

**PROCEEDING BEFORE THE HONORABLE MICHAEL D. RILEY
INSURANCE COMMISSIONER OF THE
STATE OF WEST VIRGINIA**

**IN RE:
BRICKSTREET MUTUAL INSURANCE COMPANY
ADMINISTRATIVE PROCEEDING
14-MAP-02002**

**AGREED ORDER ADOPTING REPORT OF
MARKET CONDUCT EXAMINATION, DIRECTING
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, The Honorable Michael D. Riley, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the comprehensive examination of BrickStreet Mutual Insurance Company (hereinafter BrickStreet) for the examination period ending December 31, 2013 based upon the following findings, to wit:

PARTIES

1. Michael D. Riley, is the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 23 and Chapter 33 of the West Virginia Code of 1931, as amended.

2. BrickStreet is a domestic private workers' compensation carrier, domiciled in West Virginia authorized by the Insurance Commissioner to transact business in the State of West Virginia as permitted and authorized under Chapter 23 and Chapter 33.

3. This Market Conduct Examination was instituted pursuant to W. Va. Code §33-2-9 which requires the Insurance Commissioner to periodically examine each West Virginia domestic insurance company. The conclusions and findings of this examination are public record.

FINDINGS OF FACT

1. The Market Conduct Examination was a comprehensive examination focusing on the methods used by the company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how BrickStreet communicates its instructions and intentions to its staff, how they measure and monitor the results of those communications, and how they react to and modify their communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. The examination was conducted in accordance with W. Va. Code §33-2-9(c) by examiners duly appointed by the Offices of the West Virginia Insurance Commissioner.

2. Examination fieldwork began on March 17, 2014 and concluded on June 27, 2014. A total of sixty-two (62) standards were tested during this examination. BrickStreet was found to be compliant with fifty-one (51) Standards, predominantly compliant with eight (8) Standards and non-compliant with two (2) Standards. One (1) Standard was not applicable. (Standard F16: there were no calls during the examination period to verify the regulated entity's data provided in response to NCCI call on deductibles.)

3. The Market Conduct Examination revealed non-compliance with the following standards: (A) in some sampled cases BrickStreet either did not obtain or did not document the relevant wage information that the employer is required to provide for calculating indemnity payments (Standard G6), W. Va. Code §23-4-1 et

seq. and W. Va. Code R. §85-1-3.2; and (B) in some sampled cases BrickStreet did not timely provide information to the Insurance Commissioner as required by the Insurance Commissioner's Electronic Data Interchange Implementation Guide (Standard G14), W. Va. Code §23-2C-5(c)(8) and W. Va. Code R. §85-2-1 et. seq.

4. The Market Conduct Examination also revealed predominant compliance with the following standards: (A) on five (5) occasions, BrickStreet did not appoint a producer within fifteen (15) days of the submitted application as required by W. Va. Code §33-12-18, and in one (1) instance, BrickStreet's records listed an unlicensed individual as having prepared a quote, which would not have complied with W. Va. Code §§33-12-3 and 33-12-18 and W. Va. Code R. §114-2-1 et seq. (Standard D2); and (B) on one (1) occasion, BrickStreet did not timely comply with an Office of Judges Order (Standard G11a), W. Va. Code R. §85-1-10.7. Other predominantly compliant areas as set forth in the Report of Market Conduct Examination are incorporated herein by reference.

5. On or about September 23, 2014, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code §33-2-9, a Report of Market Conduct Examination.

6. A true copy of the Report of Market Conduct Examination (attached hereto as Exhibit A) was hand delivered to BrickStreet on October 8, 2014.

7. BrickStreet was notified that, pursuant to W. Va. Code §33-2-9(j)(2), it had thirty (30) days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

8. On or about October 30, 2014, BrickStreet responded to the Report of Market Conduct Examination. In that response, a copy of which is attached hereto as Exhibit B, BrickStreet did not dispute the facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination. BrickStreet has elected to enter into this Agreed Order;

however, it does not admit any factual or legal determination made by the Insurance Commissioner or any violation of Chapters 23 or 33 of the West Virginia Code or Titles 85 or 114 of the West Virginia Code of State Rules.

9. BrickStreet waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

10. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such and incorporated in the next section.

CONCLUSIONS OF LAW

1. The Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with W. Va. Code §33-2-9.

3. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by BrickStreet as well as all other provisions of regulation that the company is subjected to by virtue of its Certificate of Authority to operate in the State of West Virginia.

4. BrickStreet did not meet the required standards in certain areas of the Market Conduct Examination as set forth in the Findings of Fact above and in the Report of Market Conduct Examination. As a result, the Insurance Commissioner can assess penalties pursuant to West Virginia Code.

ORDER

Pursuant to W. Va. Code §33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and the response of BrickStreet thereto, the Insurance Commissioner and BrickStreet have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination.

By entering into this Agreed Order, BrickStreet does not admit any factual or legal determinations made by the Insurance Commissioner; does not admit to any violation of Chapter 23 or 33 of the West Virginia Code or Title 85 or 114 of the West Virginia Code of State Rules; and reserves all rights and defenses regarding liability or responsibility in any proceeding against BrickStreet other than proceedings, administrative or civil, to enforce this Order.

The Parties have further agreed to the imposition of an administrative penalty against BrickStreet as set forth below.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of BrickStreet for the period ending December 31, 2013 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is **ORDERED** that BrickStreet will comply with the Statutes, Rules and Regulations of the State of West Virginia concerning any business so handled in this State and more specifically the provisions enumerated herein this Order and in the adopted Report of Market Conduct Examination;

(C) It is further **ORDERED** that BrickStreet shall continue to monitor its compliance with W. Va. Code §§23-4-1 et seq. and 23-2C-5(c)(8) and W. Va. Code R. §§85-1-3.2 and 85-2-1 et. seq.

(D) It is further **ORDERED** that within thirty (30) days after the next regularly scheduled meeting of its Board of Directors, BrickStreet shall file with the West Virginia Insurance Commissioner, in accordance with W. Va. Code §33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this **AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY;**

(E) It is further **ORDERED** that BrickStreet **SHALL FILE** a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail BrickStreet changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiners and address all non-compliant and predominantly compliant areas specifically cited in the Report of Market Conduct Examination. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. BrickStreet shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to BrickStreet if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan.

(F) It is further **ORDERED** that BrickStreet shall ensure compliance with the West Virginia Code and the Code of State Rules. BrickStreet shall specifically cure, on a prospective basis, those non-compliant and predominantly compliant areas identified in the Report of Market Conduct Examination; and shall henceforth ensure that it maintains documentation of its requests for the proper wage information from the employer or employers, whichever is applicable, in order to determine the rate of benefits to which the employee is entitled. The request for information shall include a request for the daily rate of pay and the preceding four quarters of wages pursuant to W. Va. Code §23-4-14.

(G) The Insurance Commissioner has determined and it has been **ORDERED** that BrickStreet shall pay an administrative penalty to the State of West Virginia in the amount of Thirty Thousand Dollars (\$30,000.00) for non-compliance with the West Virginia Code as described herein. The payment of this administrative penalty is

in lieu of any other regulatory penalty or remedy, and is due within THIRTY (30) calendar days upon execution of this order.

(H) It is finally **ORDERED** that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the Parties regarding implementation or further action taken on such Order by the Commissioner against BrickStreet.

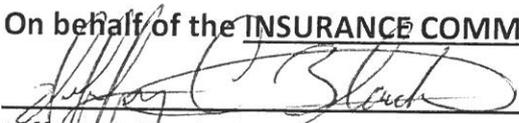
Entered this 20th day of November, 2014.



The Honorable Michael D. Riley
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the INSURANCE COMMISSIONER:



Jeffrey C. Black, Attorney Supervisor
Regulatory Compliance and Enforcement

Dated: 11/18/14

On Behalf of BrickStreet Mutual Insurance Company:

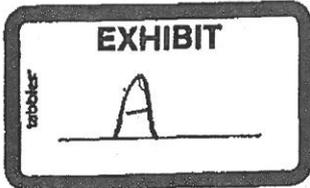
By: Gregory A. Burton

Print Name

Its: President and CEO

Signature: 

Date: November 17, 2014



Report of Market Conduct Examination

As of December 31, 2013



BRICKSTREET MUTUAL INSURANCE COMPANY

400 Quarrier St
Charleston, WV 25301

NAIC COMPANY CODE 12372
Examination Number WV014-M41

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September 23, 2014

The Honorable Michael D. Riley
West Virginia Insurance Commissioner
1124 Smith Street
Charleston, West Virginia 25301

Dear Commissioner Riley:

Pursuant to your instructions and in accordance with W.Va. Code §33-2-9, an examination has been made as of December 31, 2013 of the business affairs of

BRICKSTREET MUTUAL INSURANCE COMPANY
400 Quarrier St
Charleston, WV 25339

hereinafter referred to as the "Company" or "BSMIC". The following report of the findings of this examination is herewith respectfully submitted.

EXECUTIVE SUMMARY

This Examination is the second Market Conduct Examination of BrickStreet Mutual Insurance Company (Company) by the State of West Virginia. The first Market Conduct Examination covered the one (1) year period ending December 31, 2007. A principal purpose of the Market Conduct Examination described within this report was to determine if the Company complied with the recommendations as outlined in the previous report. This second examination covered the period following the opening of the West Virginia workers' compensation market to competition from other licensed insurance companies on July 1, 2008 and the commencement effective January 1, 2009 of the West Virginia Assigned Risk Plan and the Company's ability to decline to offer coverage. While all statutes and regulations must be followed, the corrective action required to address issues raised in this report will depend on the severity of the non-compliant issues noted in this report. Currently, as opposed to the period covered by the prior examination, policyholders have a choice in their selection of a carrier. The examination fieldwork began March 17, 2014 and concluded on June 27, 2014. Sixty-two (62) Standards were selected for review. The Company was found to be compliant with fifty-one (51) Standards, predominantly compliant with eight (8) Standards and non-compliant with two (2) Standards. One (1) Standard was not applicable. (Standard F16: There were no calls during the examination period to verify the regulated entity's data provided in response to NCCI call on deductibles.)

The major areas of concern are listed below:

- The Company did not adequately obtain or document that the Company reviewed and considered all required wage information when computing the value of Indemnity benefits (Standard G6)
- Submission of loss statistical coding to EDI (Standard G14)

There are other recommendations in areas where BrickStreet was determined to be *Predominantly Compliant*, yet not 100% compliant. These standards include D2, F1, F8, F18, F25, G3, G9, and G11a.

This examination was conducted in coordination with a Financial Examination undertaken by the same vendor. The Examination Report for the Financial Examination was issued on March 14, 2014. The Financial examiners reviewed several areas to be reviewed during this examination. In an effort to reduce duplication of effort, results from that examination were utilized and are noted on those standards. (Standards A1, 2, 4, 5, 6, 8, 11, 12, 15, 16 and 17. The Financial Examination indicated no exceptions on these standards.)

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Various non-compliant practices were identified, some of which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS

The West Virginia Offices of the Insurance Commissioner (WVOIC) previously conducted a comprehensive Market Conduct Examination of the Company as of December 31, 2007 pursuant to the statutory obligation of the Commissioner's Office to periodically examine West Virginia domestic insurance companies. Business areas reviewed and tested included Company Operations & Management, Complaint Handling, Marketing & Sales, Producer Licensing, Policyholder Services, Underwriting, and Claims.

The report issued following the previous Market Conduct Examination contained thirty-two (32) Recommendations – nine (9) in Underwriting & Rating, seven (7) in Claims, six (6) in Operations & Management, one (1) in Marketing & Sales, and three (3) each in Complaint Handling, Producer Licensing, and Policyholder Services. The Company has substantially complied with the recommendations issued following the previous Market Conduct Examination. The examiners note that although the previous examination report included a recommendation for Standard G6 which is characterized as "non-compliant" in the current report, the current deficiencies and recommendations are unrelated to the prior recommendation.

SCOPE OF EXAMINATION

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

- Company Operations and Management
- Complaint Handling
- Marketing and Sales
- Producer Licensing
- Policyholder Service
- Underwriting and Rating
- Claims

Each business area has standards that the examination measured. Some standards have specific statutory guidance, others have specific company guidelines, and yet others have contractual guidelines.

The focus of the examination was on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions to its staff, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas are tested to see if the Company is in compliance with West Virginia statutes and rules. The examiners may not have discovered every unacceptable or non-compliant activity in which the Company is engaged. The failure to identify or comment on, or criticize specific company practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its designee.

HISTORY AND PROFILE

In accordance with Senate Bill 1004, the West Virginia Employers' Mutual Insurance Company, hereinafter referred to as the "Company" was incorporated on March 9, 2005. The bill privatized the former state-run monopolistic workers' compensation commission. The Company adopted BrickStreet Mutual Insurance Company (BMIC) as its trade name effective September 2, 2005 and then changed its legal name from the West Virginia Employers' Mutual Insurance Company to BrickStreet Mutual Insurance Company effective March 18, 2010. The Company is a mutual company owned by its policyholders and commenced issuing new business as the state's first private workers' compensation carrier on January 1, 2006.

Between January 1, 2006 and July 1, 2008 the Company was the sole provider for workers' compensation insurance in the state. The Company was required to accept all employers who sought coverage and had the ability to pay the assessed premiums. When the Company privatized, it was issued a Surplus Note from the State of West Virginia. In compliance with the contractual arrangements of that Note, the Company was not to provide any other kind of insurance other than (a) insurance for employers against liability for injuries and occupation diseases for which their employees may be entitled to benefits under Chapter twenty-three (23) of the West Virginia Code or similar statutes in other states, (b) coal workers' pneumoconiosis coverage, including coverage required by Title IV of the Federal Coal Mine Health & Safety Act of 1969; and (c) employers' excess liability coverage. As of July 1, 2008, the market in West Virginia opened to full competition among all private carriers licensed to write workers' compensation insurance.

Beginning in 2009, the Company expanded into other states. As of December 31, 2013, the Company is licensed to write insurance in thirteen (13) jurisdictions (Alabama, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia) and as of December 31, 2013 was writing in seven (7) jurisdictions (Illinois, Indiana, Kentucky, North Carolina, Pennsylvania, Virginia and West Virginia).

On March 29, 2012, BrickStreet acquired a wholly owned subsidiary, PennCommonwealth Casualty of America Corporation (PennCommonwealth). After the acquisition, PennCommonwealth was renamed NorthStone Insurance Company (NorthStone). NorthStone is a mono-line workers' compensation carrier domiciled in the Commonwealth of Pennsylvania. On January 15, 2013, the West Virginia Secretary of State certified BrickStreet's incorporation of two (2) new wholly owned subsidiaries SummitPoint Insurance Company (SummitPoint) and PinnaclePoint Insurance Company (PinnaclePoint). These subsidiaries are mono-line workers' compensation carriers domiciled in the state of West Virginia.

The Company's 2013 market share in West Virginia was 58.8%.

METHODOLOGY

The examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and West Virginia's applicable statutes and regulations. The examiners conducted file reviews and interviews of company management. This examination report is a report by test, rather than a report by exception, and all standards tested are described and the results indicated.

Tests designed to measure the level of compliance with West Virginia's statutes, rules and regulations were applied to the files. All tests are described and the results displayed in this report.

In the results tables a "pass" response indicates compliance and a "fail" response indicates a failure to comply for each individual file reviewed. The results of each test applied to a sample are reported separately.

The examiners used the NAIC standards of 7% error ratio on claims tests (93% compliance rate) and 10% error ratio on all other tests (90% compliance rate) to determine whether or not an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test. Except as otherwise noted, all samples were generated via an Audit Command Language (ACL™) with a random sample taken from a given population.

A. COMPANY OPERATIONS/MANAGEMENT

The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the Examination is designed to provide a view of what the Company is and how it operates and is not based on sampling techniques, but rather the Company's structure. This review is not intended to duplicate a financial examination review but is important in establishing an understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address the problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company-to-company, the absence of them or the ineffective application of them is often reflected in failure of the various standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives, and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

Standard A1: The regulated entity has an up-to-date, valid internal or external audit program. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 1)

Test Methodology:

- Does the Company have an internal and external audit program to detect structural problems before they occur? [W. Va. Code §33-33-1, 3 & 4]

Examiner Observations: In addition to the review conducted during the Financial Examination, this standard was reviewed during this Market Conduct Examination primarily to determine if there were any areas subject to such audits that warranted additional scrutiny. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A3: The regulated entity has anti-fraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 3)

Test Methodology:

- Does the Company have any procedural manuals or guides and antifraud plans?
- Does the Company report fraudulent activities of which it becomes aware? [W. Va. Code §33-41-5]

Examiner Observations: The Company has procedural manuals and guides and an antifraud plan in place and reports fraudulent activities as required.

Examiner Recommendations: None

Results: Compliant

Standard A4: The regulated entity has a valid disaster recovery plan. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 4)

Test Methodology:

- Does the Company have a disaster recovery plan that will detail procedures for continuing operations in the event of any type of disaster? [no statutory requirement]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A5: 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. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 5)

Test Methodology:

- Does the Company specify the responsibilities of all subcontractors that it uses? [W. Va. Code §§33-37-3 and 33-46-3]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A6: 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. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 6)

Test Methodology:

- Does the Company properly review subcontractor contracts and activities for compliance with applicable rules and regulations? [no statutory requirement]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A7: Records are adequate, accessible, consistent, and orderly and comply with state record retention. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 7)

Test Methodology:

- Are the records adequate and accessible? [W. Va. Code §33-2-9 and W. Va. Code R. §114-15-1 et seq.]

Examiner Observations: Records reviewed (i.e. policy files, claim files) during this examination were adequate, accessible and consistent.

Examiner Recommendations: None

Results: Compliant

Standard A8: The regulated entity is licensed for the lines of business that are being written. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 8)

Test Methodology:

- Are the Company's operations in conformance with the Company's certificate of authority? [W. Va. Code §33-1-10]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A9: The regulated entity cooperates on a timely basis with examiners performing the examinations. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 9)

Test Methodology:

- Did the Company provide records in a timely basis? [W. Va. Code §33-2-9 and W. Va. Code R. §114-15-4.9a]

Examiner Observations: The Company's representatives cooperated timely during the examination. The Company responded to all requests for information within the timeframes required by W. Va. Code R. §114-15-4.9a.

Examiner Recommendations: None

Results: Compliant

Standard A11: The regulated entity has developed and implemented written policies, standards, and procedures for the management of insurance information. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 11)

Test Methodology:

- Does the Company provide adequate protection of Insurance information it holds concerning its policyholders and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12); W. Va. Code R. §114-57-1 et seq.; W. Va. Code R. §114-62-1 et seq.; W. Va. Code §23-1-4 and W. Va. Code §23-4-7]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A12: The regulated entity has policies and procedures to protect the privacy of non-public personal information relating to its customers, former customers, and consumers that are not customers. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 12)

Test Methodology:

- Does the Company provide adequate protection of personal information it holds concerning its policyholders and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12); W. Va. Code R. §114-57-1 et seq.; W. Va. Code R. §114-62-1 et seq.; W. Va. Code §23-1-4 and W. Va. Code §23-4-7]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A13: The regulated entity provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding the treatment of non-public personal financial information. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 13)

Test Methodology:

- Does the Company provide adequate protection of financial information it holds concerning its policyholders and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12) and W. Va. Code R. §114-57-1 et seq.]

Examiner Observations: This Standard was reviewed during the Market Conduct Examination and indirectly reviewed during the Financial Examination that was completed on March 14, 2014. The Company has adequate protections and safeguards. They have a Privacy Policy and Personal Information Guidelines, along with procedures for dealing with consumers who are not customers. In addition, the Company provides such notices electronically via its website. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A15: The regulated entity's use and disclosure of non-public personal financial information are in compliance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 15)

Test Methodology:

- Does the Company properly use and disclose financial information it holds concerning its policyholders and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12); W. Va. Code R. §114-57-1 et seq.; W. Va. Code §§23-1-4 and 23-4-7]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A16: The Company has policies and procedures in place so that non-public 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. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 16)

Test Methodology:

- Does the Company maintain confidentiality of health information it holds concerning its policyholders and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12); W. Va. Code R. §114-57-1 et seq.; W. Va. Code §§23-1-4 and 23-4-7]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Standard A17: Each licensee shall implement a comprehensive written information security program for the protection of non-public customer information. (2013 NAIC Market Regulation Handbook Chapter 16, § A Standard 17)

Test Methodology:

- Does the Company maintain information it holds concerning its policyholders in a secure manner, and minimize any improper intrusion into the privacy of applicants and policyholders? [W. Va. Code §33-11-4(12) and W. Va. Code R. §114-62-1 et seq.]

Examiner Observations: This Standard was reviewed during the Financial Examination completed on March 14, 2014. No exceptions were noted.

Examiner Recommendations: None.

Results: Compliant

B. COMPLAINT HANDLING

Evaluations of the standards in this business area are based on Company responses to various information requests and the review of complaint files at the Company. In this business area, "complaints" include "grievances." W.Va. Code §33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its last examination." The statute also requires that, "This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint," the definition of a complaint is, "...any written communication primarily expressing a grievance." A random number generator in Excel was used to make the sample selection from the general population.

Standard B1: All complaints are recorded in the required format on the regulated entity's complaint register. (2013 NAIC Market Regulation Handbook Chapter 16, § B Standard 1)

Test Methodology:

- Is the Company recording all complaints received directly from the consumer as well as the Commissioner's Office?
- Is the Company recording all complaints in a regulated complaint register? [W. Va. Code §33-11-4(10) and W. Va. Code R. §114-15-4.6]

Examiner Observations: The Company kept a log of all complaints. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table B1 Results: Complaints Recorded Sample

Type	Population	Sample	Pass	Fall	Standard	Compliance
Complaints	575	84	84	0	90%	100%

Standard B2: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders. (2013 NAIC Market Regulation Handbook Chapter 16, § B Standard 2)

Test Methodology:

- Does the Company have complaint procedures in place, and are they sufficient to satisfactorily handle complaints?
- Does the Company have procedures in place to track responses to complaints? [W. Va. Code §33-11-4(10)]

Examiner Observations: The Company has adequate complaint handling and tracking procedures and they satisfactorily tracked responses for all the complaints in the sample.

Examiner Recommendations: None

Results: Compliant

Standard B3: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules, and regulations and contract language. (2013 NAIC Market Regulation Handbook Chapter 16, § B Standard 3)

Test Methodology:

- Does the Company properly and promptly resolve complaints? [W. Va. Code §33-11-4(10), W. Va. Code R. §§114-15-4.6 and 85-1-16]
- Did the company respond to all issues or concerns raised in the complaint?
- Is the Company maintaining adequate documentation of complaints?

Examiner Observations: Complaints were promptly and properly resolved in accordance with the applicable statutes, rules, and regulations and contract language. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table B3 Results: Complaints Finalized Sample

Type	Population	Sample	Pass	Fail	Standard	Compliance
Complaints	575	84	84	0	90%	100%

Standard B4: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § B Standard 4)

Test Methodology:

- Is the Company responding to complaints in a timely manner? [W. Va. Code R. §§114-14-5.2 and 85-1-16]

Examiner Observations: The Company responded to all complaints in the sample within the required timeframe.

Examiner Recommendations: None

Results: Compliant

Table B4 Results: Complaint Responses Sample

Type	Population	Sample	Pass	Fail	Standard	Compliance
Complaints	575	84	84	0	90%	100%

C. MARKETING & SALES

The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the examination is designed to evaluate the representations made by the Company about its products. It is not typically based on sampling techniques, but can be. The areas to be considered in this kind of review include all media, written and verbal advertising and sales material.

Standard C1: All advertising and sales materials are in compliance with applicable statutes, rules and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § C Standard 1)

Test Methodology:

- Are all advertising materials in conformity with the Company's policy forms, and in compliance with applicable statutes, rules and regulations? [W. Va. Code §33-11-4]
- Does the Company approve producer sales materials and advertising? [W. Va. Code §33-11-4 and W. Va. Code R. §114-9-1 et seq.]

Examiner Observations: A list of Advertising, Marketing and Sales materials in use during the experience period was received and reviewed. These consisted of Annual Reports, Magazines, Print Ads, Informational Cards and Brochures, Conferences and Training Sessions, Insights (Company Newsletter), PowerPoints, Posters, TV, Video & Radio and Miscellaneous Collaterals. Many of these were continuous releases with only minor changes. Recent samples from each category were selected and reviewed. The Company approves such material. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table C1 Results: Advertising and Sales Material

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Advertising and Sales Material	1,357	8	0	8	0	90%	100%

Standard C2: Regulated entity internal producer training materials are in compliance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § C Standard 2)

Test Methodology:

- Are all producer training materials in compliance with state statutes, rules and regulations? [W. Va. Code §§33-11-2 and 33-11-4]
- Are there any references to employing unfair discriminations tactics or avoiding statutory compliance? [W. Va. Code §33-11-4]

Examiner Observations: Training materials were reviewed and no exceptions or references to employing unfair discrimination tactics or avoiding statutory compliance were noted.

Examiner Recommendations: None

Results: Compliant

Table C2 Results: Internal Producer Training Material

Type	Population	Sample	N/A	Pass	Fall	Standard	Compliance
Internal Producer Training Material	1	1	0	1	0	90%	100%

Standard C3: Regulated entity communications to producers are in compliance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § C Standard 3)

Test Methodology:

- Is the Company in compliance with the prohibitions on misrepresentations? [W. Va. Code §33-11-4(1)]
- Is it concerned with representations made by the Company to its producers other than in a training mode?

Examiner Observations: In addition to Advertising, Marketing and Sales materials, communications between the Company and its producers were also reviewed during the Underwriting and Rating review. No misrepresentations were noted.

Examiner Recommendations: None

Results: Compliant

D. PRODUCER LICENSING

The evaluation of standards is based on a review of WVOIC records and Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the examination is designed to test the Company's compliance with West Virginia producer licensing laws and rules. Samples were taken from the population of New Business applications (both accepted and declined), Renewal policies and Terminated Agents. A random number generator in Excel was used to make the sample selection. Two policies in the New Business sample and one in the Renewal sample noted as N/A's were Direct Writes. The twenty-three (23) agents in the Terminated Agents sample noted as N/A's were not West Virginia agents.

Standard D1: Regulated entity records of licensed and appointed (if applicable) producers agree with insurance department records. (2013 NAIC Market Regulation Handbook Chapter 16, § D Standard 1)

Test Methodology:

- Are the agents properly licensed? [W. Va. Code §33-12-3(a), (b) and (c) and 33-12-18 and W. Va. Code R. §114-2-1 et seq.]
- Are the agents properly appointed? [W. Va. Code §33-12-3(d) and W. Va. Code R. §114-2-1 et seq.]

Examiner Observations: The Company's records of licensed and appointed producers agreed with the insurance department records.

Examiner Recommendations: None

Results: Compliant

Standard D2: The producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken. (2013 NAIC Market Regulation Handbook Chapter 16, § D Standard 2)

Test Methodology:

- Are the producers properly licensed and appointed for business solicited in West Virginia? [W. Va. Code §33-12-3 and 33-12-18 & W. Va. Code R. §114-2-1 et seq.]
- Does the Company appoint the producer within fifteen (15) days of the date the producer submits their first application to the Company? [W. Va. Code §33-12-18(b)]

Examiner Observations: The Company on five (5) occasions did not appoint a producer within fifteen (15) days of the submitted application as required by W. Va. Code §33-12-18(b). In one (1) instance the Company listed the customer service representative (CSR) for a licensed and appointed producer as the preparer of a quote issued by the Company when the CSR was neither licensed nor appointed as required by W. Va. Code §33-12-3 and 33-12-18, and W. Va. Code R. §114-2-1 et seq. The Company agrees with these findings.

Examiner Recommendations: The Company should adopt and implement procedures to ensure that producers are properly licensed and appointed within fifteen (15) days of acceptance of any application.

Results: Predominantly Compliant

Table D2 Results: Producer Records Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	2	52	4	90%	93%
Renewal policies	81,213	58	1	57	0	90%	100%
Declined policies	1,123	113	0	111	2	90%	99%
Totals	88,058	229	3	220	6	90%	97%

Standard D3: Termination of producers complies with applicable standards, rules, and regulations regarding notification to the producer and notification to the state, if applicable. (2013 NAIC Market Regulation Handbook Chapter 16, § D Standard 3)

Test Methodology:

- Does the Company notify the Commissioner's Office (on a form prescribed by the WVOIC) within thirty (30) days of terminating the producer's authority? [W. Va. Code §33-12-25 and W. Va. Code R. §114-2-1 et seq.]
- Is the producer notified simultaneously? [W. Va. Code §33-12-25(d)]
- Does the Company notify the Commissioner's Office if the termination is for cause? [W. Va. Code §33-12-25]

Examiner Observations: The Company notified the WVOIC and the producer within the timeline and afforded reasons.

Examiner Recommendations: None

Results: Compliant

Table D3 Results: Termination of Producer Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Terminated agents	334	54	23	31	0	90%	100%

Standard D4: The regulated entity's policy of producer appointments and terminations does not result in unfair discrimination against policyholders. (2013 NAIC Market Regulation Handbook Chapter 16, § D Standard 4)

Test Methodology:

- Does the appointment or termination of producers result in unfair discrimination against policyholders? [W. Va. Code §33-11-4(7)]

- Does the termination leave any territories understaffed? [W. Va. Code §33-11-4 et seq.]

Examiner Observations: No evidence was noted of any unfair discrimination either against policyholders or a territory.

Examiner Recommendations: None

Results: Compliant

Table D4 Results: Termination of Producer Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Terminated agents	334	54	23	31	0	90%	100%

Standard D5: Records of terminated producers adequately document reasons for terminations. (2013 NAIC Market Regulation Handbook Chapter 16, § D Standard 5)

Test Methodology:

- Does the Company maintain a full and complete list of terminated producers? [W. Va. Code §33-12-25 and W. Va. Code R. §§114-2-1 et seq. and 114-15-1 et seq.]

Examiner Observations: The Company's files showed all terminated producers and reasons for terminations.

Examiner Recommendations: None

Results: Compliant

Table D5 Results: Termination of Producer Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Terminated agents	334	54	23	31	0	90%	100%

E. POLICYHOLDER SERVICE

The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, and presentations made to the examiner and file sampling during the examination process. The policyholder service portion of the Examination is designed to test a Company's compliance with statutes regarding notice/billing, delays/no response, premium refund and coverage questions.

Standard E1: Premium notices and billing notices are sent out with an adequate amount of advance notice. (2013 NAIC Market Regulation Handbook Chapter 16, § E Standard 1)

Test Methodology:

- Were the notices issued timely? [W. Va. Code §23-2C-15(e) and W. Va. Code R. §85-8-9.3 to 9.5]

Examiner Observations: Underwriting and Rating sample files were used as the basis for this Standard. Notices were issued correctly and timely. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Table E1 Results: Policyholder Service Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
TOTALS	86,935	116	0	116	0	90%	100%

Standard E2: Policy issuance and insured-requested cancellations are timely. (2013 NAIC Market Regulation Handbook Chapter 16, § E Standard 2)

Test Methodology:

- Was the policy issued timely? [W. Va. Code §§33-11-1 et seq. and 33-11-7 and W. Va. Code R. §85-8-9]

Examiner Observations: Underwriting and Rating sample files were used as the basis for this Standard. There were no exceptions. Policies were issued timely.

Examiner Recommendations: None

Results: Compliant

Table E2 Results: Policyholder Service Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
TOTALS	86,935	116	0	116	0	90%	100%

Standard E3: All correspondence directed to the regulated entity is answered in a timely and responsive manner by the appropriate department. (2013 NAIC Market Regulation Handbook Chapter 16, § E Standard 3)

Test Methodology:

- Was the correspondence responded to in a timely manner? [W. Va. Code §§33-11-3 and 33-11-7]

Examiner Observations: Underwriting and Rating, Claims and Complaint sample files were used as the basis for this Standard. Correspondence was answered and phone calls returned in a timely manner. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Standard E5: Policy transactions are processed accurately and completely. (2013 NAIC Market Regulation Handbook Chapter 16, § E Standard 5)

Test Methodology:

- Were transactions processed correctly and completely? [W. Va. Code §§33-11-3 and 33-11-7]

Examiner Observations: Underwriting and Rating sample files were used as the basis for this Standard. Policy transactions were processed correctly and completely. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Table E5 Results: Policyholder Service Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Company cancellations	9,721	114	0	114	0	90%	100%
TOTALS	96,656	230	0	230	0	90%	100%

Standard E7: Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § E Standard 7)

Test Methodology:

- Did the Company charge and refund the appropriate premium? [W. Va. Code §§33-20-1 et seq, and 23-2C-18; 23-2C-18a and W. Va. Code R. §85-8-10 and 11 and the NCCI Basic Manual and the Company's filed rating rules]

Examiner Observations: A sample of Company cancelled policies was used as the basis for this Standard. Premium audits were also properly performed and any refunds properly returned. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Table E7 Results: Underwriting Unearned Premium Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Company Cancellations	9,721	114	0	114	0	90%	100%
TOTALS	9,721	114	0	114	0	90%	100%

F. UNDERWRITING & RATING

The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, presentations made to the examiner, and file sampling. The underwriting and rating practices portion of the Examination is designed to provide a view of how the Company treats the public and whether that treatment is in compliance with applicable statutes, rules and regulations. It is typically determined by testing a random sampling of files and applying various tests to the sampled files. Samples were taken from the population of New Business policies, Renewal policies, declined applications, and terminated policies when applicable. Testing is concerned with compliance issues.

Standard F1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan. (2013 NAIC Market Regulation Handbook Chapter 16, § F Standard 1)

Test Methodology:

- Was the premium calculated correctly? [W. Va. Code §§33-20-1 et seq., 23-2C-18 and 23-2C-18a and W. Va. Code R. §85-8-10 and 11 and the Company's filed rating rules]
- Were tier placements in accordance with the Company's filed rating rules?

Examiner Observations: The rates used in the calculation of premiums were correct throughout the sample, and filings, especially those pertaining to tiering, were followed. However, in one (1) new business file the underwriter did not adequately document the underwriting file as required by the Company's approved tier rating plan to support a tier change due to subjective criteria.

Examiner Recommendations: The Company should comply with their underwriting rules regarding tier placement for new business policies and renewal policies.

Results: Predominantly Compliant

Table F1 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	57	1	90%	98%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	115	0	90%	99%

Standard F2: All mandated disclosures are documented and in accordance with applicable statutes, rules, and regulations. (2013 NAIC Market Regulation Handbook Chapter 16, § F Standard 2)

Test Methodology:

- Were the insureds provided with all mandated disclosures? [W. Va. Code §33-6-8 and W. Va. Code R. §85-8-8]

Examiner Observations: There are no mandated disclosures forms for Workers Compensation in West Virginia. However, there is a mandatory disclosure endorsement, Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A (Ed. 9-08)). This was provided to all insureds.

Examiner Recommendations: None

Results: Compliant

Table F2 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F3: The regulated entity does not permit illegal rebating, commission-cutting, or inducements. (NAIC Market Regulation Handbook Chapter 16, § F Standard 3)

Test Methodology:

- Was there any form of unfair discrimination found in the form of illegal rebating, commission-cutting, or other illegal inducements? [W. Va. Code §33-11-4(8)]

Examiner Observations: There was no evidence of any form of illegal rebating, commission cutting or inducement during the review of New Business policies and Renewal policies.

Examiner Recommendations: None

Results: Compliant

Table F3 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F6: Policies, riders, and endorsements are issued or renewed accurately, timely, and completely. (2013 NAIC Market Regulation Handbook Chapter 16, § F Standard 6)

Test Methodology:

- Are policies & endorsements issued in a timely manner? [W. Va. Code §33-6-30 and W. Va. Code R. §85-8-9.9]

Examiner Observations: Policies, riders, and endorsements were issued or renewed accurately, timely, and completely. The policy's Extension of Information Page-List of Endorsements consistently showed the forms and endorsements that were applicable and were included with the policy packet sent to the insured.

Examiner Recommendations: None

Results: Compliant

Table F6 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F8: Cancellation/non-renewal and declination notices comply with policy provisions, state laws, and the regulated entity's guidelines. (2013 NAIC Market Regulation Handbook Chapter 16, § F Standard 8)

Test Methodology:

- Does the notice contain the proper reason? Were the company-initiated cancellations and non-renewals within the policy provisions? [W. Va. Code §§33-2-9 and 23-2C-15(e) and W. Va. Code R. §§114-15-4 and 85-8-9.3 to 9.5]

Examiner Observations: As a result of an isolated error in the Information Technology printing and mailing process, one (1) policyholder did not receive a notice of cancellation as required by W. Va. Code R. §85-8-9.6. This will also be noted in Standard F25.

Examiner Recommendations: The Company should assure that all cancellation notices are properly issued.

Results: Predominantly Compliant

Table F8 Results: Underwriting Cancellations Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Policies cancelled by Co.	9,721	114	0	113	1	90%	99%
TOTALS	9,721	114	0	113	1	90%	99%

Standard F9: Rescissions are not made for non-material misrepresentation. (2013 NAIC Market Regulation Handbook Chapter 16, § F Standard 9)

Test Methodology:

- Is the decision to rescind the policy made in accordance with applicable statutes, rules, and regulations? Do the rescinded policies indicate a trend toward post-claim underwriting practices? [W. Va. Code §33-6-4]

Examiner Observations: For the period under examination, the Company had not rescinded coverage for any employers.

Examiner Recommendations: None

Results: Compliant

Standard F11: Scheduled rating or individual premium risk modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 2)

Test Methodology:

- Are scheduled rating plans applied to policy rates in a consistent, non-discriminatory manner? [W. Va. Code §§33-20-1 et seq. and 23-2C-18(a) & (f), W. Va. Code R. §85-8-11 and the Company's filed rating rules]

Examiner Observations: Scheduled rating plans were applied properly and the credits/debits afforded were documented. Of the sample of fifty-eight (58) new business policies, twenty (20) were not scheduled rated.

Examiner Recommendations: None

Results: Compliant

Table F11 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	20	38	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	20	96	0	90%	100%

Standard F12: Verification of use of the filed expense multipliers; the regulated entity should be using a combination of loss costs and expense multipliers filed with the insurance department. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 3)

Test Methodology:

- Are expense multipliers applied to policy rates in a consistent, non-discriminatory manner? (W. Va. Code §§33-20-3 and 4(h) and 23-2C-18(b) and W. Va. Code R. §85-8-11.2 and the Company's filed rating plan)

Examiner Observations: The Company followed its filed loss cost and expense multiplier filings. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table F12 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F14: Verification of experience modification factors. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 5)

Test Methodology:

- Are experience modification factors applied to policy rates in a consistent, non-discriminatory manner?
- Is each policy's experience modification factor appropriate for the risks incurred? (W. Va. Code §§33-20-3, 33-20-1 et seq. and W. Va. Code R. §§85-8-10.2 and 11.3 and the NCCI guidelines)

Examiner Observations: Experience modification factors applied matched what was supplied by the NCCI. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table F14 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F15: Verification of loss reporting. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 6)

Test Methodology:

- Does the company timely report loss data to the NCCI? [W. Va. Code §23-2C-18a(c)(1), and W. Va. Code R. §85-8-10.2]

Examiner Observations: Of the sample of fifty-eight (58) renewal policies, twenty-two (22) had not yet been effective for eighteen (18) months, so there was no loss reporting submitted. Of the applicable thirty-six (36), no exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table F15 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Renewal policies	81,213	58	22	36	0	90%	100%
Totals	81,213	58	22	36	0	90%	100%

Standard F16: Verification of the regulated entity's data provided in response to NCCI call on deductibles. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 7)

Test Methodology:

- Does the company provide complete and accurate statistical loss data, net of deductibles, to the NCCI? [W. Va. Code §23-2C-18a and W. Va. Code R. §85-8-10.2]

Examiner Observations: There were no such calls during the examination experience period.

Examiner Recommendations: None

Results: N/A

Standard F17: 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. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 8)

Test Methodology:

- Was the initial underwriting of a policy is based on the information obtained after a claim is submitted? [W. Va. Code R. §85-8-10.2]

Examiner Observations: Pricing was developed at or near the policy effective date. File review showed no evidence of pricing near the expiration date or following a claim.

Examiner Recommendations: None

Results: Compliant

Table F17 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F18: Audits, when required, are conducted accurately and timely. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 9)

Test Methodology:

- Are premium audits conducted in a prompt manner?
- Is there a structured system in place to conduct audits? [W. Va. Code §§33-20-3 and 4 and 23-2C-18a and W. Va. Code R. §85-8-5 and 10.2 and consistent with the NCCI Basic and Scopes manuals?]

Examiner Observations:

Of the sample of fifty-eight (58) renewal policies, eleven (11) had not yet expired so there was no audit performed. In one (1) audit the Company did not charge the correct minimum chargeable wages for officers covered by the cancelled policy. The Company agreed but noted that the net effect of the use of the incorrect officer wages resulted in a lower overall wage base than should have been used if the correct officer wages had been applied.

Examiner Recommendations: The Company should ensure that the proper exposure base (remuneration) for officers and owners is charged in all cases.

Results: Predominantly Compliant

Table F18a Results: Premium Audit Accuracy

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Renewals	81,213	58	11	47	0	90%	100%
Cancellations	9,721	114	0	113	1	90%	99%
TOTALS	90,934	172	11	160	1	90%	99%

Table F18b Results: Premium Audit Timeliness

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Renewals	81,213	58	11	47	0	90%	100%
Cancellations	9,721	114	0	114	0	90%	100%
TOTALS	90,934	172	11	161	0	90%	100%

Standard F19: The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules, and regulations, and the regulated entity's guidelines in the selection of risks. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 10)

Test Methodology:

- Do the company's underwriting guidelines comply with insurance department regulations?
- Are the company's underwriting guidelines being applied to all policyholders within the same class in a non-discriminatory manner? [W. Va. Code §§33-20-3 and 4, 23-2C-18, 23-2C-18a and W. Va. Code R. §85-8-10.2]

Examiner Observations: Company underwriting guidelines, risk selection criteria, filings, internal correspondence and other documents do not show any evidence of unfair discriminatory practices. Review determined that the Company follows the applicable statutes, rules and regulations.

Examiner Recommendations: None

Results: Compliant

Table F19 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F20: All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department, if applicable. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 11)

Test Methodology:

- Have all company forms been filed with the WVOIC? [W. Va. Code §33-6-8(a)]
- Are all applicable forms listed on the declaration page of each policy?

Examiner Observations: All forms and endorsements, the majority of which were NCCI's, were filed. The policy's Extension of Information Page-List of Endorsements consistently showed the forms and endorsements that were applicable and were included with the policy packet sent to the insured.

Examiner Recommendations: None

Results: Compliant

Table F20 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F22: The regulated entity does not engage in collusive or anti-competitive underwriting practices. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 13)

Test Methodology:

- Are there any unlawful pricing or other prohibited anti-competitive acts or practices? [W. Va. Code §33-11-3 and 7]
- Has the Company entered into any agreements with other West Virginia companies to divide the market within West Virginia by territory? [W. Va. Code §33-11-4(4)]

Examiner Observations: There was no evidence of any form of collusive or anti-competitive underwriting practices or behavior during our review of New Business policies and Renewal policies.

Examiner Recommendations: None

Results: Compliant

Table F22 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F25: Cancellation/non-renewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 16)

Test Methodology:

- Were the company-initiated cancellations and non-renewals within the policy provisions? [W. Va. Code §23-2C-15(e) and W. Va. Code R. §85-8-9.8]
- Were records of company-initiated cancellations and non-renewals retained? [W. Va. Code R. §114-15-4.3]

Examiner Observations: As a result of an isolated error in the Information Technology (IT) printing and mailing process, one (1) policyholder did not receive a notice of cancellation as required by W. Va. Code R. §85-8-9.6. This was also noted in Standard F8.

One (1) policy was cancelled in error. The policy should not have been cancelled for failure to comply with company request for premium audit. The Company agreed, but noted that the insured had no employees and the officer had elected to be excluded from coverage. As a result in accordance with W. Va. Code §23-2-1(b)(4), workers' compensation coverage would not be required. The Company confirmed with the policyholder that coverage was not required.

Examiner Recommendations: The Company should assure that all cancellation notices are properly issued.

Results: Predominantly Compliant

Table F25 Results: Underwriting Notices of Cancellation Sample

Type	Population	Sample	N/A	Pass	Fall	Standard	Compliance
Policies cancelled by co.	9,721	114	0	112	2	90%	98%

Standard F26: All policies are correctly coded. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 17)

Test Methodology:

- Is the Company using the most current manuals and programs to code their policies? [W. Va. Code §§33-20-3 and 4 and 23-2C-18a]

Examiner Observations: The Company is using the most current manuals and programs for coding purposes. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table F26 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%
Renewal policies	81,213	58	0	58	0	90%	100%
Totals	86,935	116	0	116	0	90%	100%

Standard F27: Application or enrollment forms are properly, accurately, and fully completed, including any required signatures, and file documentation adequately supports decisions made. (2013 NAIC Market Regulation Handbook Chapter 17, § F Standard 18)

Test Methodology:

- Is the file adequately documented with the proper application, photos, and inspections? [W. Va. Code R. §114-15-4.3]

Examiner Observations: The Company developed an electronic portal between the agents and the Company for direct inputting, called StreetConnect, so paper applications are rare. Our review showed paper applications were kept and electronic submissions were retrievable. The files were suitably documented with information to support the decision. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table F27 Results: Underwriting File Documentation Sample

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
New business policies	5,722	58	0	58	0	90%	100%

G. CLAIMS

The evaluation of standards in this business area is based on Company responses to information items requested by the examiner, discussions with company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment is in compliance with applicable statutes and rules. Samples were taken from the population of Occupational Injury Paid Claims, a population of Occupational Disease Paid Claims and a population of Claims Closed Without Payment (CWOP). A random number generator in Excel was used to make the sample selection from the general population. The "N/A" claim in the Occupational Injury Paid Claims sample was a claim subrogated to BSMIC. The two (2) "N/A" in the CWOP population were because claims were submitted more than once on one incident and were closed as they were handled under another claim number.

Standard G1: Initial compensability decisions and investigations are conducted in a timely manner. (NAIC Market Regulation Handbook Chapter 16, § G Standards 1 & 2)

Test Methodology:

- Did the company rule on occupational injury and occupational disease claims other than occupational pneumoconiosis within fifteen (15) working days from the receipt of all required information by the company? [W. Va. Code §§33-2-10(b), 33-2-21(a) and 23-2C-22 and W. Va. Code R. §85-1-10.1]
- Did the company enter non-medical decisions in occupational pneumoconiosis claims within ninety (90) days from the date the company receives properly executed, prescribed forms? [W. Va. Code R. § 85-1-10.2]
- Did the investigation commence promptly? Is there prompt investigation of the claim by the Company? [W. Va. Code §33-11-4(9)(c)]
- Did the Company promptly conduct and diligently pursue a thorough, fair and objective investigation and not unreasonable delay resolution by persisting in seeking information not reasonably required for or material to the resolution of the claim dispute? [W. Va. Code §33-11-4(9)(d)(e)(f)]

Examiner Observations: Timely decisions were made on compensability and investigations were conducted properly and promptly. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table G1 Results: Timely Compensability Decision and Investigation

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	107	0	93%	100%
Occupational Disease paid claims	536	76	0	76	0	93%	100%
Claims closed w/o pmt	33,080	109	2	107	0	93%	100%
TOTALS	98,991	293	3	290	0	93%	100%

Standard G3: Claims are resolved in a timely manner. (NAIC Market Regulation Handbook Chapter 16, § G Standard 3)

Test Methodology:

- Does the Company act upon requests for authorization of medical treatment, medications, appliances, devices, and supplies within fifteen (15) working days? [W. Va. Code §§33-2-21(a), 23-2C-22; 33-2-10(b) and W. Va. Code R. §85-1-10.3]
- Does the Company refer claimants to physicians for examinations and evaluations within twenty (20) days of the end of the one hundred twenty (120) day period of temporary total disability? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.4.a]

- Does the Company transmit notice of scheduling examinations evaluations performed by the Occupational Pneumoconiosis Board within sixty (60) days of a non-medical decision directing referral to the Board? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.4.b]
- Does the Company act upon a permanent disability evaluation report within thirty (30) working days of receipt? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.a]
- Does the Company refer claimants to a physician for examination and evaluation for consideration of a permanent disability award within thirty (30) working days of receipt? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.b]
- Does the Company initiate payment of permanent partial disability awards (either lump sum or installments) within fifteen (15) working days of the decision? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.c]
- Does the Company transmit findings of the Occupational Pneumoconiosis Board within thirty (30) working days after the examination? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.d]
- Does the Company rule upon applications for reopening of disability claims within thirty (30) days of receipt of the application? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.6]

Examiner Observations: Six (6) occupational injury paid claims had instances in which required actions were not timely.. Additionally, the Company did not timely issue a decision letter for one (1) CWOP claim as required by W. Va. Code §33-11-4(9)(e) and W. Va. Code R. §85-1-10.1.

Examiner Recommendations: The Company should take required actions and issue decision letters in a timely manner.

Results: Predominately Compliant

Table G3 Results: Claims Resolved In a Timely Manner

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	101	6	93%	94%
Occupational Disease Paid Claims	536	76	0	76	0	93%	100%
Claims closed w/o pmt	33,080	109	2	106	1	93%	99%
TOTALS	98,991	293	3	283	7	93%	98%

Standard G4: The regulated entity responds to claim correspondence in a timely manner. (NAIC Market Regulation Handbook Chapter 16, § G Standard 4)

Test Methodology:

- Did the Company reply to pertinent communications from a claimant which reasonably suggests that a response is needed? [W. Va. Code § 33-11-4(9)(b)]

Examiner Observations: The claim files show that the Company responded timely to correspondence received.

Examiner Recommendations: None

Results: Compliant

Table G4 Results: Claims Correspondence

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	107	0	93%	100%
Occupational Disease Paid Claims	536	76	0	76	0	93%	100%
Claims closed w/o pmt	33,080	109	2	107	0	93%	100%
TOTALS	98,991	293	3	290	0	93%	100%

Standard G5: Claim files are adequately documented. (NAIC Market Regulation Handbook Chapter 16, § G Standard 5)

Test Methodology:

- Does the file contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed? (W. Va. Code §33-2-10 and W. Va. Code R. §114-15-4.4)

Examiner Observations: The claims files contained relevant documentation to reconstruct events leading to a decision. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table G5 Results: Claim Files Adequately Documented

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	107	0	93%	100%
Occupational Disease Paid Claims	536	76	0	76	0	93%	100%
Claims closed w/o pmt	33,080	109	2	107	0	93%	100%
TOTALS	98,991	293	3	290	0	93%	100%

Standard G6: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations. (NAIC Market Regulation Handbook Chapter 16, § G Standard 6)

Test Methodology:

- Does the Company calculate, and pay any indemnity payment (temporary total, permanent partial, permanent total, fatal, non-awarded partial) correctly? [W. Va. Code §23-4-1 et seq. W. Va. Code R. §85-1-1 et seq. and Informational Letter 162A]
- Does the Company issue notices with proper language? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2c-22, 23-4-22 and 23-5-1 et seq. and W. Va. Code R. §85-1-10.7]
- Is the medical management of claims properly handled in accordance with applicable statutes, rules and regulations? [W. Va. Code § 23-4-3b(b) and W. Va. Code R. §85-20-1 et seq.]
- Does the Company properly treat claimants in all return-to-work aspects, including determinations, coverage questions, claim payments, and whether or not the Company has written policies and procedures to accommodate workers returning to the workplace? [W. Va. Code §23-4-9 and W. Va. Code R. §85-15-1 et seq.]

Examiner Observations: The Company was found to be non-compliant in twenty-four (24) Occupational Injury Paid Claims. For twenty-three (23) the Company did not either obtain or document the relevant wage information required to be considered when calculating indemnity payments in accordance with W. Va. Code §23-4-1 et seq., W. Va. Code R. §85-1-1 et seq. and Informational Letter 162A. For one (1) the Company failed to issue a temporary total disability closure letter. The Company agreed with these findings. The examiners note that this finding is unrelated to the findings and recommendations noted in the prior examination report.

Examiner Recommendations: The Company should document that all relevant wage information was considered when calculating indemnity payments. The Company should properly issue temporary total disability closure letters

Results: Non-compliant

Table G6 Results: Claims Handling

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	83	24	93%	77%
Occupational Disease Paid Claims	536	76	0	76	0	93%	100%
TOTALS	65,911	184	1	159	24	93%	86%

Standard G7: Regulated entity claim forms are appropriate for the type of product. (NAIC Market Regulation Handbook Chapter 16, § G Standard 7)

- **Test Methodology:** Did the claim form(s) include appropriate content and were used appropriately? [W. Va. Code §23-1-14]

Examiner Observations: Claims forms were reviewed in the Occupational Injury Paid Claims, Occupational Disease Paid Claims and Claims Closed Without Payment samples files. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Standard G8: Claim files are reserved in accordance with the regulated entity's established procedures. (NAIC Market Regulation Handbook Chapter 16, § G Standard 8)

Test Methodology:

- Does the Company evaluate and adjust reserves when appropriate?
- Are the Company reserves excessive / inadequate?

Examiner Observations: The Company's procedures were followed for Claim reserving. No exceptions were noted. The "N/A" claim in the Occupational Injury Paid Claims sample was a claim subrogated to BSMIC.

Examiner Recommendations: None

Results: Compliant

Table G8 Results: Claim Reserve

Type	Population	Sample	N/A	Pass	Fall	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	1	107	0	93%	100%
Occupational Disease Paid Claims	536	76	0	76	0	93%	100%
TOTALS	65,911	184	1	183	0	93%	100%

Standard G9: Denied and closed-without-payment claims are handled in accordance with policy provisions and state laws. (NAIC Market Regulation Handbook Chapter 16, § G Standard 9)

Test Methodology:

- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation? [W.Va. Code §23-2C-22 and W. Va. Code R. §85-1-7.2]
- Where required, does the Company provide claimants with instructions for having rebuttals to denials reviewed by the insurance department or regulated entity? [W.Va. Code §23-2C-22 and W. Va. Code R. §§85-1-7.2 and 85-21-10]

Examiner Observations: In one (1) claim, the Company issued a denial letter that stated "Should we receive the records at a later time, we will reevaluate this decision" The injured worked submitted additional information. The Company did not provide a response to this

information or reopen the claim as may have been required by W.Va. Code R. §85-1-10 and W.Va. Code §23-4-1c.

In another claim, the employee complained of a swollen eyelid following a possible exposure to a chemical product. The Company's ruling letter denied the claim by stating: "does not appear that a personal injury was sustained", when the Company's records indicate that the reason for the denial was they considered it a preexisting condition. The Company's ruling letter did not accurately state the basis for the Company's decision as required by W.Va. Code §23-4-1 et seq. and W. Va. Code R. §85-1-7.2.

Examiner Recommendations: The Company should rule on claims in a timely manner as required by W.Va. Code R. §85-1-10 and include accurate bases for decisions as required by W. Va. Code R. §85-1-7.2.

Results: Predominantly Compliant

Table G9 Results: Claims Denied or Closed Without Payment

Type	Population	Sample	N/A	Pass	Fall	Standard	Compliance
Claims closed w/o pmt	33,080	109	3	104	2	93%	98%

Standard G10: Cancelled checks and drafts reflect appropriate claim handling practices. (NAIC Market Regulation Handbook Chapter 16, § G Standard 10)

Test Methodology:

- Do the checks include the correct payee and are they for the correct amount?
- Do the checks indicate that the payment is "final" only when it is the case?
- Do the checks purport to release the insurer from total liability only when it is the case? [W. Va. Code §23-4-1c]

Examiner Observations: Cancelled checks and drafts were reviewed for the Occupational Injury Paid Claims and Occupational Disease Paid Claims samples. There were no exceptions.

Examiner Recommendations: None

Results: Compliant

Standard G11: 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. (2013 NAIC Market Regulation Handbook Chapter 16, § G Standard 11)

Test Methodology:

- Were litigated claims a result of problematic claim handling practices? [W. Va. Code §§33-11-4.9 and 33-11-7]

Examiner Observations: Sampled claims were reviewed and none of the claims reviewed indicate any action or inaction on the part of the Company which would compel the claimants to litigate.

Examiner Recommendations: None

Results: Compliant

Table G11 Results: Claim Litigation

Type	Population	Sample	Pass	N/A	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	108	0	0	93%	100%
Occupational Disease Paid Claims	536	76	76	0	0	93%	100%
TOTALS	65,911	184	184	0	0	93%	100%

Standard G11a: Claims handling practices indicate that regulated entities timely and substantively comply with all orders of administrative and judicial appeals bodies.

Test Methodology:

- Does the Company comply with orders of the Office of Judges and the Board of Review and mandates of the West Virginia Supreme Court of Appeals within thirty (30) days from the date of receipt, unless the responsible party is required to act sooner under the terms of the order or mandate or the order or mandate is subject to a lawfully ordered stay? [W. Va. Code §§ 33-2-21(a), 23-2C-22; 33-2-10(b) and W. Va. Code R. §85-1-10.7]

Examiner Observations: In one (1) claim out of the one-hundred five (105) claims reviewed for this standard the Company did not timely address an OOJ order where substantive action was required by an ALJ Order and W. Va. Code R. §85-1-10.7. The Company agreed.

Examiner Recommendations: The Company should comply with the Office of Judges, Board of Review and Supreme Court of Appeals orders within the time frames required by W. Va. Code R. §85-1-10.7.

Results: Predominantly Compliant

Table G11a Results: OOJ Order Review

Type	Population	Sample	Pass	N/A	Fail	Standard	Compliance
OOJ Order Review	532	105	104	0	1	93%	99%

Standard G14: Loss statistical coding is timely and accurate. (2013 NAIC Market Regulation Handbook Chapter 17, § G Standard 3)

Test Methodology:

- Does the Company promptly and accurately provide WVOIC with all necessary claim information to maintain the Workers' Compensation Claim Index? [W. Va. Code § 23-2C-5(c)(8) and W. Va. Code R. §85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's EDI (Electronic Data Interchange) Implementation Guide] (Unit Statistical Reporting review in Standard F 15)

Examiner Observations:

Of the occupational injury paid claims seven (7) had indemnity payments not submitted via EDI. Eight (8) claims had untimely EDI submissions and one (1) claim was not submitted via EDI.

Of the occupational disease paid claims, six (6) had untimely EDI submissions. Eight (8) claims had indemnity payments not submitted via EDI.

For the Closed-without-payment-claims, one (1) claim had a late EDI submission and one (1) claim had an additional submission not reported via EDI.

The Company agreed that in these instances they did not timely provide information as required by W. Va. Code §23-2C-5(c)(8) and W. Va. Code R. §85-2-1 et seq.

Examiner Recommendations: The Company should comply with the EDI submission requirements timely and accurately.

Results: Non-Compliant

Table G14 Results: Claim Loss Statistical Coding

Type	Population	Sample	Pass	N/A	Fail	Standard	Compliance
Occupational Injury Paid Claims	65,375	108	92	0	16	93%	85%
Occupational Disease Paid Claims	536	76	62	0	14	93%	82%
Claims closed w/o pmt	33,080	109	104	3	2	93%	95%
TOTALS	98,991	293	258	3	32	93%	88%

SUMMARY OF RECOMMENDATIONS

Recommendation D2: The Company should adopt and implement procedures to ensure that producers are properly licensed and appointed within 15 days of acceptance of any application.

Recommendation F1: The Company should comply with their underwriting rules regarding tier placement for new business policies and renewal policies.

Recommendation F8: The Company should assure that all cancellation notices are properly issued.

Recommendation F18: The Company should ensure that the proper exposure base (remuneration) for officers and owners is charged in all cases.

Recommendation F25: The Company should assure that all cancellation notices are properly issued.

Recommendation G6: The Company should document that the Company considered all relevant wage information when calculating indemnity payments. The Company should properly issue temporary total disability closure letters.

Recommendation G9: The Company should rule on claims in a timely manner as required by W.Va. Code R. §85-1-10 and include accurate bases for decisions as required by §85-1-7.2.

Recommendation G11a: The Company should comply with the Office of Judges, Board of Review and Supreme Court of Appeals orders within the time frames required by W. Va. Code R. §85-1-10.7.

Recommendation G14: The Company should comply with the EDI submission requirements timely and accurately.

EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination, in particular Martin Langlois, CPA, CIA, CISA, CFE, AFI, FLMI, Bill McGee, Esq. and Adam Fisher, CPA.

In addition to the undersigned, Dan Stemcosky, AIE, FLMI, AIRC, MCM and John McGinty both with INS Regulatory Insurance Services, Inc. and Mark Hooker, CIE, CPCU, CLMI, PIR, AMCM, CWCP, CCP, AIRC, John Stike, AIE, CPCU, MCM, CWCP, CIPAAU, APA, AFI, Robert Parsons, CIE, MCM, AIRC, CWCP, ACS, CICSR, CCP, Desiree Mauller, CWCP, MCM and Brad Beam, CWCP, MCM all with the West Virginia Offices of the insurance Commissioner also participated in this examination.



Mark Plesha, CPCU, IR, AIS, AIE, MCM, CWCP
Examiner-in-Charge

EXAMINER'S AFFIDAVIT

Commonwealth of Massachusetts

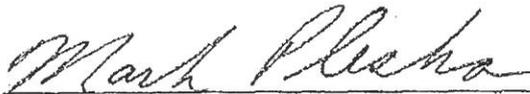
County of Middlesex

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES
USED IN AN EXAMINATION

I, Mark Plesha, being duly sworn, states as follows:

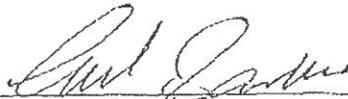
1. I have the authority to represent West Virginia in the examination of BrickStreet Mutual Insurance Company.
2. I have reviewed the examination work papers and examination report, and the examination of BrickStreet Mutual Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



Mark Plesha, CPCU, IR, AIS, AIAE, MCM, CWCP
Examiner in Charge

Subscribed and sworn before me by Mark Plesha on this 19th day of September, 2014.



Notary Public

My commission expires: February 17, 2017 (date).



Gregory A. Burton
President and CEO



Executive Office

October 30, 2014



RECEIVED

OCT 31 2014

WVOIC LEGAL/
REG. COMPLIANCE

VIA HAND-DELIVERY

Michael D. Riley, Insurance Commissioner
West Virginia Insurance Commission
1124 Smith Street, Greenbrooke Building
Room 413
Charleston, WV 25301

**RE: Report of Market Conduct Examination 14-MAP-02002
NAIC Company Code 12372**

Dear Commissioner Riley:

We are in receipt of and thank you for your Report of Market Conduct Examination of BrickStreet Mutual Insurance Company for the period ending December 31, 2013 ("Report"). Your staff should be commended for the professionalism and thoroughness they exhibited during the examination.

As an initial matter, BrickStreet was extremely encouraged by the fact that we were compliant or predominantly compliant with 95% of the standards examined (fifty-nine (59) of the sixty-two (62)). We were also pleased to have been found substantially compliant with the recommendations contained in the report of the prior market conduct examination that was conducted as of December 31, 2007.

Given the comprehensive scope of the exam, it is to be expected that at least one (1) area of disagreement may arise and it has in this instance. Specifically, BrickStreet disputes the finding in the Report that it was non-compliant with Standard G6. In short, we do not agree that any failures to obtain or document wage information found during the exam should constitute a violation of the West Virginia Code or Code of State Rules by BrickStreet. The statutory and regulatory scheme place the burden of reporting relevant wage information on the employer (insured) and the injured worker, not the applicable carrier. See, 85 CSR 1 ¶3.2. Unlike the statutory scheme under the monopolistic system, as detailed in West Virginia Code §§23-4-14 and 23-2-2(b), private carriers do not have access to wage data through the Unemployment Compensation Commission. Accordingly, such information must be provided to the private carrier from the employer or injured worker. Finally, we do note that assuming, *arguendo*, relevant wage information was not obtained, any relief would be limited to prospective relief only. See, 85 CSR 1 ¶3.2.

Notwithstanding the foregoing, BrickStreet is willing to proceed with the resolution of the Exam through entry of an Agreed Order containing findings substantially similar to the



Michael D. Riley, Insurance Commissioner
October 30, 2014
Page 2

findings in the Report, including the findings related to Standard G6, and reserving all rights and defenses regarding liability or responsibility in any proceedings against BrickStreet other than proceedings, administrative or civil, to enforce the Order ultimately issued by your Office.

With respect to the finding for Standard G14, please note that Loss Statistical Coding is a very complex process. Because West Virginia, unlike most jurisdictions, requires that all incidents be reported even if they do not result in a claim, the complexity of the process is significantly increased. Our analysis of the errors reveals that there was no one single root cause and we will make diligent efforts to correct the various causes of error.

In closing, I would again like to compliment you for the manner in which this exam was conducted. In light of the balanced regulatory environment fostered by your office, BrickStreet looks forward to continuing as the State's leader in workers' compensation insurance.

Very truly yours,

Gregory A. Burton
President and CEO

cc: Andrew R. Pauley, CPCU, PIR General Counsel
Jeffrey C. Black, Associate Counsel Compliance and Enforcement
Mark Hooker, Insurance Examiner Supervisor