



# **THE COMMONWEALTH OF MASSACHUSETTS**

## **OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION**

### **Division of Insurance**

*Report on the Comprehensive Market Conduct Examination of*

*Safety Property and Casualty Insurance Company*

*Boston, Massachusetts*

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

**NAIC COMPANY CODE: 12808**

**EMPLOYERS ID NUMBER: 20-5985347**



# COMMONWEALTH OF MASSACHUSETTS

## Office of Consumer Affairs and Business Regulation

### DIVISION OF INSURANCE

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ACTING COMMISSIONER OF INSURANCE

October 26, 2009

The Honorable Joseph G. Murphy  
Acting 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 Acting Commissioner Murphy:

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

### **SAFETY PROPERTY AND CASUALTY INSURANCE COMPANY**

at its home office located at

20 Custom House Street  
Boston, MA 02111

The following report thereon is respectfully submitted.

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## SCOPE OF EXAMINATION

The Massachusetts Division (“Division”) conducted a comprehensive market conduct examination of Safety Property and Casualty Insurance Company for the period January 1, 2008 through December 31, 2008. 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 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.mass.gov/doi](http://www.mass.gov/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 VII – CLAIMS

### **STANDARD VII-1**

#### **Transaction Testing Results:**

**Findings:** The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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

**Recommendations:** Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments, and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

### **STANDARD VII-2**

#### **Transaction Testing Results:**

**Findings:** The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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

Recommendations: Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments, and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

### **STANDARD VII-3**

#### Transaction Testing Results:

Findings: The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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

Recommendations: Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments, and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

## COMPANY BACKGROUND

Safety Property and Casualty Insurance Company (“Safety P&C” or “the Company”) is one of three insurance companies comprising The Safety Insurance Group, Inc. (“the Group”), which also includes Safety Insurance Company (“Safety”), and Safety Indemnity Insurance Company (“Safety Indemnity”). The group specializes in writing private passenger automobile coverage in Massachusetts, which represented 72% of the group’s direct written premiums in 2008. In addition to private passenger automobile coverage, the group offers a portfolio of property and casualty insurance products including commercial automobile, homeowners, dwelling fire, umbrella, and business owner policies, which comprised the remaining 28% of the Group’s portfolio during 2008. Safety P&C writes the Group’s preferred homeowners coverage, and a very small number of commercial business.

The Group was formed in June 2001 to purchase the Thomas Black Corporation, the former holding company for Safety and Safety Indemnity. The senior management of the three companies in the Group owns approximately 7% of the Group. Safety owns 100% of the outstanding shares of both Safety Indemnity and Safety P&C.

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

The Group has strong contractual relationships with over 800 independent insurance agents who sell its policies. The Group has used these relationships to become the second largest private passenger automobile carrier in Massachusetts, with approximately 11.1% of the Massachusetts market in 2008, and the third largest commercial automobile carrier with 11.7% of the market for that period. The Company has underwritten insurance in Massachusetts since 1979.

The Group had \$573.5 million in direct written premium in 2008, and \$318.3 million in direct paid losses. Total statutory surplus for the period was \$612.4 million, with \$1.3 billion in admitted assets.

The Group is rated A (Excellent) by AM Best Company and rated A (Strong) by Standard and Poors. The Company’s ratings were stable over the examination period.

The Company wrote only \$2.1 million in direct written premium in 2008, of which only \$195,000 (less than 1%), was commercial business. Because commercial business policies were such a small portion of the Company’s business during 2008, this examination’s testing and results focused solely on the Company’s preferred homeowners business.

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.

<b>Standard I-1. The regulated entity has an up-to-date, valid internal or external audit program.</b>
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Objective: This Standard is concerned with whether there is an audit program function that provides meaningful information to management.

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

- The Company has an Internal Audit Department ("IAD"), and is also audited annually by an independent accounting firm.
- The IAD has a direct line of reporting to the Audit Committee, and holds periodic executive sessions with them to discuss the audit plan and any potential issues.
- The Company's business practices and functions are subject to review by the IAD.
- The IAD solicits input from the 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 its other business practices. The frequency of the Company's audits is based upon the IAD's overall risk and control assessment.
- The Company responds to internal and external audit recommendations to correct, modify, and implement procedures.
- 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 Company utilizes tip sheets as a communication tool between the claims and underwriting departments, to ensure that suspicious activity by applicants and claimants is communicated to all affected parties within the Company.

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 breach of trust or certain other offenses, who willfully engages in the business of insurance as defined in the Act. In accordance with Division of Insurance Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and producers 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 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.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, the Company's records appear adequate, consistent, and comply with state record retention requirements.

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 it may issue any contracts or policies. 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 for minimizing improper intrusion into the privacy of applicants and policyholders.

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

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 IAD has conducted reviews of its 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 on 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 the Company’s policies and procedures.

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

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

- The Company 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: Based on 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 for ensuring it maintains the privacy of consumer information.

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

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- 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: Based on Eide's review of the Company's privacy notice, 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 Company policies and procedures.

Recommendations: None.



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

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

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

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

Controls Assessment: 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 privacy compliance, and examined whether its privacy notice provided sufficient information and disclosures.

Transaction Testing Results:

Findings: None.

Observations: Based on Eide's review of the Company's privacy notice and discussion with Company personnel, it appears that the Company's privacy notice provides sufficient disclosures to applicants and policyholders regarding its collection and use of nonpublic personal financial information, 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 with regard to opt out rights.

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

Controls Assessment: 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 privacy compliance, 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 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, 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 regarding its collection, use and disclosure of nonpublic personal financial information.

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

Controls Assessment: 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 privacy compliance, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based on 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; Public Law 104-191; 45 CFR Parts 160 and 164.**

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

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

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

- The Company stated that it does not sell any personal consumer information to third parties.
- Company policy is to disclose 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 privacy compliance, and reviewed its privacy notice.

Transaction Testing Results:

Findings: None.

Observations: Based on 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 health information.

Recommendations: None.

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

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

Objective: This Standard addresses the Company's information security efforts for ensuring the protection of nonpublic customer information.

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

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

- The Company's policy is to comply with the Gramm-Leach-Bliley Act and its related rule 16 CFR Part 313 regarding privacy requirements of nonpublic personal information.
- The Company has written policies and procedures for maintaining the security of nonpublic policyholder and consumer information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose 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 privacy compliance, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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## 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:

- Written policies and procedures govern the complaint handling process.
- All complaints are recorded in a consistent format in the complaint log.
- The Company's definition of complaint is similar to the statutory definition.
- The Company has a centralized function for receiving and processing complaints to ensure consistency in handling and documentation.
- 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 complaint lists from the Company and the Division for the examination period.

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 in accordance with statutory guidelines. Eide noted there were no complaints against the Company during 2008.

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 distributing and obtaining and recording response to complaints that is sufficient to allow response within the time frame required by state law, and (d) the Company provides a telephone number and address for consumer inquiries.

Controls Assessment: Refer to Standard II-1.

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

Transaction Testing Procedure: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide compared complaint lists obtained from the Company and the Division for the examination period. Finally, Eide reviewed the Company's website, and various forms sent to policyholders, to determine whether the Company provides contact information for consumer inquiries as required.

Transaction Testing Results:

Findings: None.

Observations: 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's response to the complaint fully addresses the issues raised.

Controls Assessment: Refer to Standard II-1.

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

Transaction Testing Procedure: Eide interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide otherwise noted there were no complaints against the Company during 2008, and as such performed no complaint testing.

Transaction Testing Results:

Findings: None

Observations: Eide noted that the Company's written complaint handling procedures appeared adequate and reasonable.

Recommendations: None

<b>Standard II-4. The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.</b>
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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. 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 interviewed Company personnel responsible for complaint handling, and examined evidence of the Company's related processes and controls. Eide noted there were no complaints against the Company in 2008, and as such performed no complaints testing.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company's complaint handling procedures required responses within a time frame that complied with applicable statutes, rules and regulations.

Recommendations: None.



### III. MARKETING AND SALES

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

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

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

*Objective:* This Standard is concerned with whether the Company maintains a system of control over the content, form and method of dissemination 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 of Insurance Bulletin 2001-02, an insurer who maintains an internet website must disclose on that website the name of the Company appearing on the certificate of authority, and the address of its principal office.

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

- 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 used by the Company during the examination period, for compliance with statutory and regulatory requirements. Eide also reviewed the Company's website for appropriate disclosure of its name and address, and 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 applicable Massachusetts' laws, regulations and bulletins.

*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 the Company's producer training materials are in compliance with Massachusetts' statutes, rules and regulations.

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

- The Company has frequent meetings with all producers, and provides them with training on Company products and the use of its web interface. The Company currently accepts both paper and internet submissions for underwriting and claims 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 conducted interviews with key personnel to determine what type of producer training material the Company uses, and reviewed examples of such material in use during the examination period.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* The Company's producer training materials appear accurate and reasonable.

*Recommendations:* None.

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

*Objective:* This Standard 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 e-mail, letters, bulletins, and telephone calls, which note changes in Company 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 conducted interviews with key personnel to determine what type of producer communications it uses, and reviewed examples of such communications that were used during the examination period.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

<b>Standard III-4. Regulated entity mass marketing of property and casualty insurance is in compliance with applicable statutes, rules and regulations.</b>
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No work performed. This Standard not covered in scope of examination because the Company does not offer mass merchandising or group marketing plans as defined in statute, or any affinity group discounts.

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#### IV. PRODUCER LICENSING

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

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

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

*Objective:* The Standard 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 of Insurance Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and producers 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 the reporting of producer hirings 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 statutory guidelines, which require 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 such termination as defined in M.G.L. c. 175, § 162R.

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

- Agency contracts require the reporting of producer hirings and departures to the Company in writing.
- Marketing representatives visit each agency periodically to inquire about any changes in personnel, and 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.

- 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.

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 responsible for producer contracting and termination processing. Eide also requested and reviewed documentation of the Company’s reporting of all 19 producer terminations from the examination period to the Division.

Transaction Testing Results:

Findings: None.

Observations: The Company notifies the Division of terminations 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 30 homeowners policies issued, renewed or canceled 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 19 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 193B½, 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.
- Renewal billing notices are generated automatically through the policy administration system approximately 28-35 days before policy expiration.
- The Company requires 100% advance premium payment from policyholders previously cancelled by any company for non-payment.

*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 30 homeowners policies issued, renewed or canceled during the examination period. The date each 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 showed that billing notices for renewal policies were mailed 28-35 days prior to the policy expiration date per the Company's requirements.

*Recommendations:* None.



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

**M.G.L. c. 175, § 187B.**

*Objective:* This Standard addresses the Company's procedures for ensuring 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 Policyholder Service Standard V-7.

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

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

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

*Transaction Testing Procedure:* Eide interviewed Company personnel responsible for policyholder service, and reviewed four cancellations in the testing sample of 30 homeowners policies, to ensure that proper notice of cancellation was given and any unearned premium was timely returned. 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 on 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:

- Policyholder special requests typically mailed in with premium payments are detected when opened in the Company's payment scanner in the billing department.
- The billing department is the first to read the request, and forwards it to the proper department for handling.
- The Company has established a 24-48 hour time limit for standard responses to correspondence requesting general policy information related to billing or coverage.
- Issues like complaints or underwriting decisions that require additional review are handled separately from those that require standard responses.
- The Company's policyholder services division provides front-line responses to policyholders and responds to most policyholder inquiries except formalized complaints, which are handled by the applicable department to which the complaint relates.
- The Company considers its producers as having the primary relationship with policyholders, and since customer service representatives are not licensed producers, policyholders must request endorsements and policy changes through the producer. Policyholders who request such changes through policyholder service are referred to the producer 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 on Eide's review of general correspondence between policyholders and the Company regarding underwriting and rating, policyholder service and claims, it appears that the Company provides timely and responsive answers to such correspondence from 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 insureds 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:

- Insureds may submit claims by calling the Company, submitting a claim document to the company via mail, e-mail or facsimile, or by notifying the producer of the claim.
- Policy transaction 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 insureds agent. Minor administrative changes may be made by the Company via direct telephone inquiry.
- The Company’s policy is to contact an insured within 24 hours of receiving any written inquiry or voice message, and to immediately respond to telephone calls 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 30 homeowners policies in the Underwriting and Rating section.

Transaction Testing Results:

Findings: None.

Observations: Based on Eide’s review of general correspondence between policyholders, agents and the Company regarding policy changes, it appears that the Company accurately and completely processes policy transactions.

Recommendations: None.

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

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

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

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

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

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

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

Transaction Testing Procedure: 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 30 homeowners policies, and 30 claims in the policyholder service, underwriting and rating, and claims sections.

Transaction Testing Results:

Findings: None.

Observations: Based on Eide's review of general correspondence between policyholders, agents and the Company regarding policy changes, 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.**

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

Pursuant to M.G.L. c. 175, § 187C, written notices of cancellations are required from insurers. Pursuant to M.G.L. c. 175, § 187D, insurers have the right to cancel a policy for non-payment of premium.

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

- Insureds may file claims by calling the Company, submitting a claim document to the company via mail, e-mail or facsimile, or by 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 insureds agent. Minor administrative changes may be made by the Company via direct telephone inquiry.
- The Company’s policy is to contact an insured within 24 hours of receiving any written inquiry or voice message, and to immediately respond to telephone calls during business hours.
- 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 30 homeowners policies in the Underwriting and Rating section, two 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 on Eide’s review of the selected policies, the Company appears to be providing proper notice to policyholders regarding cancellations for 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 examination team, and noted no concerns.

Recommendations: None.

<p><b><u>Standard V-8. Claims history and loss information is provided to the insured in timely manner.</u></b></p>
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Objective: This Standard is concerned with whether the Company responded to insured requests for claim history and paid loss information 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 30 claims filed during the examination period, to determine whether the Company timely and properly responded to insured requests for claims history and loss information.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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## 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. 174A, §§ 5, 6, and 9; M.G.L. c. 175, § 111H; 211 CMR 131.00; Division of Insurance Bulletin 2008-09.**

*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. 174A, § 5, rates for fire, marine and island coverage shall be experienced based and not unfairly discriminatory. Affiliates may make the same rate filings or use the same rates. Pursuant to M.G.L. c. 174A, § 6, insurers shall file rates with the Commissioner 15 days before their effective date. Pursuant to M.G.L. c. 174A, § 9, members of rating organizations must use their filed rates, or must file separate rates.

M.G.L. c. 175, §111H requires that insurers cover lead exposure claims on liability policies providing coverage to an owner of premises for which a letter of interim or full compliance is in effect. 211 CMR 131.00 outlines requirements, forms and rates for liability coverage for lead in housing.

Division of Insurance Bulletin 2008-09 outlines guidelines for filing rate and form filings for all lines of business.

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

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

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

*Transaction Testing Procedure:* Eide interviewed the Company's underwriting personnel to gain an understanding of the underwriting process. Eide selected 30 homeowners policies issued, renewed or canceled during the examination period to test rates, classifications and premium discounts. Eide verified that each policy's premium discounts and surcharges for multiple coverages complied with statutory and regulatory requirements, and were supported by documentation.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

**M.G.L. c. 175, §§ 99 and 99A; M.G.L. c. 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 coverages are timely provided to insureds 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. 175E, § 11A, producers shall disclose coverage options in simple language to every person they solicit, including the option to exclude oneself and members of one's household from personal injury protection coverage. Pursuant to M.G.L. c. 175, § 99, fire policy form requirements include coverage for tenant relocation for landlord multi-unit residential property. Pursuant to M.G.L. c. 175, § 99A, fire policies must disclose exclusion of coverage for nuclear contamination.

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 reminded producers 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. Eide also



selected 30 homeowners policies issued, renewed or cancelled during the examination period, to test for timely disclosure of rates and coverage.

Transaction Testing Results:

Findings: None.

Observations: Based on 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, §§ 182, 183 and 184; M.G.L. c. 176D, § 3(8).**

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

Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, the Company, or any 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 has procedures for paying producers' commissions in accordance with approved commission rates.
- The Company's producer contracts, and its home office policies and procedures, are designed to comply with statutory underwriting and rating requirements, which prohibit special inducements and rebates.

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

Transaction Testing Procedure: Eide interviewed individuals with responsibility for producer contracting and commission processing. Eide inspected new business materials, including advertising materials, producer training materials and manuals for indications of rebating, commission cutting or inducements. Eide reviewed the underwriting notes for 30 homeowners policies issued, renewed or canceled during the examination period, for evidence of illegal rebates, commission cutting or special inducements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of 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, §§ 4C and 95B.**

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

M.G.L. c. 175, § 4C states insurers may not discriminate based on race, color, religious creed, national origin or sex when issuing or renewing homeowners policies. M.G.L. c. 175, § 95B prohibits discrimination against abuse victims in residential property insurance sales.

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

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

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

Transaction Testing Procedure: Eide interviewed the Company's marketing and underwriting departments regarding risk acceptance and treatment of policyholders. Eide selected a sample of 30 homeowners policies issued, renewed or canceled during the examination period, and reviewed the policy, underwriting notes, and supporting documentation for evidence of discriminatory treatment.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

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

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

Pursuant to M.G.L. c. 175, § 2B policy form language, size and content standards for all policies must meet statutory requirements for readability and understanding. Pursuant to M.G.L. c. 175, § 99, homeowners policy forms must conform to the standards for policy language set forth in that section and, according to M.G.L. c. 175, § 99B, condominium and tenant policies must be filed with the Division for prior approval. Pursuant to M.G.L. c. 175, § 192, endorsements are part of policy forms and must also be filed with the Division for prior approval. M.G.L. c. 175, § 111H requires that any policy providing lead liability coverage shall be subject to rules and regulations set forth by the Commissioner, and 211 CMR 131.00 requires that forms be filed with and approved by the Division for homeowners lead liability coverage. Division of Insurance Bulletin 2008-08 outlines guidelines for filing rate and form filings for all lines of business.

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

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

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected 30 homeowners policies issued, renewed or canceled during the examination, period to test for the use of Company and Division approved policy forms and endorsements.

Transaction Testing Results:

Findings: None.

Observation: The Company appears to be filing all policy 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.**

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

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

- Company policy requires the use of the standard Massachusetts policy forms and endorsements which are approved by the Division.
- Producers are required to use such forms and endorsements as guidelines when providing quotes to consumers.
- Company supervisors review all applications completed by producers to ensure that they are complete and internally consistent.
- Company procedures include mailing renewal notices 28-35 days prior to the policy renewal effective date.

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

*Transaction Testing Procedure:* Eide selected a sample of 30 homeowners policies issued, renewed or canceled during the examination period, to test whether 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 policies, endorsements, and riders in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

*Recommendations:* None.

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

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

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

Pursuant to M.G.L. c. 175, § 4C, no insurer shall take into consideration when deciding whether to provide, renew, or cancel homeowners insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. M.G.L. c. 175, § 95B notes that no insurer shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other terms and conditions of a residential property insurance policy based upon information that an

applicant or policy owner, or any member of their family, has been a victim of domestic abuse. M.G.L. c. 175, § 193T prohibits discrimination based on blindness or partial blindness, mental retardation or physical impairment, unless such discrimination is based on “sound actuarial principles or is related to actual experience.”

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

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory guidelines.
- The Company’s written underwriting guidelines are designed to reasonably assure appropriate acceptance and rejection of risks on a consistent and fair basis.

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

Transaction Testing Procedure: Eide interviewed the underwriting department regarding cancellations and declinations, and selected a sample of 30 homeowners policies issued, renewed or canceled during the examination period for testing. Eide reviewed each 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, §§ 99, 187C and 193P.**

Objective: This Standard is concerned with notice to policyholders for cancellations, nonrenewals and declinations, including advance notice before expiration for cancellation and nonrenewals.

Pursuant to M.G.L. c. 175, § 99, any Company may cancel coverage by giving the insured five days written notice of cancellation, and 20 days written notice of cancellation to the mortgagee to whom the policy is payable, except where the stated reason for cancellation is nonpayment of premium, where 10 days written notice of cancellation is required. M.G.L. c. 175, § 193P requires an insurer to give written notice of its intent to nonrenew a policy to the insured at least 45 days prior to the expiration of the policy, including stating the specific reasons for such decision. Pursuant to M.G.L. c. 175, § 187C, any Company shall effect cancellation by serving written notice thereof as provided by the policy and by paying the full return premium due.

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

- Company cancellation policy requires that written notice be given to the insured in accordance with statutory requirements.
- Company policy requires that notices of non-renewal be given to the insured at least 45 days in advance of the termination effective date.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 30 homeowners policies issued, renewed or canceled 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. The reason for each policy's cancellation or non-renewal was compared to the Company's underwriting cancellation policy 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, § 187D.**

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

M.G.L. c. 175, § 187D allows cancellation for nonpayment of premium.

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 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, and selected a sample of 30 homeowners policies issued, renewed or canceled during the examination period for underwriting and rating testing. Eide reviewed the reason for cancellation of each of the canceled policies, to ensure that it was within statutory guidelines.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing of cancellations, it was noted that the Company does not rescind policies, but instead cancels them as of the date on which it determines that rescission is appropriate.

Recommendations: None.

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

**M.G.L. c. 174A, §§ 5, 6 and 9; M.G.L. c. 175, § 111H; M.G.L. c. 175A, §§ 5, 6 and 9; 211 CMR 131.00.**

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

Pursuant to M.G.L. c. 174A, § 5, fire rates shall be based on past and prospective loss experience during a period of not less than the most recent five-year period for which such experience is available. In considering catastrophe hazards with respect to homeowners insurance rates, the commissioner shall consider catastrophe reinsurance and factors relating thereto. Fire rates shall also consider a reasonable margin for underwriting profit and contingencies. Finally, such rates shall not be excessive, inadequate or unfairly discriminatory. M.G.L. c. 174A, § 6 requires the filing of fire rates with the Commissioner, and M.G.L. c. 174A, § 9 requires insurers to use such filed rates, unless the insurer obtains approval from the Commissioner for a rate deviation.

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

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



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

- Company policy prohibits unfair discrimination in the application of premium discounts and surcharges in accordance with statutory guidelines.
- The Company has written underwriting policies and procedures which are designed to reasonably assure consistency in classification and rating.
- The Company uses an electronic rating process that is designed to ensure that consistent and filed rates are used when business is written.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 30 homeowners policies issued, renewed or canceled 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, 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 the application of underwriting guidelines, rating classifications, premium discounts and surcharges at the inception of coverage.
- Homeowners policy rates, premiums and discounts are determined by past experience, and such rate information is submitted annually to the Division on a timely basis.

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

*Transaction Testing Procedure:* Eide interviewed Company personnel with responsibility for the underwriting process, and selected a sample of 30 homeowners policies issued, renewed or canceled during the examination period, to test whether underwriting, rating and classification are based on

adequate information developed at or near the inception of coverage. Eide also reviewed database information, to ensure that adequate information was available at the time of the Company's underwriting decisions.

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, 99, 99B, 111H, 113A and 192; 211 CMR 131.00.**

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

M.G.L. c. 175, § 2B describes policy form language, and requires that all items forming a part of the contract be listed on the declaration page and filed with the Division. M.G.L. c. 175, §§ 22A 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 the post office. Return premium must be disclosed.

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

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 30 homeowners policies issued, renewed or canceled during the examination period, to test for the use of standard policy forms and approved endorsements in compliance with statutory requirements. The standard forms used for each policy, along with all endorsements effective on the policy, were compared to the forms approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: 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.**

No work performed. This standard is not covered in the scope of the examination because the company does not offer private passenger automobile policies for which verification of vehicle identification numbers is required.

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

**M.G.L. c. 176D, §§ 3(4) and 3A.**

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

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

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

- Company policy is to accept any risk, unless the consumer has outstanding balances due to insurers over the previous year, or has a history of non-payment of premium over the past two years.
- Homeowners premium rates are determined annually by the Company using past loss history, and are timely submitted to the Division for approval prior to use.

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

Transaction Testing Procedure: Eide interviewed Company personnel with responsibility for the underwriting process, and selected 30 homeowners policies issued, renewed or canceled during the examination period, to test whether underwriting practices appeared collusive or anti-competitive.

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 its application of mass marketing plans.**

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

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

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

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

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

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

**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 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 sampled 30 homeowners policies issued, renewed or canceled 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 30 homeowners policies issued, renewed or canceled 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: None.

Observations: Based on the results of Eide's testing, applications are fully completed and file documentation supports the Company's decisions.

Recommendations: None.

FOR INFORMATIONAL PURPOSES ONLY

## 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.
- Company policy is to respond to claims within two business days of receiving a notice of claim.
- Written claim forms received via fax or mail are acknowledged in writing within two business days.
- All claim notifications are maintained on a mainframe based automated claims management system.
- 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 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 30 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:* The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the

adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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

Recommendations: Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

**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 30 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: The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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



Recommendations: Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments, and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

**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 and 191A.**

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, § 112 states that the 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, insureds must also report thefts to the police. 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 if 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:

- 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 claims personnel to understand its claims handling processes, and obtained documentation supporting such processes. Eide selected a sample of 30 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 noted whether it was timely and reasonably resolved by the Company.

Transaction Testing Results:

Findings: The Company did not timely handle one homeowners claim tested. The Company assigned an independent adjuster to handle the claim on January 28, 2008, but the adjuster did not acknowledge receipt of the assignment until March 3, 2008. The insured was first contacted five weeks after reporting the loss, outside the Company's initial required timeframe of 24 hours.

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

Recommendations: Eide recommends that the Company require its independent adjusters to timely acknowledge receipt of assignments and to make initial contact with claimants within the required timeframe. The Company has represented to us that internal guidelines have changed in 2009 requiring internal adjusters to make contact on losses assigned to independent adjusters.

**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 30 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 30 claims tested was reported and investigated according to the Company's policies and procedures, and responses to claims correspondence were timely. Based on 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.

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

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

- Company policy requires that the following items be included in each claim file:
  1. Notice of loss with relevant accident date, accident description and involved parties.
  2. Relevant report from investigating police authorities.
  3. All applicable medical reports and other investigative correspondence.
  4. All legal correspondence.
  5. All pertinent written communication.
  6. All documented or recorded telephone communications.
  7. All claim activity logged in chronological order and documented.
  8. All claim reserve evaluations, adjustments and assessments.
  9. All source correspondence and investigative reports.
- Claims management performs periodic claims reviews to examine compliance with Company claims policies.
- 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 30 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: Based on the results of Eide's testing, claims files are adequately documented.

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, §§ 22B, 22I, 24D, 24E, 24F, 96, 97, 97A, 100, 102, 111F, 112, 112C and 113J; M.G.L. c. 139, § 3B; Division of Insurance Bulletin 2008-12.**

*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 an unfair trade practice.

M.G.L. c. 175, § 22B prohibits waiver provisions in insurance contracts except as expressly provided. M.G.L. c. 175, § 22I allows companies to retain unpaid premium due from claim settlements. Claim payments must also comply with M.G.L. c. 175, § 24D to intercept 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 insureds liability coverage upon receiving a request in writing for such information.

M.G.L. c. 175, § 96 states when a building is destroyed by fire, the insurer's liability is limited to the actual cash value of the insured property. M.G.L. c. 175, § 97 states companies must pay fire losses to mortgagees of property upon satisfactory proof of rights and title in accordance with the insurance policy. M.G.L. c. 175, § 97A states that for any fire loss where damages exceed \$5,000, the claimant must first submit to the insurer a certificate of municipal liens from the city or municipality, and the insurer shall pay the amount of the lien prior to paying the insured owner, mortgagee, or similar assignee. M.G.L. c. 175, § 100 sets forth standards for selecting a referee when parties to a claim fail to agree on the amount of loss. M.G.L. c. 175, § 102 states insureds under a fire policy are not precluded from recovery by failing to render a sworn statement if they do so upon the Company's appropriate written request.

M.G.L. c. 139, § 3B states companies may not pay claims in excess of \$1,000 on dangerous buildings or structures without first giving 10 days written notice to the building inspector or commissioner appointed pursuant to the state building code, to the fire department and to the Board of Health for the city or town where the property is located.

M.G.L. c. 175, § 112 states that liability of any company under any 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.

Division of Insurance Bulletin 2008-12 establishes guidelines for the coordination of benefits for personal injury protection and health insurers.

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 claim notifications are maintained on a mainframe based automated claims management system.
- All claim investigations are handled by adjusters up to a defined dollar limit to their settlement authority.
- The Company has procedures for providing medical reports and/or the amount of the insureds policy limits, upon receiving requests for such information from a claimant or their attorney.
- The Company has procedures for intercepting non-recurring payments for past due child support for certain defined claim payments.
- The Company's policy prohibits discrimination in the reimbursement of proper expenses paid to certain professions and occupations.
- 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 30 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: None.

Observations: Eide noted claims are handled in accordance with Company policies and procedures, and applicable statutory and regulatory guidelines.

Recommendations: None.

<b>Standard VII-7. Regulated entity claim forms are appropriate for the type of product.</b>
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Objective: The Standard is concerned with the Company's use of claim forms that are proper for the type of product.

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

- The Company uses industry standardized claim reporting forms which are appropriate for the Company's lines of business.
- Claim processing guidelines require that key documentation be completed, signed, and included in the file, including: notice of loss with relevant date of loss, 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 30 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, denied or closed without payment claims selected for testing were reported according to the Company's policies and procedures, and that claim forms utilized were appropriate.

Recommendations: None.

<b><u>Standard VII-8. Claims are reserved in accordance with the regulated entity's established procedures.</u></b>
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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.
- Company policy requires that the following items be included in each claim file:
  1. Notice of loss with relevant accident date, accident description and involved parties.
  2. Relevant report from investigating police authorities.
  3. All applicable medical reports and other investigative correspondence.

4. All legal correspondence.
  5. All pertinent written communication.
  6. All documented or recorded telephone communication.
  7. All claim activity logged in chronological order and documented.
  8. All claim reserve evaluations, adjustments and assessments.
  9. All source correspondence and investigative reports.
- 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.

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 30 claims paid, denied or closed without payment during the examination period, to evaluate compliance with Company claims reserving policies and procedures. Eide verified the date each selected claim was reported to the Company, and noted 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 on 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 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 adjusters 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 30 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 30 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.

<b>Standard VII-10. Cancelled benefit checks and drafts reflect appropriate claim handling practices.</b>
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Objective: The Standard is concerned with the Company's procedures for issuing claim checks as it relates to appropriate claim handling practices.

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

- Written policies and procedures govern the claims payment process.
- Company policy is to handle all claims in accordance with policy provisions and state law.



- All claims investigations are handled by adjusters 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 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 30 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 tested 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 on 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 claim settlements and payments.
- Company policy is to contact all injured persons or, their legal representatives, within two business days of receiving 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.

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 30 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 the claim 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 on 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 use 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 claim investigations are handled by adjusters up to a defined dollar limit to their settlement authority.
- The Company uses reservation of rights and excess loss letters when warranted.
- Reservation of rights letters are used only when 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 30 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. Eide also reviewed model correspondence for such letters, which appeared accurate and proper.

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. Based on the results of 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.

<p><b>Standard VII-13. Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.</b></p>
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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 address 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 30 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 on 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 various statistical plans to be used in relation to homeowners insurance and related coverages, in accordance with M.G.L. c. 175A, § 15(a).

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

- Company policy is to timely report complete and accurate loss data to appropriate rating bureaus.
- Claims management personnel reconcile the underlying data for completeness and accuracy, and generate exceptions reports to ensure that 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 its loss statistical reporting processes, and obtained documentation supporting such processes.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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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 to address concerns in the areas of Company Operations/Management, Producer Licensing 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 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 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