



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

ALLSTATE INSURANCE COMPANY  
3075 SANDERS RD STE H1A  
NORTHBROOK IL 60062

dated JUNE 27, 2008, and served upon the company on JANUARY 27, 2010, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 9TH day of DECEMBER, 2010.

Sean Dilweg  
Commissioner of Insurance

**STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**MARKET CONDUCT EXAMINATION**

**OF**

**ALLSTATE INSURANCE COMPANY  
NORTHBROOK, ILLINOIS**

**JUNE 16-27, 2008**

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June 27, 2008

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Honorable Sean Dilweg  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted June 16 to June 27, 2008 of:

ALLSTATE INSURANCE COMPANY  
Northbrook, Illinois

and the following report of the examination is respectfully submitted.

#### I. INTRODUCTION

Allstate Insurance Company is a property and casualty insurer licensed to transact business in the District of Columbia, Puerto Rico, Canada and all states except New Jersey. The company is wholly owned by The Allstate Corporation, a publicly traded holding company. The company was incorporated on February 9, 1931, under the laws of Illinois and began business April 17, 1931. The company was licensed in Wisconsin on September 17, 1936. The company writes automobile and homeowner's insurance in Wisconsin, along with smaller amounts of commercial multiple peril and fire and allied lines insurance.

## Licensed States and Jurisdictions

Allstate Insurance Company is licensed to transact business in the District of Columbia, Puerto Rico, all Canadian provinces and territories and all states except New Jersey. In 2007, the company reported written premium in all states that it is licensed except for Massachusetts. In 2006, the company reported written premium in the same states and jurisdictions where the company was licensed in 2007, again with the exception of Massachusetts.

The following table summarizes the total direct national premium written in 2007 and 2006 as compared to the total direct premium written in Wisconsin.

Year	Wisconsin Direct Premium Written	National Direct Premium Written
2007	\$11,949,088,587	\$65,131,910
2006	\$12,854,661,263	\$71,028,890

The majority of the premium earned by the company in 2006 and 2007 was for private passenger auto.

The following tables summarize the premium earned and incurred losses in Wisconsin for 2007 and 2006 broken down by line of business.

2007		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$479,419	\$182,007
Homeowners/Farmowners	\$17,114,456	\$8,950,237
Commercial Multiple Peril	\$2,604,099	\$1,921,356
Worker's Compensation	\$0	\$31,940
Private Passenger Auto	\$43,627,588	\$22,812,035
Commercial Auto	\$610,160	\$308,600
All Others	\$2,774,477	\$520,688
Total	\$67,210,199	\$34,045,793

2006		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$488,324	\$44,830
Homeowners/Farmowners	\$18,437,698	\$10,608,858
Commercial Multiple Peril	\$2,984,536	\$1,880,031
Worker's Compensation	\$0	\$0
Private Passenger Auto	\$47,512,207	\$20,094,514
Commercial Auto	\$652,879	\$652,879
All Others	\$3,187,402	\$26,857,450
Total	\$73,263,046	\$60,138,562

In 2007, the company ranked as the 8th largest writer of homeowners insurance and the 10th largest writer for private passenger auto insurance in Wisconsin.

In 2006, the company ranked as the 6th largest writer of homeowner's insurance and 7th largest writer of private passenger auto insurance in Wisconsin.

The Office of the Commissioner of Insurance received 79 complaints against the company from July 1, 2006 through December 31, 2007. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' During the year of 2006, OCI received 46 complaints against the company. During the year of 2007, the company received 48 complaints. The total number of complaints received in 2006, increased by 4% from the number of complaints received in 2005.

Since the last market conduct examination, the company was found to be on the most recent Complaint Summary Lists for having above-average complaints. In 2006, the company was on the list for having above average complaints for homeowner's and personal passenger automobile insurance. In 2005, the company was found on the personal passenger automobile above-average complaints list.

The company received the majority of its complaints in private passenger auto followed by homeowners in both 2006 and 2007.

The following tables categorize the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

2007		Reason				
Coverage Type	Total	Under-writing	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	30	1	1	25	3	1
Commercial Vehicle	1	0	0	1	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	13	1	1	11	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	3	1	1	2	0	0
Total	47	3	13	38	3	1

2006		Reason				
Coverage Type	Total	Under-writing	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	33	5	0	23	3	2
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	1	0	0	1	0	0
Home/Farmowners	10	2	0	6	2	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	4	0	0	3	1	0
Total	48	7	0	33	6	2

2005		Reason				
Coverage Type	Total	Under-writing	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	33	3	0	24	5	1
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	1	0	0	1	0	0
Home/Farmowners	10	2	0	6	2	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	4	0	0	3	1	0
Total	33	3	0	24	5	1

## II. PURPOSE AND SCOPE

A targeted compliance examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules, as well as to determine if the company complied with the prior market conduct examination's recommendations. The examination focused on the period from July 1, 2006 through December 31, 2007. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of the personal passenger automobile and homeowners lines of business. Areas of focus for review of the company's practices and procedures included:

<u>Producer Licensing</u>
<u>Underwriting</u>
<u>Claims</u>
<u>Policy Forms</u>
<u>Subrogation</u>

To ensure compliance with the company's prior recommendations the following areas were targeted. policy forms, including review of all the forms used by the company for all business lines during the period of review, underwriting termination files, claims paid and not paid and producer licensing appointments and terminations.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

### III. PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of the company, as adopted October 24, 2002, contained 18 recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

#### POLICY FORMS

1. It is recommended that the company revise form BU9403B (8-99) to comply with s. Ins 4.01 (h), Wis. Adm. Code.

**Action:** Compliance

The company advised the examiners that the form was withdrawn effective 2/1/05. However, this was over 2 years from the adoption of the previous examination report.

2. It is recommended that the company amend its current Wisconsin Changes Endorsement, CG 01 24 01 93, to reflect the proper sections and/or conditions in the forms listed in this report for the Legal Action Against Us and Transfer of Rights of Recovery Against Other to Us conditions.

**Action:** Compliance

3. It is recommended that the company implement a procedure to ensure that it files and receives approval to use all forms subject to s. 631.01 (1), Wis. Stat., in order to comply with s. 631.20 (1), Wis. Stat.

**Action:** Compliance

4. It is recommended that the company amend its current Wisconsin Changes endorsement, CM 01 05 09 00 to reflect the proper reference to item G. Transfer of Rights of Recovery Against Other to Us in form BU9212 (Ed. 8-89).

**Action:** Compliance

5. It is recommended that the company revise the Customizer Business Insurance Policy Named Peril, form BU5560 (Ed. 1-96), page 9, number 8. Vandalism and Malicious Mischief, to provide for coverage for losses if the building has been vacant or unoccupied for less than 61 days.

**Action:** Compliance

6. It is recommended that the company revise the Cross Suits Endorsement, UEL19 (Ed. 10-86), to not apply to motor vehicle liability claims involving persons related to the insured in order to comply with s. 632.32 (6) (b) 1, Wis. Stat.

**Action:** Compliance

7. It is recommended that the company withdraw and discontinue use of the Amendment of the Fellow Employee Exclusion endorsement, form BU1124 (Ed. 1-97), in order to comply with ss. 632.32 (3) (a) and 102.03 (2), Wis. Stats.

**Action:** Compliance

The company advised the examiners that the form was withdrawn effective 7/14/03. However, this was over 8 months from the adoption of the previous examination report.

8. It is recommended that the company revise its homeowners insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95 (2) (f), 631.81 (1), 631.36 (2) (c), and 631.13, Wis. Stats. and s. Ins 6.76 (3), Wis. Adm. Code.

**Action:** Compliance

9. It is recommended that the company revise its renters insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95 (2) (f), 631.81 (1), and 631.36 (2) (c), Wis. Stats.

**Action:** Compliance

10. It is recommended that the company revise its condominium owners insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95 (2) (f), 631.81 (1), 631.36 (2) (c), and 631.13, Wis. Stats.

**Action:** Compliance

## **UNDERWRITING**

11. It is recommended that the company revise its Wisconsin guidelines to reflect its current procedure regarding prior liability insurance and clarify that a carrier which had provided liability insurance to an applicant is considered as prior insurance, in order to ensure compliance with s 628.34(11), Wis. Stat.

**Action:** Compliance

12. It is recommended that the company develop a procedure to accurately state, with reasonable precision of the facts required by s. 631.36, Wis. Stat., the complete reason that a policy is being cancelled or nonrenewed and submit the procedure for approval within 90 days of the adoption of the report in order to ensure compliance with the commissioner's position regarding the use of credit reports in underwriting personal automobile and homeowners policies.

**Action:** Compliance

13. It is recommended that the company include in its nonrenewal notices an offer to continue or renew the policy if the policy is nonrenewed solely because of the termination of the insurance marketing intermediary's contract in order to comply with s. 631.36 (4m), Wis. Stat.

**Action:** Compliance

14. It is recommended that the company develop and implement a program to verify that the agents submitting applications are duly listed with the company in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, and submit a summary of the program to the Commissioner within 90 days of the adoption of this report.

**Action:** Compliance

#### **CLAIMS**

15. It is recommended that the company submit a plan to promptly reimburse its insureds' deductibles when collecting installment payments from negligent parties in order to make its insureds whole and to comply with the Wisconsin Supreme Court decision, Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

**Action:** Compliance

16. In order to document its claim files, it is recommended that the company implement procedures that ensure a written claim denial is sent and documented in the claim file promptly after the claim is verbally denied.

**Action:** Compliance

17. It is recommended that the company include interest on claims that are not paid within 30 days of receipt of documentation in order to comply with s. 628.46, Wis. Stat.

**Action:** Compliance

#### **MARKETING AND SALES**

18. It is recommended that the company file notices of termination of appointment of its agents prior to or within 30 days of termination with the commissioner in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

**Action:** Noncompliance

Refer to the Producer Licensing section of the Current Examination Findings.

#### IV. CURRENT EXAMINATION FINDINGS

##### Claims

The review of the company's claims practices included review of the company's responses to the standard claims interrogatory, sample claim files, and manuals. The company employs and trains its own adjusters for servicing claims.

##### Manuals

The examiners reviewed the company's claims manuals containing claim adjustment training procedures for homeowners and private passenger automobile coverage. The materials are intended to direct and assist the claim adjuster with claim handling practices and adjustment procedures designed for liability, property damage, and subrogation claims. No exceptions were noted in the manuals reviewed.

##### File Review

The examiners reviewed 450 claim files: 200 private passenger automobile, 200 homeowners, and 50 subrogation files. These samples included 100 homeowners claims paid and 100 claims not paid, 100 private passenger automobile claims paid and 100 claims not paid, and 50 private passenger automobile subrogation files. The following exceptions were noted.

The examiners found two homeowner's claims where the claims were not handled promptly, one file where there was inadequate file documentation to determine prompt handling, and two files where there was no documentation of the claim adjustment. The examiners found one private passenger auto claim file with no documentation contained in the file. Section Ins 6.11 (3) (a) 1, Wis. Adm. Code, provides that it is an unfair claims settlement practice to fail to promptly acknowledge pertinent communications with respect to claims arising under insurance policies. Without complete and proper documentation to show contacts with claimants, it is difficult to determine whether the company is promptly acknowledging pertinent communications.

1. **Recommendation:** It is recommended that the company document all communications with claimants in order to document its compliance with s. Ins 6.11 (3) (a) 1, Wis. Adm. Code.

The examiners found six private passenger auto claims where the company did not provide a written letter to the insured denying a payment for a claim when the amount of damages were less than the insured's deductible; two files were found to have little or no file documentation and no denial letter was found due to a company system problem; and one file with no documentation where the claim was submitted through the internet. The examiners found twenty-seven homeowner claims which were closed without payment due to the claim being withdrawn, the amount of damages were less than the deductible, no damage was found, or where a verbal denial or agreement was made but no written explanation advising of the adverse claim decision with the applicable policy language and/or referencing the policies' coverage exclusions or claim disposition. The company's response, in part, to one claim exception, advised the examiners that "documentation of the discussion with the insured complies with our requirements for closure of these claims." However, the company indicated it has since revised its procedures to include sending letters in all instances of full or partial denial of coverage. The company maintained that when the amount of loss does not exceed the deductible and when the claim is withdrawn by the insured, these instances are not considered denials and no denial letter is sent. The company indicated its estimates fully explain the amount of the loss, the deductible amount, and any dollar amounts owed, if any.

### **Policy Forms & Rates**

The examiners reviewed a total of 133 forms: 40 personal lines forms and 93 commercial insurance forms for compliance with the Wisconsin insurance laws, rules and court decisions. Also reviewed was the company's response to the standard Policy Forms & Rates interrogatory. The following exceptions were noted.

It was previously found the company's application forms, AR113-1 and SAR113-1H, did not comply with s. 631.36 (2) (c), Wis. Stat. The application did not advise the applicant that the

bound policy could only be cancelled with at least a ten day notice within the first 59 days. During the current examination, the examiners requested a copy of the approval from OCI showing that the applications had been revised. The company responded that it did not have a record of any formal approval of the forms. The company further stated:

"Wisconsin law requires that only policy forms, declarations pages, applications and notices intended to be attached to a policy are required to be filed in the State of Wisconsin. The applications in question are required to be completed in order to purchase a policy, but they are not part of the policy itself nor are they included in the policy mailing package. As such, it is our belief that we were not required to file the applications and therefore did not."

Section 600.03 (21), Wis. Stat., defines a form as a policy, group certificate, or application prepared for general use and does not include one specially prepared for use in an individual case. The statute does not require that an application be attached to the policy in order to be considered a form. During the period of review, s. 631.20, Wis. Stat., stated, in part, that no form subject to s. 631.01 (1), except as exempted under s. 631.01 (2) to (5) or by rule under par. (b), may be used unless it has been filed with and approved by the commissioner and unless the insurer certifies that the form complies with chs. 600 to 655 and rules promulgated under chs. 600 to 655. [Note: As of July 1, 2008, the statute requires that a form be filed with the commissioner 30 days prior to its use but does not require specific approval by the commissioner in accordance with s. 631.20 (1m), Wis. Stat.] However, further review by the examiners found that the company had filed the revised applications as previously recommended and were approved by the commissioner on May 23, 2001, with revised form numbers AR113-2 and SAR113-2H.

The company was asked to provide a list of all personal lines forms and copies of all personal and commercial lines forms used during the examination period. Copies of 26 forms that were listed were not provided by the company. The examiners requested copies of the forms and documentation that the forms had been approved by OCI. Four forms developed by the company were found to not fall within the statutory definition of a form stated in the previous

discussion and the company provided copies of the approval for two forms developed by it. Subsequent to the field portion of the examination, the company indicated that a number of the forms were never used in Wisconsin and, for all but one of the other forms, the company provided copies of approvals. The company could not provide documentation to show that form AU3055-1 Blank Endorsement was ever approved by OCI. Blank endorsements are not approvable in Wisconsin as language may be included that would violate a Wisconsin insurance law and/or rule. Section 631.20 (2) (d), Wis. Stat., states, in part, that the commissioner may disapprove a form under sub. (1) (a) or (3) upon a finding that it violates a statute or rule promulgated by the commissioner, or is otherwise contrary to law.

**2. Recommendation:** It is recommended the company discontinue use of form AU3055-1 Blank Endorsement in order to avoid possible inclusion of language that would violate Wisconsin insurance laws or rules and ultimately violate s. 631.20 (2) (d), Wis. Stat.

The examiners review of the company's private passenger auto forms revealed that its Renewal Offer Guarantee Endorsement, form AU10802, contains the following provision:

"As a condition of our offer to renew this policy, Allstate may, at its discretion and as permitted by law, require that any operator added to your policy after the Renewal Offer Guarantee Endorsement was first made a part of your policy be excluded from coverage under the policy."

Section 632.32 (3) (a), Wis. Stat., provides, in part, that coverage provided to the named insured applies in the same manner and under the same provisions to any person using any motor vehicle described in the policy when the use is for purposes and in the manner described in the policy.

**3. Recommendation:** It is recommended the company revise its Renewal Offer Guarantee Endorsement, form AU10802, by not excluding drivers added after the endorsement has been made a part of the policy in order to comply with s. 632.32 (3) (a), Wis. Stat.

### **Producer Licensing**

The examiners reviewed the company's responses to the standard Producer Licensing interrogatory. Also, the examiners reviewed the company's obligation to notify the commissioner

of producers who are appointed or terminated by requesting the company provide a list consisting of each producer representing the company in Wisconsin as of the end of the period of review. The company's list was then compared to OCI's list of producers for the company. The following describes the results of the comparison.

The examiners identified 17 agents that OCI's records did not show as appointed with the company. The company responded that 10 of the agents were discovered to:

"no longer hold active appointments in WI with AIC while preparing the initial report. When discovered, each agent was immediately appointed by AIC."

Further review by the examiners showed that 5 of the 10 agents were never appointed with the company prior to May 8, 2008. The company indicated that, of the other 5 agents, 1 agent submitted 1 piece of business during the period of review. Of the remaining 7 agents, 2 agents were appointed for the casualty line only. One agent submitted one piece of business and the other agent submitted 9 pieces of business. The 10 pieces of business submitted required both a property and a casualty appointment. Section Ins 6.57 (1), Wis. Adm. Code, states, in part, that the submission of an application for an intermediary-agent appointment shall be submitted to the office of the commissioner of insurance and entered in the OCI licensing system in a format specified by the commissioner within 15 days after the earlier of the date the agent contract is executed or the first insurance application is submitted and shall show the lines of authority being requested for that agent. An appointment is valid only for the lines of insurance requested. Section Ins 6.57 (5), Wis. Adm. Code, states that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

**4. Recommendation:** It is recommended that the company improve its current program for maintaining intermediary-agent records and only accept business from properly licensed and appointed agents in order to comply with ss. Ins 6.57 (1) and (5), Wis. Adm. Code.

The examiners found 5 agents that OCI's records indicated were appointed with the company, but that were not included on the company's list of agents. The company was asked to verify their records and determine whether the agents were no longer appointed and, if not, that they provide documentation to support that the listings were terminated. The company responded that the agents should have been terminated with OCI in either 2006 or 2007 and were not terminated due to processing errors. Section Ins 6.57 (2), Wis. Adm. Code, states, in part, that notice of termination of appointment of individual intermediary in accordance with s. 628.11, Wis. Stat., shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance.

**5. Recommendation:** It is again recommended that the company file notices of termination of appointment of its agents prior to or within 30 days of termination with the commissioner in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found an additional five agents who no longer held active producer licenses which the company showed as active on their producer system. The company indicated one agent had transferred to another position within the company that did not require a license, one agent terminated her license voluntarily, and one agent was determined to be deceased. Two agents were identified as terminated by OCI. The company advised they were not notified of the terminations by OCI. OCI generates reports on a daily basis which provide notice to insurers of agents whose producer licenses have been placed in an inactive status. The reports are mailed to the Agent Licensing address provided to OCI by the company. The company failed to monitor OCI terminations and to terminate listings on its producer system accordingly.

In addition, the Producer Licensing Interrogatory number 29, asked the company to provide a detailed description of the company procedures for reconciling the Annual Billing statement sent to the company by OCI. The following was the company's response:

"We electronically compare our list of appointed agents to the list provided by the state. The state report lists all agents with an active appointment in WI for Allstate Insurance Company that will be renewed. Reports from SAP are then

run and compared electronically against the state report. We use the NPN (National producer number) for comparison. Anything that is a mismatch is researched to determine whether the producer should be renewed or terminated.”

However, the company failed to notice that these 10 agents did not appear on the 2006 and/or 2007 billings from OCI. As such, the company did not investigate the reason(s) the individuals were not included on the annual billing and did not promptly terminate the agent. Section Ins 6.57 (2), Wis. Adm. Code, states, in part, that notice of termination of appointment of individual intermediary in accordance with s. 628.11, Wis. Stat., shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Termination date means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent’s authority to represent the company in any capacity.

**6. Recommendation:** In order to ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company monitor OCI termination reports received and carefully review and compare the Annual Renewal Billing sent by OCI to the company’s records, promptly initiate an investigation into the reason(s) an agent does not appear on the Annual Renewal billing when the company shows as an active agent appointed to represent the company and take the appropriate action to rectify the situation.

The examiners were provided with a copy of a sample termination letter. The sample termination letter did not advise the agent that he or she was no longer appointed, that he or she may not act as its representative, and did not include a formal demand for the return of all indicia. Also, the Producer Licensing Interrogatory number 23, asks the company to ‘Describe the company’s procedures for providing all terminated Wisconsin agents with written notice of termination as required by s. Ins 6.57 (2), Wis. Adm. Code and s. 628.40, Wis. Stat.’. The company advised the examiners that it provides written notice to an agent when his or her contract is terminated involuntarily, but does not provide written notice when an agent requests a voluntarily termination of the contract. Section Ins. 6.57, (2), Wis. Adm. Code, states, in part, that prior to or within 15 days of filing a termination notice, the insurer shall provide the agent

written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. The notice shall also include a formal demand for the return of all indicia of agency.

**7. Recommendation:** It is recommended that the company provide all terminated agents, including agents that terminate their employment voluntarily, written notice of termination which includes language that the agent is no longer appointed as a representative of the company, that he or she may not act as its representative, and a request for return of all indicia in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

It was found the company had received a minimum of 81 applications from at least 17 non-appointed agents. The company could not clearly or completely determine the status of their agents and the number of applications they accepted from the non-appointed agents. Section Ins 6.57 (5) Wis. Adm. Code, states that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent listed with that insurer.

**8. Recommendation:** It is recommended that the company not accept business from agents unless the agents are duly listed with the company in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.

## **Underwriting**

The examiners reviewed 200 underwriting termination files; 100 private passenger automobile and 100 homeowner's files. Also, a review of the interrogatory responses was completed. The following exceptions were noted.

The examiners found the company's rules provide that a refund for a misquoted premium is calculated based on the issued/revised premium rather than the misquoted premium regardless of whether the agent is responsible for the misquote. Section 628.34 (1), Wis. Stat., states, in part, that no person who is or should be licensed under chs. 600 to 646 may make or cause to be made any communication relating to an insurance contract which contains false or misleading communication. It is misleading and a misrepresentation to misquote a premium and the insurance company may not profit by it or its agents' errors.

**9. Recommendation:** It is recommended the company develop and implement a procedure to investigate allegations of agents' misquotes, for those final quotes where coverage was bound and are maintained by the company and, if the misquotes are found to be due to its agents' errors, calculate refunds prorata based on the misquoted premium rather than the correct premium in order to comply with s. 628.34 (1), Wis. Stat.

The examiners found the company has cancellation and rejection insert reasons that state, 'There is an operator named on the policy who is over age...' and 'There is an operator in the household under the age...' Section 632.35, Wis. Stat. states, in part, that no insurer may cancel or refuse to issue or renew an automobile insurance policy wholly or partially because of any person's age. Also, s. Ins 6.54 (3) (a) 4, Wis. Adm. Code, states, in part, that no insurance company shall refuse, cancel or deny insurance to a class of risks solely on the basis of the applicant's or insured's age. The company advised that these insert reasons are not being used in Wisconsin and that the reasons will be removed from the system.

**10. Recommendation:** It is recommended the company remove the termination insert reasons that state, 'There is an operator named on the policy who is over age...' and 'There is an operator in the household under the age ...', from the system as it applies in Wisconsin in order to comply with ss. 632.35, Wis. Stat. and Ins 6.54 (3) (a) 4, Wis. Adm. Code.

The examiners found the company has a cancellation insert reason that states, 'A named driver exclusion is needed on {operator}...', Section 632.32 (3) (a), Wis. Stat., provides, in part, that coverage provided to the named insured applies in the same manner and under the same provisions to any person using any motor vehicle described in the policy when the use is for purposes and in the manner described in the policy. The company advised this insert reason is not being used in Wisconsin and that the reason will be removed from the system.

**11. Recommendation:** It is recommended the company remove the termination insert reason that states, 'A named driver exclusion is needed on {operator}...', from their company system as it applies to Wisconsin in order to comply with s. 632.32 (3) (a), Wis. Stat.

## **Market Conduct Annual Statement**

In the course of the examination, the examiners were advised by the company that its private passenger automobile and homeowners books of business were closed blocks of

business in Wisconsin. Furthermore, the company advised that it had not written any new business private passenger automobile policies or homeowners policies in the state of Wisconsin since June 18, 2001 and June 25, 2001, respectively.

Wisconsin participates in the NAIC's Market Conduct Annual Statement (MCAS). The company meets the minimum premium reporting threshold for both private passenger automobile and homeowners insurance and is therefore required to file a MCAS in Wisconsin. The examiners reviewed the company's MCAS filings for the years 2003 through 2008 and found that the company reported the following number of new business policies were written during the reporting year:

Year	Private Passenger Automobile	Homeowners
2003	4,997	13
2004	0	923
2005	0	1,047
2006	0	774
2007	0	603
2008	10	434

The MCAS defines a new business policy as a newly written agreement that puts insurance coverage into effect during the reporting period, excluding any 're-written' policies unless there was a lapse in coverage.

Beginning in 2007, the MCAS requires that an officer of the company submitting the filing certify that he or she is knowledgeable of the information required to be provided in the MCAS and that to the best of his or her knowledge and belief, this filing, along with any necessary related exhibits, schedules, and explanations contained in, annexed or referred to therein, represent a full and accurate statement of the information required in accordance with the filing instructions. The required certification of accuracy, signed by an officer of the company, was included with both the 2007 and 2008 MCAS filings made by the company.

Section 628.34 (1) (a), Wis. Stat., provides that:

"No person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of

a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness. Filing a report and, with intent to deceive a person examining it, making a false entry in a record or willfully refraining from making a proper entry, are "communications" within the meaning of this paragraph."

**12. Recommendation:** It is recommended the company develop, document and implement procedures to accurately report to the Commissioner required information about the company's business in Wisconsin, including but not limited to the information provided in the Market Conduct Annual Statement, in order to avoid making misrepresentations to the Commissioner and violating s. 628.34 (1) (a), Wis. Stat.

## V. CONCLUSION

A total of 12 recommendations were made as a result of this targeted compliance market conduct examination relating to the company's need to modify its claims adjustment practices; underwriting procedures; producer licensing auditing and reporting and policy forms filing submissions and practices. Of these 12 recommendations, 1 was a repeat recommendation.

The company needs to adequately document its claims files to include all communications with claimants.

The company needs to discontinue use of form AU3055-1 Blank Endorsement. Also, the company must amend its Renewal Offer Guarantee Endorsement by not excluding drivers.

The company must improve its current program for maintaining producer records, ensuring that all appointments and terminations are reported properly and promptly to OCI and within the company's own producer system, and accept business only from properly licensed and appointed agents. Also, the company must provide proper termination notices to its agents, including a request for a return of indicia and notice that the agent is no longer appointed as its agent and can no longer act as the company's representative. In addition, the company must provide prompt notice to OCI of agent terminations. The company also needs to monitor agent terminations reported to it by OCI and monitor its Annual Renewal Billing, making any necessary changes or filings to ensure its producer system accurately reflects agents who are properly licensed and appointed with it.

The company must revise its method for calculating premium refunds in the case of misquotes by it or its agents. The company must also remove the termination insert reasons from their system as it applies in Wisconsin insureds which refer to the age of an operator or driver exclusionary language.

The company must develop and implement procedures to ensure it provides accurate information requested by OCI, including but not limited to, information provided in the Market Conduct Annual Statement. It should be noted that the company did not respond promptly to

standard market conduct examination requests. Company representatives assigned to work on market conduct examinations appear to need additional instruction and preparation.

## VI. SUMMARY OF RECOMMENDATIONS

### CLAIMS

- Page 10 1. It is recommended that the company document all communications with claimants in order to document its compliance with s. Ins 6.11 (3) (a) 1, Wis. Adm. Code

### POLICY FORMS

- Page 12 2. It is recommended the company discontinue use of form AU3055-1 Blank Endorsement in order to avoid possible inclusion of language that would violation Wisconsin insurance laws or rules and ultimately violate s. 631.20 (2) (d), Wis. Stat.
- Page 12 3. It is recommended the company revise its Renewal Offer Guarantee Endorsement, form AU10802, by not excluding drivers added after the endorsement has been made a part of the policy in order to comply with s. 632.32 (3) (a), Wis. Stat.

### PRODUCER LICENSING

- Page 13 4. It is recommended that the company improve its current program for maintaining intermediary-agent records and only accept business from properly licensed and appointed agents in order to comply with to ss. Ins 6.57 (1) and (5), Wis. Adm. Code.
- Page 14 5. It is again recommended that the company file notices of termination of appointment of its agents prior to or within 30 days of termination with the commissioner in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 15 6. In order to ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company monitor OCI termination reports received and carefully review and compare the Annual Renewal Billing sent by OCI to the company's records, promptly initiate an investigation into the reason(s) an agent does not appear on the Annual Renewal billing when the company shows as an active agent appointed to represent the company and take the appropriate action to rectify the situation.
- Page 16 7. It is recommended that the company provide all terminated agents, including agents that terminate their employment voluntarily, written notice of termination which includes language that the agent is no longer appointed as a representative of the company, that he or she may not act as its representative, and a request for return of all indicia in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 16 8. It is recommended that the company not accept business from agents unless the agents are duly listed with the company in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.

## UNDERWRITING

- Page 17 9. It is recommended the company develop and implement a procedure to investigate allegations of agents' misquotes, for those final quotes where coverage was bound and are maintained by the company and, if the misquotes are found to be due to its agents' errors, calculate refunds prorata based on the misquoted premium rather than the correct premium in order to comply with s. 628.34 (1), Wis. Stat.
- Page 17 10. It is recommended the company remove the termination insert reasons that state, 'There is an operator named on the policy who is over age...' and 'There is an operator in the household under the age ...', from the system as it applies in Wisconsin in order to comply with ss. 632.35, Wis. Stat. and Ins 6.54 (3) (a) 4, Wis. Adm. Code.
- Page 17 11. It is recommended the company remove the termination insert reason that states, 'A named driver exclusion is needed on {operator}...', from their company system as it applies to Wisconsin in order to comply with s. 632.32 (3) (a), Wis. Stat.

## MARKET CONDUCT ANNUAL STATEMENT

- Page 19 12. It is recommended the company develop, document and implement procedures to accurately report to the Commissioner required information about the company's business in Wisconsin, including but not limited to the information provided in the Market Conduct Annual Statement, in order to avoid making misrepresentations to the Commissioner and violating s. 628.34 (1) (a), Wis. Stat.

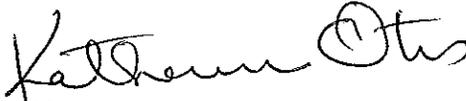
## VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

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Respectfully submitted,



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Examiner-in-Charge