>
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Objective: The Standard is concerned with the Company's usage of reservation of rights letters, and its procedures for notifying an insured when it is apparent that the amount of loss will exceed policy limits.

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

- Written policies and procedures govern the claims handling process.
- Company policy is to handle all claims in accordance with policy provisions and state law.
- All claims investigations are handled by adjustors up to a defined dollar limit to their settlement authority.
- The Company uses reservation of rights and excess of loss letters when warranted.
- Reservation of rights letters are used very rarely; only under circumstances where the liability for claims payment has come into question.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.

Transaction Testing Procedure: Eide interviewed Company personnel to understand its claims handling processes and obtained documentation supporting such processes. Eide selected a total sample of 17 claims paid, denied or closed without payment during the examination period, to evaluate compliance with Company claims handling policies and procedures. Eide reviewed the file for each selected claim, and noted whether reservations of rights or excess loss letters were warranted.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that all claims selected for testing were reported and investigated according to the Company's policies and procedures, and claim file documentation was adequate. Eide noted no instances where a reservation of rights or excess loss letter was used. Eide reviewed model correspondence for such letters, and such

model correspondence appeared accurate and proper. Based upon the results of our testing, it appears that the Company's processes for utilizing reservation of rights and excess loss letters for claims are functioning in accordance with their policies and procedures.

Recommendations: None.

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

Objective: The Standard is concerned with whether the Company accurately and timely issues deductible reimbursements upon subrogation recovery.

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

- The Company's written claim policies and procedures addresses subrogated claims.
- Company policy is to resolve all subrogated claims in a timely manner.
- Claims management can access the claims system to monitor open claims.
- Claims management performs periodic claims reviews 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: Eide interviewed Company personnel to understand its claims handling processes, and obtained documentation supporting such processes. Eide selected a sample of 77 claims paid, denied or closed without payment during the examination period, to evaluate the Company's compliance with its claim handling policies and procedures. Eide reviewed the file for each selected claim and noted whether subrogation recoveries were reasonably timely and accurate.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that subrogation recoveries for all applicable tested claims were timely and accurate according to the Company's policies and procedures, and claim file documentation was adequate. Based upon the results of testing, it appears that the Company's processes for making subrogation recoveries to insureds are functioning in accordance with their policies and procedures.

Recommendations: None.

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

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

*Objective:* The Standard is concerned with the Company's complete and accurate reporting of loss statistical data to appropriate rating bureaus.

Pursuant to M.G.L. c. 175A, § 15(a), insurers must record and report their loss and countrywide expense experience in accordance with the statistical plan promulgated by the Commissioner, and the rating system on file with the Commissioner. The Commissioner may designate a rating agency or agencies to assist her in the compilation of such data. In accordance with 211 CMR 15.00, the Commissioner established and fixed the Automobile Statistical Plan for Fire, Theft, Comprehensive, Collision and Allied Coverages as the statistical plan to be used in accordance with M.G.L. c. 175A, § 15(a).

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

- Company policy is to timely report complete and accurate loss data to appropriate rating bureaus.
- The Company reports loss data to CAR in a format required by CAR. Participation in CAR is mandatory for all insurers writing private passenger automobile insurance in Massachusetts.
- Company policy and claims handling procedures do not make a distinction between claims in which the insured's policy is ceded to CAR or retained by the Company. Similarly, no distinction is made between claims on business produced by voluntary agents or ERPs.
- The Company also reports loss data to the AIB, which is a rating bureau that represents the insurance industry in rate hearings before the Commissioner of Insurance.
- Detailed claim data is reported quarterly and/or monthly, as required, to CAR and the AIB. The claim data includes loss experience by line of business, type of loss, dollar amounts, claim counts, accident dates, territory, etc.
- Claims management personnel reconcile the underlying data for completeness and accuracy. Exceptions reports are generated to ensure the loss data is properly reported.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel to understand loss statistical reporting processes, and obtained documentation supporting such processes.

*Transaction Testing Results:*

*Findings:* None.

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

*Recommendations:* None.

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## **SUMMARY**

Based upon the procedures performed in this comprehensive examination, Eide has reviewed and tested Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims as set forth in the Handbook, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts' insurance laws, regulations and bulletins. Eide made recommendations and required actions to address concerns in the areas of Company Operations / Management, Producer Licensing, Underwriting and Rating and Claims.

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**ACKNOWLEDGEMENT**

This is to certify that the undersigned is duly qualified and that, in conjunction with Eide Bailly LLP, applied certain agreed-upon procedures to the corporate records of the Company in order for the Division of 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 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 and James Wright of the Division’s Market Conduct Section participated in the examination and in the preparation of this report.

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

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

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