

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

**IN RE:
SAFECO INSURANCE COMPANY OF AMERICA
ADMINISTRATIVE PROCEEDING
13-MAP-02001**

**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 targeted examination of Safeco Insurance Company of America hereinafter referred to as "Safeco" for the examination period ending September 30, 2012 based upon the following findings, to wit:

PARTIES

1. The Honorable 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 33 of the West Virginia Code of 1931, as amended.
2. Safeco operates under the provisions of Chapter 33, of the West Virginia Code and is domiciled in New Hampshire.
3. Safeco is licensed in the State of West Virginia for the lines of Casualty, Fire, Marine and Surety.

4. This Targeted Market Conduct Examination was instituted as a result

of the Final Order entered in Administrative Proceeding Number 10-THP-02104. The Administrative Order concluded that Safeco violated the following sections of the Unfair Claims Settlement Act by violating W.Va. Code §33-11-4(9) (b) and W. Va. Code. R. § 114-14-5.3.

5. Safeco failed to reply to other pertinent communications within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant, which reasonably suggests that a response is expected which is a violation of W. Va. Code §33-11-4(9) (b).

6. The purpose of this targeted examination was to determine Safeco's compliance with West Virginia Insurance laws relating to treatment of third party claimants. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

FINDINGS OF FACT

1. The Targeted Market Conduct Examination primarily focused on third-party claims handling with particular attention to the company's responses to pertinent communications from claimants or their representatives. The targeted examination covered the period of operations from January 1, 2008 through September 30, 2012. 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. The examination began on January 14, 2013 and concluded on January 31, 2013. The examination was conducted at Safeco's Mid-Atlantic

Regional office located in Fairfield, Ohio.

3. A total of sixteen (16) standards were reviewed during this examination. Of these sixteen (16) standards, the company passed fifteen (15), and failed one (1) one. Four (4) additional standards included recommendations.

4. The result of the Target Market Conduct Examination did reveal three (3) violations of W.Va. Code of St. R. §114-14—6.7 pertaining to no or untimely delay letters, six (6) violations of W. Va. Code R. §114-14-5.3 pertaining to failure to reply to pertinent communications, two (2) violations of W. Va. Code St. R. §§114-14-3 and 114-15-4.2a,4.4 pertaining to documentation, and one (1) violation of W. Va. Code §33-11-4(9)(m) pertaining to proper disbursement of a returned claim payment. These violations did not occur with such frequency to fail the standard.

5. There were two (2) violations of W. Va. Code St. R. §114-14-6.17 pertaining to denial letters including West Virginia Offices of the Insurance Commissioner contact information. The frequency of these violations was sufficient to fail the standard.

6. On March 19, 2013, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code §33-2-9, a Report of Market Conduct Examination regarding the treatment of third party claimants.

7. On March 28, 2013, a true copy of the Report of Market Conduct Examination was sent to Safeco by certified mail receipt requested, and was received by Safeco on April 5, 2013.

8. On March 28, 2013 Safeco 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.

9. In correspondence from Safeco dated May 13, 2013 delivered via email and United States Postal Service Overnight delivery, Safeco stated they were in agreement with the report findings and they have no formal objections at this time.

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

11. 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 of 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 Safeco as well as all other provisions of regulation that Safeco is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

4. There does not appear to be any intentional conduct exhibited by Safeco in this examination's findings and scope.

5. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

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 Safeco thereto, the Insurance Commissioner and Safeco have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Parties have further agreed to the imposition of an administrative penalty against Safeco as set forth below.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of Safeco for the period ending September 30, 2012 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is **ORDERED** that Safeco will **CEASE AND DESIST** from failing to comply with the Statutes, Rules and regulations of the State of West Virginia concerning any claims so handled in this State and more specifically the provisions enumerated herein this Order;

(C) It is further **ORDERED** that Safeco shall continue to monitor its Compliance with W. Va. Code R. § 114-14-6.7, 114-14-6.17, 114-14-5.3, 114-14-3, 114-15-4.2a, 4.4, and W. Va. Code §33-11-4(9)(m).

(D) It is further **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Safeco 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 ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY;

(E) It is further **ORDERED** that **SAFECO SHALL FILE** a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail Safeco's 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 violations 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. Safeco 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 Safeco 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.

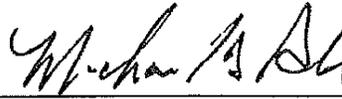
(F) It is further **ORDERED** that Safeco shall ensure compliance with the West Virginia Code and the Code of State Rules. Safeco shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination; and

(G) The Insurance Commissioner has determined and it has been **ORDERED** that Safeco shall pay an administrative penalty to the State of West Virginia in the amount of Five Hundred Dollars (\$500.00) 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 Safeco.

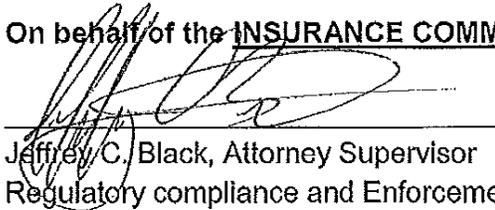
Entered this 17th day of July, 2013



The Honorable Michael D. Riley
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the **INSURANCE COMMISSIONER:**



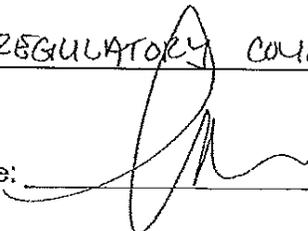
Jeffrey C. Black, Attorney Supervisor
Regulatory compliance and Enforcement

Dated: 7/12/13

On Behalf of SAFECO INSURANCE COMPANY OF AMERICA:

By: SEBESTYEN MARTENS
Print Name

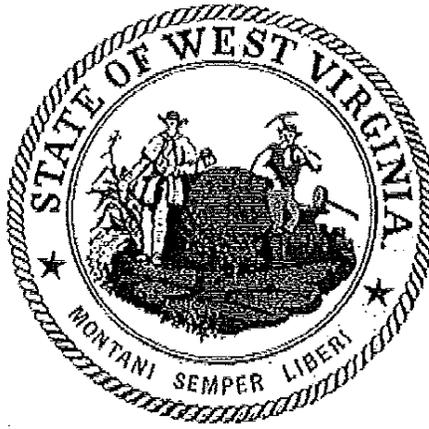
Its: REGULATORY COUNSEL

Signature:  _____

Date: JULY 9, 2013

Report of Market Conduct Examination

As of September 30, 2012



Safeco Insurance Company of America

175 Berkeley Street
Boston, MA 02116

NAIC COMPANY CODE 24740
Examination Number 12-MC-THP-02002

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May 14, 2013

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 September 30, 2012 regarding treatment of third party claimants:

Safeco Insurance Company of America
175 Berkeley Street
Boston, MA 02116

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

FOREWORD

The Company is a New Hampshire-domiciled property and casualty insurance company that provides private passenger automobile liability insurance.

This is a report by test of Company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2012 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Office of the Insurance Commissioner ("WVOIC") which are based on applicable West Virginia statutes and administrative rules, as referenced herein. Testing is based on guidelines contained in the Handbook. All tests applied are included in this report.

"Company" as used herein refers to Safe Auto Insurance Company of America. "WVOIC" as used herein refers to the West Virginia Offices of the Insurance Commissioner. "W.Va. Code St. R." as used herein refers to the West Virginia Code of State Rules. "W.Va. Code" as used herein refers to the West Virginia Code Annotated.

EXECUTIVE SUMMARY

The examination began January 14, 2013 and concluded on January 31, 2013. The examination was conducted at the Company's Mid-Atlantic Region in Fairfield, Ohio location. The examination was called as a result of the Final Order entered in Administrative Proceeding No. 10-THP-02104. The Administrative Order concluded that the Company violated the following sections of the Unfair Claims Settlement Act by violating W. Va. Code §33-11-4(9)(b) and W. Va. Code St. R. §114-14-5.3. The Company failed to reply to other pertinent communications within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant, which reasonably suggest that a response is expected. By definition, it is also a violation of W. Va. Code §33-11-4(9)(b), "failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies."

W. Va. Code §33-11-4a(e) & (f) implies that, upon any finding that a company committed an unfair claims settlement practice with respect to a third-party claimant, the Commissioner determines whether or not that the practice occurred with such frequency as to be construed as a general business practice of the Company. In this case, the Commissioner determined that the most efficient way to make this determination was through a targeted Market Conduct Examination. The examination primarily focused on third-party claims handling with particular attention to the company's responses to pertinent communications from claimants or their representatives (Standard G4). Certain standards from the Company Operations and Management Section, and Complaint Handling Section of the *Market Regulation Handbook* were also included within this examination report. The result of the target market examination revealed violations of the

W. Va. Code or Regulations cited in Administrative Proceeding No. 10-THP-02104, but not to the level to fail the standard.

A total of sixteen (16) standards were reviewed during this examination. Of these sixteen (16) standards, the Company passed fifteen (15) and failed one (1) standard (G9), which primarily dealt with failure to provide claimants with the appropriate contact information for the West Virginia Insurance Commissioner upon denial of claims. Four (4) additional standards (G2, G4, G5 and G6) included recommendations. The Company should send proper delay letters for investigation of claims and should respond timely to correspondence received from claimants. The company should adequately document claim files and handle claims properly in accordance with policy provisions and applicable statutes, rules, and regulations.

PURPOSE AND SCOPE OF EXAMINATION

Market conduct examiners with the WVOIC reviewed certain business practices of Safeco Auto Insurance Company of America. W. Va. Code §33-2-9 empower the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the WVOIC.

The purpose of this targeted examination was to determine the Company's compliance with West Virginia insurance laws relating to treatment of third party claimants. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

This examination was governed by, and performed in accordance with procedures developed by the WVOIC that are based on those of the National Association of Insurance Commissioners (NAIC), modified to conform to the requirements of West Virginia insurance laws. In reviewing material for this report, the examiners relied primarily on records and material maintained and/or submitted by the Company. The examination covered the period of the Company's operations, from January 1, 2008 through September 30, 2012.

File sampling was based on review of closed without payment/denied and paid claim files. Paid claim files were randomly selected from the data provided by the Company. Sample sizes were chosen based on procedures developed by the NAIC. The closed without payment/denied claim files with "No claim – Information Only" indicated as the reason closed were eliminated and the remaining claim files were utilized during the review. Only standards pertaining to this target market conduct examination were utilized from the 2012 NAIC *Market Regulation Handbook*. Upon review of each file, any concerns or discrepancies were noted on requests for information and delivered to the Company for review. Once the Company was advised of a concern contained in a request for information (RFI), the Company had the opportunity to respond. For each finding, the Company was requested to agree, disagree, or otherwise justify the Company's noted action. At the conclusion of the fieldwork, the Company was provided a summary of the

findings at the exit conference and a draft of the report was provided for the Company's review. The examination report is a report by test, reporting all areas reviewed and for each test, reports if the examiners found that the Company "Passed", "Failed", or "Passed with Recommendation".

The basic business areas that were reviewed and tested under this examination were:

- Company Operations and Management
- Complaint Handling
- Claims Practices

Each business area has standards that the examination measured. Some standards have specific statutory guidelines, others have specific company guidelines, and yet others have contractual guidelines. Since this was a targeted examination, only the standards, which were pertinent to the targeted examination or the treatment of third party claimants were examined.

The focus of the examination is 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 throughout its operations, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the result findings of the measurement and monitoring activities. The examination also determined 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 verify 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, 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

Safeco Insurance Company of America was incorporated on September 2, 1953 under the laws of the State of Washington and began active operations on October 1, 1953. Operations were conducted under the corporate title Selective Auto and Fire Insurance Company of America until November 2, 1953, at which time the present name was adopted. Safeco is licensed in all 50 states, the District of Columbia and Guam.

In 1997, they acquired American States Financial Corporation and doubled the agency force and in 2004 sold the life and investments division, focusing fully on property and casualty insurance, as well as surety bonds.

In September 2008, Safeco became part of Liberty Mutual Insurance.

Safeco Insurance Company of America is currently domiciled in New Hampshire. They are licensed to do business in the State of West Virginia for the lines of Casualty, Fire, Marine and Surety. During 2011 the Company wrote approximately \$24,000,000 in private passenger automobile premiums in West Virginia giving them a 2.2 % market share.

METHODOLOGY

This examination is based on the standards and tests for a market conduct examination of a property and casualty insurer found in Chapter XVI of the 2012 NAIC *Market Regulation Handbook* and in applicable West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination or all types of review. The types of review used in this examination fall into three general categories: generic, sample, and electronic.

A "generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner or provided by the examinee in response to queries by the examiner.

A "sample" review indicates that a standard was tested through direct review of a random sample of files selected using Audit Command Language (ACL) and sampling methodology described in Chapter XIV of the Handbook. For statistical purposes, an error tolerance level of 7% was used for claims and a 10% tolerance was used for other types of review. Examiners determined acceptance samples designed to rule out, with 95% confidence, that the proportion of errors in the various populations from which the samples were drawn does not exceed the recommended tolerance levels.

An "electronic" review indicates that a standard was tested through use of a computer program or applied to a download of the Company's computer records. This type of review typically reviews all records of a particular type.

Each standard tested is described and the result of testing is provided under the appropriate standard. Each standard applied is described, and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC *Market Regulation Handbook* are stated and contained within a bold border.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard. "Results" are indicated, examiner's "Observations" are noted, and in some cases, a "Recommendation" is made. Comments, Results, Observations and Recommendations are maintained with the appropriate standard.

A. Company Operations & Management

Comments: 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 examiner. Because this was a targeted examination primarily focused on Claims Handling, only three standards of this section of the NAIC *Market Regulation Handbook* were selected for review. These standards focused mainly on recordkeeping and the efficiency of the Company's responses to the examiner's requests.

Standard A7.	NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 7
Records are adequate, accessible, consistent, and orderly, and comply with state record retention requirements.	
	W. Va. Code § 33-11-4 & W. Va. Code St. R. §§ 114-14-3 & 114-15-4

Comments: The review methodology for this standard is generic. The standard does have a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

Results: Pass

Observations: All files were available and were orderly. Claim records reviewed were available by the Company's computer network.

Recommendations: None

Standard A8	NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 8
The regulated entity is licensed for the lines of business that are being written.	
	W. Va. Code § 33-3-1

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure the Company's operations are in conformance with its certificate of authority.

Results: Pass

Observations: The Company was a licensed for casualty, fire, marine and surety for the examination period.

Recommendations: None

Standard A9	NAIC Market Regulation Handbook -- Chapter XVI, § A, Standard 9
The Company cooperates on a timely basis with examiners performing the examination.	
W. Va. Code § 33-2-9 & W. Va. Code St. R. § 114-15-1, et seq.	

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the Company's operations in West Virginia. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing the cost of the examination.

Results: Pass

Observations: The Company was extremely cooperative during the examination and responded to all examiners' requests timely.

Recommendations: None

Standard A18	NAIC Market Regulation Handbook -- Chapter XVI, § A, Standard 18
All data required to be reported to departments of insurance is complete and accurate.	
W. Va. Code § 33-2-9 & W. Va. Code St. R. § 114-15-1, et seq.	

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company provides complete and accurate data to The West Virginia Offices of the Insurance Commissioner.

Results: Pass

Observations: The Company provided a reconciliation of the claims data provided to the WVOIC to the state page of their annual statement for the examination period. The reconciliation provided was sufficient.

Recommendations: None

B. Complaint Handling

Comments: Evaluations of the standards in this business area are based on Company responses to various requests for information and the review of the Company's complaint files. 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 "[t]his 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.”

Standard B1 NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 1
 All complaints are recorded in the required format on the company complaint register.
 W. Va. Code § 33-11-4(10)

Comments: The review methodology for this standard is sample and generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

Results: Pass

Observations: The Company provided their complaint register. The register listed the policy number, insured name, complainants name, date received, reason for complaint, resolution status and resolution date.

Recommendations: None

Standard B2 NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 2
 The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.
 W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.2

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company communicates complaint handling procedures to its policyholders. W. Va. Code §33-11-4(10) requires all insurers to maintain a complete record of all complaints it has received since its last examination.

Results: Pass

Observations: The Company provided their complaint handling procedures. Included was the definition of a complaint along with the procedures. The Company’s complaint handling procedures appear to be adequate to comply with W. Va. Code §33-11-4(10) and W. Va. Code St. R. §114-14-5.2.

Recommendations: None

Standard B3 NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 3
 The Company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules, and regulations, and contract language.
 W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.2

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company takes adequate steps to resolve and finalize complaints.

Results: Pass

Observations: The examiners reviewed eighty-two (82) WVOIC generated complaints and fifty (50) internal company complaints.

Table B3: Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Complaints	132	132	0	132	0	100%

Recommendations: None

Standard B4 NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 4
 The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules, and regulations.
 W. Va. Code § 33-11-4a(b)(5) & W. Va. Code St. R. §§ 114-14-5.2 & 5.3

Comments: The review methodology for this standard is sample. The standard has a direct statutory requirement. In the case of complaints concerning claims, direct time requirements are found in regulation. This standard is concerned with whether the Company responded to complaints timely. Concerns tested within this standard include compliance with:

- W. Va. Code. §33-11-4a (b) (5) The person that is the recipient of a notice from the Commissioner pursuant to subdivision (3) of this subsection shall report to the Commissioner on the disposition of the alleged violation within fifteen days of the disposition but no later than sixty days from receipt of notice of the complaint from the Commissioner.
- W. Va. Code St. R. §114-14-5.2 Answer of inquiries from Insurance Commissioner: -- Every insurer, producer or other licensee, upon receipt of any inquiry other than a notice of third-party administrative complaint from the Insurance Commissioner shall, within fifteen (15) working days of the date appearing on the inquiry, furnish the Commissioner with a complete written response to the inquiry. A "complete written response" addresses all issues raised by the claimant or the Commissioner and includes copies of any documentation requested. This subsection is not intended to permit delay in

responding to inquiries by the Commissioner or his or her staff in conjunction with a scheduled examination on the insurer's premises.

- W. Va. Code St. R. §114-14-5.3 Replies to other pertinent communications. -
 - A reply shall be made within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant which reasonably suggest that a response is expected.

Results: Pass

Observations: The examiners reviewed eighty-two (82) WVOIC generated complaints and fifty (50) internal company complaints. The Company responded within the appropriate time frame to the WVOIC generated or internal company complaints received during the examination period.

Table B4: Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Complaints	132	132	0	132	0	100%

Recommendations: None

G. Claims Practices

Comments: The evaluation of standards in this business area is based on Company responses to information 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.

Standard G1 The initial contact by the company with the claimant is within the required time frame. <small>NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 1 W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. § 114-14-5.1</small>
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Comments: Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W. Va. Code §33-11-4(9)(b) which prohibits “[F]ailing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.” W. Va. Code St. R. §114-14-5.1 states that “[E]very insurer, upon receiving notification of a claim shall, within fifteen (15) working days, acknowledge the receipt of such notice unless full payment is made within such period of time.”

Results: Pass

Observations: A random sample of one hundred eight (108) paid claims and a sample of sixty-five (65) closed without payment claims were selected and reviewed to determine if the Company made timely contact with claimants. Fifty-six (56) closed without payment claims (CWOP) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates. Company contact times were in compliance with State statutes, rules and regulations. No exceptions were noted.

Table G1: Claims, Initial Contact

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	108	0	100%
Third-party claims, closed without payment	147	65	61	4	0	100%
Totals	3091	173	61	112	0	100%

Recommendations: None

Standard G2 Timely investigations are conducted.	NATC Market Regulation Handbook – Chapter XVI, § G, Standard 2 W. Va. Code § 33-11-4(9)(c) & W. Va. Code St. R. § 114-14-6
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Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement and is intended to assure that the carrier initiates a prompt and complete investigation. Concerns tested within this standard include compliance with:

- W. Va. Code. §33-11-4(9)(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies
- W. Va. Code St. R. §114-14-6.2(a) which requires that the investigation be initiated within fifteen (15) working days from receiving notice of the claim.
- W. Va. Code St. R. §114-14-6.7 which requires a notice of necessary delay in investigating claims, if the insurer needs more than thirty (30) calendar days from receipt of notice of claim from a third-party claimant to determine whether a claim should be accepted or denied, it shall so notify the claimant in writing within fifteen (15) working days after the thirty-day period expires. If the investigation remains incomplete, the insurer shall provide written notification of the delay to the claimant every forty five (45) calendar days thereafter until the investigation is complete.

Claim files that did not require the notice of necessary delay because they were resolved in a timely manner were considered to be a "Pass" rather than "Non-applicable" for evaluation purposes of this standard.

Results: Pass with Recommendations

Observation: A random sample of one hundred eight (108) paid claims and a sample of sixty-five (65) closed without payment claims were selected and reviewed to determine if the Company made timely investigations. Fifty-six (56) closed without payment claims (CWOP) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates. The examiner's review of the claim samples indicate the Company failed to send a written delay letter(s) or did not send a delay letter(s) timely in three (3) paid claims as required by W. Va. Code St. R. §114-14-6.7.

Table G2: Claims, timely investigation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	105	3	97.22%
Third-party claims, closed without payment	147	65	61	4	0	100%
Totals	3091	173	61	109	3	97.32%

Recommendations: The Company shall send delay letters as required by W. Va. Code St. R. §114-14-6.7.

Standard G3	NAIC Market Regulation Handbook – Chapter XVI, § 6, Standard 3
Claims are resolved in a timely manner.	W. Va. Code § 33-11-4(9)(f) & (m), & W. Va. Code St. R. § 114-14-6.3

Comments: Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. This standard is intended to assure that claims are promptly settled once liability is reasonably clear. Applicable statutes and rules for this standard include:

- W. Va. Code §33-11-4(9)(e). Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

- W. Va. Code §33-11-4(9)(f). Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- W. Va. Code §33-11-4(9)(m). Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- W. Va. Code St. R. §114-14-6.3. Duty after investigation. -- Within ten (10) working days of completing its investigation, the insurer shall deny the claim in writing or make a written offer, subject to policy limits.

Results: Pass

Observations: A random sample of one hundred eight (108) paid claims and a sample of sixty-five (65) closed without payment claims were selected and reviewed to determine if the Company made timely investigations. Fifty-six (56) closed without payment claims (CWOP) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates

Table G3: Claims, claims resolution

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	108	0	100%
Third-party claims, closed without payment	147	65	61	4	0	100%
Totals	3091	173	61	112	0	100%

Recommendations: None

<p>Standard G4 NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 4 The regulated entity responds to claim correspondence in a timely manner. W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. § 114-14-5.3</p>
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Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. The standard is intended to assure that companies treat claimants properly by promptly responding to inquiries of claimants and their representatives. Applicable statutes and regulation for this standard include:

- W. Va. Code §33-11-4(9)(b), which prohibits “failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.”

- W. Va. Code St. R. §114-14-5.3: Replies to other pertinent communications. – A reply shall be made within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant, which reasonably suggests that a response is expected.

Results: Pass with Recommendations

NOTE: Results of this standard directly relate to the determination as to whether the violation identified in Administrative Proceeding No. 10-TIIP-02104 occurred with such frequency that a business practice may be construed.

Observations: A random sample of one hundred eight (108) paid claims and a sample of sixty-five (65) closed without payment claims were reviewed to determine if the Company promptly responded to correspondence received. Fifty-six (56) closed without payment claims (CWOP) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates. The examiner’s review of the paid claims sample indicate the Company failed to reply to communication as required by W. Va. Code St. R. §144-14-5.3 in six (6) claims.

During the examiner’s review of the closed without payment claims, one (1) N/A claim was determined to be in violation of W. Va. Code St. R. §114-14.5.3 in regards to replying to pertinent communications. As this was a paid portion of a closed without payment claim, it is not indicated as a fail in the table below.

Table G4: Claims, claims correspondence

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	102	6	94.44%
Third-party claims, closed without payment	147	65	61	4	0	100 %
Totals	3091	173	61	106	6	94.64%

Recommendations: The Company shall reply to pertinent communications from a claimant within fifteen (15) working days as required by W. Va. Code St. R §114-14-5.3.

<p>Standard G5 NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 5 Claim files are adequately documented. W. Va. Code St. R. §§ 114-14-3 & 114-15-4.2a, 4.4</p>

Comments: Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Without adequate documentation, proper claimant treatment as well as the various time frames required by statutes and/or

regulation cannot be demonstrated. Applicable statutes and regulations for this standard include:

- W. Va. Code St. R. §114-14-3 - The insurer's claim files shall be subject to examination by the Commissioner or by his or her duly appointed designees. Such files shall 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. All communications and transactions emanating from or received by the insurer shall be dated by the insurer. A notation of the substance and date of all oral communications shall be contained in the claim file. Insurers shall either make a notation in the file or retain a copy of all forms mailed to claimants.
- W. Va. Code St. R. §114-15-4.4 -- Claim files shall be maintained as follows:

a. A claim file and accompanying records shall be maintained for the calendar year in which the claim is closed, plus additional years as set forth in subdivision b, subsection 4.2 of this section. The claim file shall be maintained so as to show clearly the inception, handling and disposition of each claim. The claim files shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. A claim file shall, at a minimum, include the following items:

1. For property and casualty: the file or files containing the notice of claim, claim forms, proof of loss or other form of claim submission, settlement demands, accident reports, police reports, adjusters logs, claim investigation documentation, inspection reports, supporting bills, estimates and valuation worksheets, medical records, correspondence to and from insureds and claimants or their representatives, notes, contracts, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, any documented or recorded telephone communication related to the handling of a claim, including the investigation, payment or denial of the claim, copies of claim checks or drafts, or check numbers and amounts, releases, all applicable notices, correspondence used for determining and concluding claim payments or denials, subrogation and salvage documentation, any other documentation created and maintained in a paper or electronic format, necessary to support claim handling activity, and any claim manuals or other information necessary for reviewing the claim;

Results: Pass with Recommendations

Observations: A random sample of one hundred eight (108) paid claims and a sample of sixty-five (65) closed without payment claims were reviewed to determine if documentation supported the ultimate claim determination. Fifty-six (56) closed without payment claims (CWOP) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates. It should be noted that two (2) files showed an incorrect "payment on behalf of" although the payment was made to the proper claimant. The Company is correcting their electronic files.

Table G5: Claims, adequate documentation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	106	2	98.15%
Third-party claims, closed without payment	147	65	61	4	0	100%
Totals	3091	173	61	110	2	98.21%

Recommendations: The Company shall properly document files as per W. Va. Code St. R. §§ 114-14-3 & 114-15-4.2a, 4.4.

<p>Standard G6 NAIC Market Regulation Handbook -- Chapter XVI, § G, Standard 6 Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations. W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1, et seq.</p>

Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. Concerns tested with this standard include:

- Claim handling meets West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims, and proper payment of non-disputed claims.
- Coverage was checked for proper application of exclusionary language.
- Appropriate disclosures are given when a claim nears the applicable statute of limitations.

Applicable statutes and regulations include:

- W. Va. Code §33-11-4(9)(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- W. Va. Code St. R. §114-14-6.4. Offers of settlement. --
 - a. In any case where there is no dispute as to coverage and liability, it is the duty of every insurer to offer claimants or their authorized representatives, amounts which are fair and reasonable, as shown by the insurer's investigation of the claim, providing the amounts so offered are within policy limits and in accordance with the policy provisions.
 - b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low.
- W. Va. Code St. R. §114-14-6.4., 6.10. Separation of claims. -- In any case where there is no dispute as to one (1) or more elements of a claim, payment for such element(s) shall be made notwithstanding the existence of disputes as to other

elements of the claim where such payment can be made without prejudice to either party.

- W. Va. Code St. R. §114-14-6.12. Notice of applicable time limitations. -- No person may negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first-party claimants not less than thirty (30) days, and to third-party claimants not less than sixty (60) days before the date on which such time limit expires.
- W. Va. Code St. R. §114-14-6.13. Avoidance of payment. -- Where liability and damages are reasonably clear, no person may recommend that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract.
- W. Va. Code St. R. §114-14-6.14. Unreasonable travel. -- No person may require a claimant to travel unreasonably
- W. Va. Code St. R. §114-14-6.16. Claim proceeds used to pay premiums of another policy. -- No insurer may deduct from a claim payment made under one policy premiums owed by the insured on another policy unless the insured consents.
- W. Va. Code St. R. §114-14-6.18. Motor vehicle repair shops. -- An insurer may furnish to the claimant the names of one or more conveniently located motor vehicle repair shop that will perform the repairs; however, no insurer may require the claimant to use a particular repair shop or location to obtain the repairs.

Results: Pass with Recommendations

Observations: The examiners reviewed a random sample of one hundred eight (108) paid claims. In one (1) claim involving damages in excess of liability limits with multiple claimants, one of the claimants returned the claim check as it had already been indemnified by another carrier. The Company did not redistribute the proceeds to the remaining parties in the claim. No other exceptions were noted.

Table G6: Claims properly handled

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	107	1	99%

- **Recommendations:** The Company should ensure claim proceeds are properly distributed as required by W. Va. Code § 33-11-4(9)(f).

Standard G9	NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 9
Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.	W. Va. Code § 33-11-4(9)(e) & (n), & W. Va. Code St. R. § 114-14-6.17, 6.3, & 6.5

Comments: Review methodology for this standard is generic. This standard has a direct statutory requirement. Concerns tested for this standard include:

- W. Va. Code St. R. §33-11-4(9)(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- W. Va. Code St. R. §33-11-4(9)(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;
- W. Va. Code St. R. §114-14-6.4. Offers of settlement. --
 - a. In any case where there is no dispute as to coverage and liability, it is the duty of every insurer to offer claimants or their authorized representatives, amounts which are fair and reasonable, as shown by the insurer's investigation of the claim, providing the amounts so offered are within policy limits and in accordance with the policy provisions.
 - b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low.
- W. Va. Code St. R. §114-14-6.10. Separation of claims. -- In any case where there is no dispute as to one or more elements of a claim, payment for such element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim where such payment can be made without prejudice to either party
- W. Va. Code St. R. §114-14-6.12. Notice of applicable time limitations. -- No person may negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first-party claimants not less than thirty (30) days, and to third-party claimants not less than sixty (60) days, before the date on which such time limit expires.
- W. Va. Code St. R. §114-14-6.13. Avoidance of payment. -- Where liability and damages are reasonably clear, no person may recommend that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract.
- W. Va. Code St. R. §114-14-6.17 states the following:

Any notice rejecting any element of a claim shall contain the identity and the claims processing address of the insurer and the claim number. The notice must state that the claimant has the option of contacting the Commissioner. The notice must provide the Commissioner's mailing address, telephone number and website address.

Results: Fail

Observations: A sample was reviewed of sixty-five (65) closed without payment claims (CWOP). Fifty-six (56) were non-applicable to the review because the claim was listed as such due to a specific line of liability being opened, but then payment was ultimately made under another line, creating a closed without payment status under the original line. (For example: Bodily Injury was initially opened for reserve, but only payments under Medical Payment and/or Property Damage were made.) In addition, five (5) CWOP claim files were determined to be duplicates.

Two (2) third-party claim denial notices did not contain the required contact information and thus were not in compliance with W. Va. Code St. R §114-14-6.17. There was one (1) additional file from the N/A list that also did not include the required information.

Table G9: Claims, closed without payment sample results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, closed without payment	147	65	61	2	2	50.00%

Recommendations: It is recommended that the Company include the appropriate WVOIC contact information as required by W. Va. Code St. R. § 114-14-6.17.

<p>Standard G10 Cancelled benefit checks and drafts reflect appropriate claim handling practices.</p>	<p><i>NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 10</i> <i>W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1 et seq</i></p>
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Comments: Review methodology for this standard is electronic and sample. The concerns tested for this standard include:

- This standard has a direct statutory requirement that cancelled benefit checks include the correct payee and are for the correct amount.
- That payment checks do not indicate the payment is “final” when such is not the case.
- That checks or drafts do not purport to release the insurer from total liability when such is not the case.

Results: Pass

Observations: The random sample of one hundred eight (108) paid claims was reviewed. It was found in one (1) file that a duplicate payment was issued.

Table G10: Claims, sample result

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third-party claims, paid	2944	108	0	108	0	100%

Recommendations: None

CONCLUSION

The examination revealed three (3) violations of W. Va. Code St. R. §114-14-6.7 pertaining to no or untimely delay letters, six (6) violations of W. Va. Code St. R. §114-14-5.3 pertaining to failure to reply to pertinent communications, two (2) violations of W. Va. Code St. R. §§114-14-3 & 114-15-4.2a, 4.4 pertaining to documentation, and one (1) violation of W. Va. Code § 33-11-4(9)(m) pertaining to proper disbursement of a returned claim payment. These violations did not occur with such frequency to fail the standard (G2, G4, G5 and G6).

There were two (2) violations of W. Va. Code St. R. §114-14-6.17 pertaining to denial letters including WVOIC contact information. The frequency of these violations was sufficient to fail the standard (G9).

The result of the target market examination revealed six (6) violations of W. Va. Code §33-11-4(9)(b) and W. Va. Code St. R. §114-14.5.3, however this is not to the level of failing the standard.

LIST OF RECOMMENDATIONS

Recommendation G2: The Company shall send delay letters as required by W. Va. Code St. R §114-14-6.7.

Recommendation G4: The Company shall reply to pertinent communications from a claimant within fifteen (15) working days as required by W. Va. Code St. R §114-14-5.3.

Recommendation G5: The Company shall properly document files as per W. Va. Code St. R. §§ 114-14-3 & 114-15-4.2a, 4.4.

Recommendation G6: The Company should ensure claim proceeds are properly distributed as required by W. Va. Code §.33-11-4(9)(f).

Recommendation G9: It is recommended that the Company include the appropriate WVOIC contact information as required by West Virginia Code State R. §114-14-6.17.

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 addition to the undersigned, Mark A. Hooker, CIE, MCM, CPCU, CWCP, AAI, AU, AIS, CCP, FLMI, LUTCF, AIRC and Desiree D. Mauller, MCM, CWCP.



Robert Parsons, AIE, MCM AIRC, CWCP, ACS, CICS
Examiner-in-Charge

EXAMINER'S AFFIDAVIT

State of West Virginia

County of Kanawha

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

I, Robert Parsons, being duly sworn, states as follows:

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

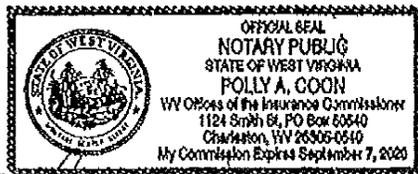
The affiant says nothing further.

Robert Parsons

Robert Parsons, AIE, MCM AIRC, CWCP, ACS, CICSR
Examiner in Charge

Subscribed and sworn before me by Robert Parsons on this 17th day of March, 2013.

(SEAL)



Polly A. Coon
Notary Public

My commission expires on 9-7-2020 (date).



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May 13, 2013

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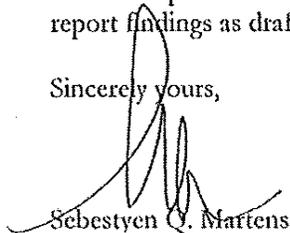
Mark A. Hooker, AIE, CPCU, AAI, AU, AIS LUTCF
Chief Market Conduct Examiner
State of West Virginia
Office of the Insurance Commissioner
1124 Smith Street
Charleston, West Virginia

RE: Safeco Insurance Company of America

Dear Mr. Hooker,

We appreciate the time the Department has afforded to review the Report of Market Conduct Examination (As of September 30, 2012) findings and for the opportunity to respond to you on this important matter. Upon careful review of the report we are in agreement with the report findings as drafted and have no formal objections at this time.

Sincerely yours,



Sebestyen Q. Martens