

**PROCEEDING BEFORE THE ACTING INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA**

**IN RE:  
FARMERS & MECHANICS FIRE AND CASUALTY INSURANCE COMPANY  
ADMINISTRATIVE PROCEEDING  
19-MAP-02001**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION**

NOW COMES, the Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the examination of Farmers & Mechanics Fire and Casualty Insurance Company (hereinafter referred to as "FMFC") for the period of January 1, 2016 through June 30, 2018 based upon the following findings, to wit:

**PARTIES**

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.

FMFC is a West Virginia corporation incorporated on May 2, 2006 and licensed in West Virginia as an insurer under Chapter 33 of the West Virginia Code.

**FINDINGS OF FACT**

Examination fieldwork began on November 13, 2018 and concluded on January 16, 2019. The examination was conducted in accordance with W. Va. Code §33-2-9 by

examiners duly appointed by the Offices of the West Virginia Insurance Commissioner. The Market Conduct Examination was a statutory examination focusing on the applicable areas of the NAIC Market Regulation Handbook and West Virginia statutes, rules and regulations. Thirty-five (35) standards were tested during the examination. FMFC was determined to be compliant with all thirty-five (35) standards examined.

On or about February 5, 2019, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code §33-2-9, a Report of Market Conduct Examination.

### **CONCLUSIONS OF LAW**

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

This proceeding is pursuant to and in accordance with W. Va. Code § 33-2-9. FMFC was compliant with all standards reviewed as evidenced by the Report of Market Conduct Examination.

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 FMFC as well as all other provisions of regulation that the company is subjected to by its Certificate of Authority to operate in the State of West Virginia.

### **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 FMFC thereto, if any, the Insurance Commissioner and FMFC have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination.

It is accordingly **ORDERED** as follows:

The Report of Market Conduct Examination of Farmers & Mechanics Fire and Casualty Insurance Company for the period ending June 30, 2018 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

It is further **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, FMFC 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;

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 FMFC.

Entered this 1<sup>st</sup> day of March, 2018.

  
\_\_\_\_\_  
Eric K. Hunter  
Acting Insurance Commissioner

**REVIEWED AND AGREED TO BY:**

**On behalf of the INSURANCE COMMISSIONER:**

  
\_\_\_\_\_  
Jeffrey C. Black, Attorney Supervisor  
Regulatory compliance and Enforcement

Dated: 3/1/19

**On Behalf of Farmers & Mechanics Fire and Casualty Insurance Company**

By: Foster L. Sirbaugh, Jr  
Print Name

Its: President / CEO

Signature: Foster L. Sirbaugh, Jr

Date: FEB 27, 2019

# Report of Market Conduct Examination

As of June 30, 2018



**Farmers & Mechanics Fire and Casualty Insurance Company**  
25 Administrative Drive  
Martinsburg, West Virginia 25401

**NAIC COMPANY CODE 12611**  
**Examination Number WV-WV014-15**

## TABLE OF CONTENTS

COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS.....	4
EXECUTIVE SUMMARY .....	4
SCOPE OF EXAMINATION.....	5
HISTORY AND PROFILE.....	5
METHODOLOGY .....	6
A. Company Operations/Management .....	6
B. Complaint Handling.....	7
C. Marketing & Sales .....	9
D. Producer Licensing .....	11
E. Policyholder Service .....	12
F. Underwriting & Rating.....	14
G. Claims .....	21
SUMMARY OF RECOMMENDATIONS: .....	27
EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT .....	28
EXAMINER'S AFFIDAVIT .....	29

February 5, 2019

The Honorable Acting Commissioner Erin Hunter, JD, PAHM  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25302

Dear Acting Commissioner Hunter:

Pursuant to your instructions and in accordance with W.Va. Code §33-2-9, an examination has been made as of June 30, 2018 of the business affairs of

Farmers & Mechanics Fire and Casualty Insurance Company  
25 Administrative Drive  
Martinsburg, West Virginia 25401

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

## **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 June 30, 2008.

Prior examination findings included:

- **Standard A 4: Operations & Management** - The Company did not have a formal disaster recovery plan detailing procedure for continuing operations in the event a disaster.
- **Standard B 2: Complaint Handling** - The company reported that it had no complaints that were received directly from consumers; furthermore, it did not appear that the company had a procedure to handle those complaints.

All previous recommendations have been addressed by the Company and no subsequent failure of the above standards were found.

## **FOREWARD**

This is a report by test of company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2017 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Offices 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 Farmers & Mechanics Fire and Casualty Insurance Company. "WVOIC" as used herein refers to the West Virginia Offices of the Insurance Commissioner. "W.Va. Code 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**

This is the report of the Market Conduct Examination of Farmers & Mechanics Fire and Casualty Insurance Company of West Virginia conducted by the state of West Virginia, under the authorization of W.Va. Code § 33-2-9. The period covered by the examination was January 1, 2016 through June 30, 2018.

With the exception of the standards within the report specific to this examination, the market conduct examiners did not duplicate a review of Company Operations & Management and relied on the results obtained under a recent examination conducted by the WVOIC Financial Conditions Unit (Administrative Proceeding Order 18-AP-FINCON-02009 by order dated December 4, 2018), which concluded there were no violations noted.



The examination fieldwork began November 13, 2018 and concluded January 16, 2019. Thirty-five (35) standards were tested during the examination; the Company was found to be compliant with all standards.

## **SCOPE OF EXAMINATION**

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

- 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 lower echelons, 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 complies with West Virginia statute and rules.

This examination report is a report by test, rather than a report by exception, and all standards tested are described and the results indicated.

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.

## **HISTORY AND PROFILE**

Farmers & Mechanics Fire & Casualty Insurance Company (FMFC) was incorporated on May 2, 2006 and commenced business on July 24, 2006 as a wholly owned subsidiary of Farmers & Mechanics Mutual Insurance Company of West Virginia (FMM).

FMFC is a single-state, WV domiciled insurer that writes business only in West Virginia. Lines of business written include Personal Automobile.

According to the NAIC 2017 Market Analysis - Market Share Report, the Company had \$9,707,298 in written premium with a state market share of 0.784%.

## 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.

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

In the results tables a "pass" response indicated compliance and a "fail" response indicates a failure to comply. 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 an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test. Except as otherwise noted, all tests were conducted via random sample taken from a given population.

Initial sample sizes were based on the total population, utilizing the Acceptance Samples Table (AST) found in the NAIC *Market Regulation Handbook*, Chapter 14-Sampling. In some cases, the total sample size was reviewed. In other instances, when review reached a specific number of files with no errors noted, review was terminated as risk of non-compliance was minimal. The actual samples and categories reviewed are reflected in the tables throughout the report.

### 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 examiner. As noted above in the Executive Summary, this portion of the review is not intended to duplicate the financial examination. The following standards are included due to their specific reference regarding this market regulation examination.

**Standard A1: Records are adequate, accessible, consistent and orderly and comply with state record retention.** (2017 NAIC Market Regulation Handbook Chapter 16, § A Standard 7)

**Test Methodology:**

- Does the Company adhere to the state record retention? [W. Va. Code §33-2-9 and W. Va. Code R. § 114-15-1 et seq.]

**Examiner Observations:** Files are retained in accordance with state record retention requirements. Policy files contained all pertinent information from which to make an underwriting decision.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A2: The Company cooperates on a timely basis with examiners performing the examinations.** (2017 NAIC Market Regulation Handbook Chapter 16, § A Standard 9)

**Test Methodology:**

- Did the company provide the initial data request on a timely basis per W. Va. Code §33-2-9?
- Did the company timely respond to any requests for information per W. Va. Code R. § 114-15-4.9(a)?

**Examiner Observations:** The Company was cooperative, and the examination proceeded in a cordial atmosphere. Data provided was responsive and timely.

**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." There are no specific regulatory or statutory timeframes regarding responses to complaints received at the Offices of the Insurance Commissioner; however, the WVOIC Consumer Services Division has adopted a fifteen (15) working day timeframe for responses to its office.

**Standard B1: All complaints are recorded in the required format on the company complaint register.** (2017 NAIC Market Regulation Handbook Chapter 16, § B Standard 1)

**Test Methodology:**

- Is the company recording all complaints from both the consumer and the Commissioner's Office?
- Is the company recording all complaints in a regulated complaint register? [W. Va. Code §33-11-4(10)]

**Examiner Observations:** The Company maintains an electronic log of complaints in accordance with the requirements of the Insurance Commissioner. The company received nine (9) complaints from the WVOC during the examination period. The Company had no internal written consumer complaints during the exam period. The examiners did not observe any communications from policyholders or claimants that could be construed as complaints during the policy or claim file reviews. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table B1 Results: Complaints Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Complaints	9	9	9	0	90	100

**Standard B2: The Company has adequate complaint handling procedures in place and communicates such procedures to policyholders.** (2017 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 R. §114-14-5.2]

**Examiner Observations:** The Company has complaint procedures in place. The process is to begin processing complaints within twenty-four (24) hours and to provide a response within fifteen (15) working days as required by W. Va. Code R. §114-14-5.2.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard B3: The time frame within which the company responds to complaints is in accordance with applicable statutes, rules, and regulations. (2017 NAIC Market Regulation Handbook Chapter 16, § B Standard 4)**

**Test Methodology:**

- Is the company maintaining adequate documentation of complaints, as required by W. Va. Code §33-11-4(10)?
- Is the company responding to complaints in a timely manner, as required by W. Va. Code R. §114-14-5.2?

**Examiner Observations:** The Company is adequately documenting complaints and is responding in a timely manner.

**Examiner Recommendations:** None

**Results:** Compliant

**Table B3 Results: Complaints Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Complaints	9	9	9	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 examiner. 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. (2017 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?
- Does the Company approve producer sales materials and advertising? [W. Va. Code §33-11-4]

**Examiner Observations:** The advertising materials consisted of producer training manuals, Fall/Winter & Summer email newsletters, local public high school football game programs and banners, a yellow page advertisement and radio broadcast advertisements. The Company maintained a copy of the advertisements.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard C2: Company internal producer training materials are in compliance with applicable statutes, rules, and regulations.** (2017 NAIC Market Regulation Handbook Chapter 16, § C Standard 2)

**Test Methodology:**

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

**Examiner Observations:** The Company's training manual includes underwriting guidelines and forms lists. The training manual is broken down by lines of business. Producer training is primarily conducted in the field by Company marketing staff where producers undergo hands on training. Once appointed, they are given access to the Company system where they can access web-based training videos, quote premiums, enter application data, bind and issue application policy types. Review of the manuals found no references to employing unfair discrimination tactics. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard C3: Company communications to producers are in compliance with applicable statutes, rules, and regulations.** (2017 NAIC Market Regulation Handbook Chapter 16, § C Standard 3)

**Test Methodology:**

- Is the Company in compliance with the prohibitions on misrepresentations? Is it concerned with representations made by the Company to its producers other than in a training mode? [W. Va. Code §33-11-3 & 4]

**Examiner Observations:** Communication between the Company and its producers are normally through email and telephone. Examiners reviewed the written communications including those documented in the policy files for adherence to both the West Virginia Unfair Trade Practices Act and the West Virginia Unfair Claims Settlement Practices Act. No exceptions 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.

**Standard D1: The producers are properly licensed and appointed and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken.** (2016 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 §33-12-18(a)]
- 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)]
- Are all applications signed by properly licensed and appointed producers? [W. Va. Code §33-12-18]

**Examiner Observations:** Examiners review of the sampled new business policies confirmed the writing producer listed on the application was properly licensed and appointed. The Company only gives access to active producers into their system, therefore any inactive or unappointed producer would not be able to submit applications.

**Examiner Recommendations:** None

**Results:** Compliant

**Table D1 Results: Producer Licensing Sample**

Type	Population	Sample	Pass	Fall	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard D2: Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable.** (2017 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 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 per W.Va. Code §33-12-25?

**Examiner Observations:** The entire population of one hundred forty-six (146) terminated producers was reviewed. The Company produced copies of the termination letters. The Company terminated one (1) producer for cause during the examination period. All termination letters met required time frames and notification requirements.

**Examiner Recommendations:** None

**Results:** Compliant

**Table D2 Results: Termination of Producer Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Terminated Producers	146	146	146	0	90	100

**Standard D3: The Company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.** (2017 NAIC Market Regulation Handbook Chapter 16, § D Standard 4)

**Test Methodology:**

- Does the appointment or termination of producers result in unfair discrimination against policyholders?
- Does the termination leave any territories understaffed?

**Examiner Observations:** The Company's producers can be found throughout the State of West Virginia. No unfair discrimination against policyholders can be inferred by the Company's producer appointment and termination records.

**Examiner Recommendations:** None

**Results:** Compliant

## **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: Policy issuance and insured requested cancellations are timely. (2017 NAIC Market Regulation Handbook Chapter 16, § E Standard 2)**

**Test Methodology:**

- Was the policy issued timely?
- Any excessive paperwork required? [no statutory requirement]

**Examiner Observations:** A sample of new business policy files was reviewed to determine the time required by the Company to issue policies. The Company issued the policy within fifteen (15) days for the entire sample tested. No exceptions were noted.

A sample of insured request cancellations was reviewed to determine if the cancellation notices were timely and did not require excessive paperwork. There were no delays in processing the cancellation transactions.

**Examiner Recommendations:** None

**Results:** Compliant

**Table E1a Results: Policyholder Service Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Table E1b Results: Policyholder Service Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Insured Requested Cancellations	1053	50	50	0	90	100

**Standard E2: Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules, and regulations. (2017 NAIC Market Regulation Handbook Chapter 16, § E Standard 7)**

**Test Methodology:**

- Did the Company charge and refund the appropriate premium? [W. Va. Code §33-20-4a and W.Va. Code R §114-75-1]

**Examiner Observations:** The cancelled policy files were reviewed to determine if the Company provided the appropriate refund amount. Company policy for both the insured requested and the Company cancellations is to cancel the policy on a pro-rata basis. The Company refunded the correct premium when applicable and refunds were issued timely. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table E2 Results: Underwriting Unearned Premium Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Insured Requested Cancellations	1053	50	50	0	90	100
Company Cancellations	700	50	50	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. 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 Company rating plan. (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 1)**

### **Test Methodology:**

- Was the premium calculated in accordance with the rates filed pursuant to W. Va. Code §33-20-4a and W.Va. Code R §114-75-17
- Were the underwriting guidelines followed with respect to the application of the submitted rates and no unfair discrimination practices W.Va. Code §33-20-1?

**Examiner Observations:** A sample of new business policies was reviewed and the premium re-calculated to determine if the Company was following their underwriting guidelines and the filed rates. The Company properly charged rates on all sampled policies in accordance with the rates filed with and approved by the WVOIC and the Company's rating plan. Examiners found no exceptions.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F1 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F2: All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.** (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 2)

**Test Methodology:**

- Were quotations reasonable and accurate?
- Does the Company use proper forms for making offer of optional limits of uninsured and underinsured coverage per W.Va. Code §33-6-31d?

**Examiner Observations:** It is necessary to provide insureds with appropriate disclosures, both mandated and reasonable. Without appropriate disclosures, insureds find it difficult to make informed decisions. Concerns tested included accuracy of producer quotations and no exceptions were found. Additions or deletions of coverage, such as adding or deleting a vehicle, changing a deductible, were accurate and the policyholder was aware of the related costs. Proper forms were used for the election of uninsured and underinsured coverage.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F2 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F3: Company does not permit illegal rebating, commission-cutting, or inducements.** (2017 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)(c)]

**Examiner Observations:** A review of new issue policy files found no evidence of rebating or commission-cutting.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F3 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F4: The Company underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations, and Company guidelines in the selection of risks.** (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 4)

**Test Methodology:**

- Is the Company following its underwriting guidelines?
- Do those guidelines conform to any applicable statutes, rules and regulations?
- Any inconsistency in handling of rating or underwriting practices?

**Examiner Observations:** The personal lines new business file sample was reviewed to ensure underwriting information used to make decisions was not unfairly discriminatory. It was determined that the Company was selecting risks and assigning rates according to company guidelines and no unfair discriminatory practices were detected. Company underwriting also performs quarterly reviews of sampled files for compliance with laws and company guidelines.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F4 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F5: All forms, including policies, contract riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable.** (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 5)

**Test Methodology:**

- Did the Company file all forms and endorsements as required by the insurance department? [W.Va. Code §33-6-8]

**Examiner Observations:** Filings were made and approved by the WVOIC as required. The policy's declaration page lists the forms applicable to the policy. Applications and supporting information were reviewed in the new business underwriting files. No exceptions noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F5 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F6: Policies, contracts, riders, amendments and endorsements are issued or renewed accurately, timely and completely.** (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 6)

**Test Methodology:**

- Did the Company issue policies and endorsements in appropriate time frames? (no statutory requirement)
- Did the Company issue policies and endorsement to permit any unfair discrimination? W.Va. Code §33-11-4(7)

**Examiner Observations:** The Company issued all policies, riders and endorsements accurately, completely and on a timely basis on all policies in the sample selected. Examiners found no evidence of unfair discrimination.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F6 Results: Underwriting & Rating Practices Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F7: Rejections and declinations are not unfairly discriminatory.** (2017 NAIC Market Regulation Handbook Chapter 16, § F Standard 7)

**Test Methodology:**

- Does the company provide valid reasons and are not unfairly discriminatory for rejection/declinations when required? [ W.Va. Code §§33-11-4(7)(c) and W.Va. Code 33-6B-4]
- Does the company monitor the agency rejections/declinations for appropriate practices?
- Has the appropriate refund been made to the applicant?

**Examiner Observations:** The Company does not rescind policies or coverage. The Company issues coverage and if it later determines the insured does not meet underwriting guidelines or makes any material misrepresentation they send a notice of cancellation and then cancel the policy. Examiners found no evidence of unfair discrimination.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard F8: Rescissions are not made for non-material misrepresentation.** (2017 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?

**Examiner Observations:** The Company had thirteen (13) policy rescissions within the exam period. All policies cancelled flat and were insured requested rescissions. The Company timely refunded the correct premium when applicable. Examiners found no evidence of unfair discrimination.

**Examiner Recommendations:** None

**Results:** None

**Table F8 Results: Rescissions Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard %	Compliance %
Rescissions	13	13	0	13	0	90	100

**Standard F9: 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.** (2017 NAIC Market Regulation Handbook Chapter 17, § F Standard 8)

**Test Methodology:**

- Is the initial underwriting of a policy based on the information obtained at the time of application, or after a claim is submitted or near policy expiration?

**Examiner Observations:** A sample of underwriting files was reviewed to determine if rating decisions were based on information received at inception of the policy rather than through audits or post claim. Producers use the Company online rating system to quote, bind coverage and process applications to include discounts or surcharges. No exceptions found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F9 Results: Underwriting Information at Inception Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F10: The company underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations, and company guidelines in the selection of risks.** (2017 NAIC Market Regulation Handbook Chapter 17, § F Standard 14)

**Test Methodology:**

- Is the company following its underwriting guidelines? [W.Va. Code §33-11-4(7)(c)]
- Do those guidelines conform to any applicable statutes, rules and regulations? [W.Va. Code §33-11-3]
- Any inconsistency in handling of rating or underwriting practices? [W.Va. Code §33-20-3]
- Do the applications have the required fraud warning statement? [W.Va. Code §33-6-8(a)]

**Examiner Observations:** A sample of new issue policy files was reviewed to ensure underwriting information used to make decisions was not unfairly discriminatory. It was determined the Company was selecting risks and assigning rates according to Company guidelines and no unfair discriminatory practices were detected. The applications contained the required fraud warning statement.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F10 Results: Underwriting Risk Selection Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F11: Application or enrollment forms are properly and fully completed, including any required signatures, and file documentation adequately supports decision made.** (2017 NAIC Market Regulation Handbook Chapter 17, § F Standard 18)

**Test Methodology:**

- Is the file adequately documented with the proper application, photos, and inspections and available to the examiners per W.Va. Code R. §114-15-4?

**Examiner Observations:** Examiners reviewed a sample of Company new business files. All files were found to contain sufficient application documentation to support the underwriting decisions made.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F11 Results: Underwriting File Documentation Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F12: The Company does not engage in collusive or anti-competitive underwriting practices.** (2017 NAIC Market Regulation Handbook Chapter 17, § F Standard 13)

**Test Methodology:**

- Is there any unlawful pricing or other prohibited anti-competitive acts or practices?
- Has the company entered into any agreements with other West Virginia companies to divide the market within West Virginia by territory?

**Examiner Observations:** A review of the sample of new business policy files and underwriting guidelines did not reveal any evidence of collusive or anti-competitive practices on the part of the Company.

**Examiner Recommendations:** None

**Results:** Compliant

**Table F12 Results: Underwriting Practices Sample**

Type	Population	Sample	Pass	Fall	Standard %	Compliance %
New business policies	1714	113	113	0	90	100

**Standard F13 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.** (2017 NAIC Market Regulation Handbook Chapter 17, § F Standard 16)

**Test Methodology:**

- Was the policyholder given the proper advance notice on a company-initiated cancellation/non-renewal? [W.Va. Code §§33-6A-1; 33-6A-3 and 33-6A-4]
- Does the notice contain the proper reason? [ W.Va. Code §33-6A-3]
- Were the company-initiated cancellations and non-renewals within the policy provisions? [W.Va. Code 33-6A-1]

**Examiner Observations:** Company initiated cancellations and non-renewals were reviewed for compliance. Policyholders need sufficient time in the event of a cancellation or non-renewal to replace coverage. This standard has a direct insurance statutory requirement. W. Va. Code § 33-6A-3 requires companies to give each policyholder thirty (30) days' notice of the cancellation if the policy has been in force for sixty (60) days. W.Va. Code §33-6A-1 requires companies to give at least forty-five (45) days advance notice of non-renewal. Examiners found no delays in issuing the policy cancellation and nonrenewal notices. Reasons for cancellation and nonrenewal were valid and in accordance with underwriting guidelines, policy provisions and state law. There were no discriminatory practices noted.

**Examiner Recommendations:** None

**Results:** Compliant



**Table F13 Results: Underwriting Notices of Company Cancellation and Non-Renewal Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Company Cancellations	700	50	50	0	90	100
Company Non-renewals	123	79	79	0	90	100
<b>TOTALS</b>	<b>823</b>	<b>129</b>	<b>129</b>	<b>0</b>	<b>90</b>	<b>100</b>

## 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.

**Standard G1: The initial contact by the company with the claimant is within the required time frame.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 1)

### Test Methodology:

- Was the claimant contacted within 15 working days (or mandated emergency order timeframe) from the date of the loss notice per W.Va. Code §33-11-4(9)(b) and W. Va. Code R. §114-14-5.1?

**Examiner Observations:** Examiners reviewed a sample of both paid and closed without payment files that each contained first and third-party claims. All claimants were properly contacted within the required 15 working days. No exceptions were found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G1 Results: Claims Initial Contact Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G2: Timely investigations are conducted.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 2)

### Test Methodology:

- Did the investigation commence within fifteen (15) working days of any claim filed per W. Va. Code R. §114-14-6.2 a?
- Is the investigation continuing more than 30 calendar days? If so, was a delay letter sent within 15 working days after the 30 calendar days per W. Va. Code R. §114-14-6.7?
- If the investigation continued, were subsequent delay letters sent with 45 calendar days per W. Va. Code R. §114-14-6.7?

**Examiner Observations:** The examiners reviewed a sample of paid and closed without payment claim files. No exceptions were found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G2 Results: Claims Timely Investigation Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G3: Claims are resolved in a timely manner.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 3)

**Test Methodology:**

- 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 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.
- W. Va. Code St. R. §114-14-7.3c If the insurer intends to exercise its rights to inspect damage prior to repair, it has seven (7) working days from the date of receipt of notice of loss to inspect the Insured's damaged motor vehicle at a place and time reasonable convenient to the insured. In addition, negotiations shall commence, and a good faith offer shall be made within the aforesaid seven (7) day period.
- W.Va. Code St. R § 114-14-7.4e All applicable provisions of subsection 7.3 of this section . . . also apply to the adjustment of total losses, except that the insurer is allowed an additional (5) working days to comply with the requirements set out in subsection 7.3 of these rules.

**Examiner Observations:** The examiners reviewed a sample of paid and closed without payment claim files. No exceptions were found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G3 Results: Claims Resolved Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G4: The Company responds to claim correspondence in a timely manner.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 4)

**Test Methodology:**

- Did the company reply to pertinent communications from a claimant which reasonable suggest that a response is needed per W. Va. Code R. §114-14-5.3 and W. Va. Code §33-11-4(9)(b)?

**Examiner Observations:** The examiners reviewed a sample of paid and closed without payment claim files. No exceptions were found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G4 Results: Claims Correspondence Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G5: Claim files are adequately documented.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 5)

**Test Methodology:**

- Do the files 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 per W. Va. Code R. §114-14-3?
- Are the communications properly dated?

**Examiner Observations:** All reviewed files were properly documented and dated. The examiners found no exceptions to the rule.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G5 Results: Claims Documentation Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G6: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 6)

**Test Methodology:**

- Does the claim handling meet West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims, and proper payment of non-disputed claims?
- Was coverage checked for proper application of deductible or appropriate exclusionary language?
- Were appropriate disclosures given when a claim nears the applicable statute of limitations?

**Examiner Observations:** Claim amounts paid were satisfactory. Policy coverages were documented in the claim file for additional coverage verification. Where applicable, deductibles were correctly applied. No exceptions were found.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G6 Results: Claims Handling Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G7: Denied and closed-without-payment claims are handled in accordance with policy provisions and state laws.** (2017 NAIC Market Regulation Handbook Chapter 16, § G Standard 9)

**Test Methodology:**

- Is the denial based upon specific policy provisions or exclusions?
- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation per W. Va. Code R. §114-14-3?
- Is the claimant who is neither an attorney or represented by an attorney given written notice of that statute of limitation per W. Va. Code R. §114-14-6.12?
- Is the claimant given the option of contacting the Commissioner's Office and provided with its mailing address, telephone number, and web site address per W. Va. Code R. §114-14-6.17?

**Examiner Observations:** Denials were based on policy provisions. The basis for denials was given. All denial letters included the Commissioner's address, phone and web site information.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G7 Results: Claims Denied or Closed Without Payment Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Claims closed w/o payment	120	76	76	0	93	100

**Standard G8: Company uses the reservation of rights and excess of loss letters, when appropriate.** (2017 NAIC Market Regulation Handbook Chapter 17, § G Standard 1)

**Test Methodology:**

- Has the company sent a reservation of rights, when coverage is in question?
- Does the Company send an excess of loss letter when it is apparent that the loss will exceed policy limits?

**Examiner Observations:** The Company issued reservation of rights and excess of loss letters where appropriate, no exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G8 Results: Reservation of Rights Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100
Claims closed w/o payment	120	76	76	0	93	100
<b>TOTALS</b>	<b>2037</b>	<b>181</b>	<b>181</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G9: Cancelled checks and drafts reflect appropriate claim handling practices.**  
(2017 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?
- 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.

**Examiner Observations:** Checks were in the correct amount and included the correct payee. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** Compliant

**Table G9 Results: Claims Payments Sample**

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Paid claims	1917	105	105	0	93	100

**SUMMARY OF RECOMMENDATIONS:**

**A formal list of examiner recommendations has been deemed unnecessary as there were no standards of non-compliance found during the examination.**

**EXAMINER'S AFFIDAVIT**

**State of West Virginia**

**County of Kanawha**

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

I, Letha Tate, being duly sworn, state as follows:

1. I have the authority to represent West Virginia in the examination of Farmers & Mechanics Fire and Casualty Insurance Company.

2. I have reviewed the examination work papers and examination report, and the examination of Farmers & Mechanics Fire and Casualty Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

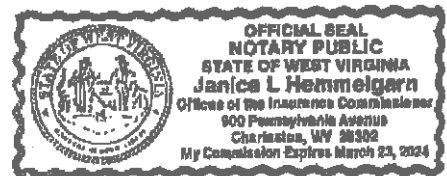
The affiant says nothing further.

Letha Tate, MCM  
Letha Tate, MCM  
Examiner-in-Charge

Subscribed and sworn before me by Letha Tate on this 5 day of Feb, 2019.

Kanawha County, WV

Janice L Hemmelgarn  
Notary Public



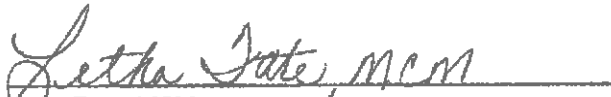
My commission expires: March 23, 2024 (date).



**EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the examination.

In addition to the undersigned, Deslree D. Mauler CIE, CWCP, MCM also participated in this examination.

A handwritten signature in cursive script that reads "Letha Tate, MCM". The signature is written over a horizontal line.

Letha Tate, MCM  
Examiner-in-Charge