

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

In the Matter of:

SAFECO INSURANCE COMPANY OF AMERICA

Administrative Proceeding No. 20-MAP-02000

AGREED ORDER ADOPTING REPORT OF
MARKET CONDUCT EXAMINATION AND ASSESSING A PENALTY

NOW COMES, James A. Dodrill, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the examination of Safeco Insurance Company of America for the examination period ending September 30, 2019 based upon the following findings, to wit:

PARTIES

1. James A. Dodrill is the Insurance Commissioner of the State of West Virginia (hereinafter the "Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapters 23 and 33 of the *West Virginia Code*.
2. Safeco Insurance Company (hereinafter, "Safeco" or "Insurer") operates in West Virginia under the provisions of Chapter 33 of the *West Virginia Code* and is domiciled in New Hampshire.
3. Insurer is licensed in the State of West Virginia for the lines of casualty, fire, marine, and surety pursuant to the provisions of Article 1, Section 10, Chapter 33 of the *West Virginia Code*.

FINDINGS OF FACT

1. The market conduct examination was a targeted examination focusing on selected standards contained in the *Market Regulation Handbook*. The examination was conducted in accordance with *W. Va. Code* §33-2-9(c) by examiners duly appointed by the Commissioner and covered the period of January 1, 2017, through September 30, 2019.

2. The examination fieldwork began on November 18, 2019 and concluded on January 24, 2020. A total of nine (9) standards were tested during this examination. Of these nine, the company was found to be compliant with eight (8) standards and non-compliant with one (1).

3. On or about February 20, 2020, the examiner filed with the Commissioner, pursuant to *W. Va. Code* §33-2-9, a Report of Market Conduct Examination.

4. A true copy of the Report of Market Conduct Examination was sent to Safeco for it to review.

5. 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 rebuttal with the Commissioner.

6. Insurer has filed no objections and has elected to execute this Agreed Order.

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

CONCLUSIONS OF LAW

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

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

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

4. In a sample that included fourteen (14) files, Safeco failed to maintain mine subsidence waivers in five (5) files constituting violations of *W.Va. Code* §33-30-6 and *W.Va. Code R.* §114-14-3 because the company did not adequately document its files. A violation of said rule also constitutes a violation of *W.Va. Code* §33-3-11 which permits the Commissioner to issue a penalty in a sum not to exceed ten thousand dollars (\$10,000.00).

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, if any, the Commissioner and Safeco have agreed to the terms of this Agreed Order adopting the Report of Market Conduct Examination, and it is, therefore, **ORDERED** as follows:

(A) The Report of Market Conduct Examination of Safeco Insurance Company of America for the period ending September 30, 2019, is hereby **ADOPTED** and **APPROVED**.

(B) 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.

(C) Safeco shall file a Corrective Action Plan which will be subject to the approval of the 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 Agreed 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. The plan shall be implemented as soon as possible, but no later than ninety (90) days from the date of this Order.

(D) Safeco shall continue to ensure compliance with the *West Virginia Code* and the *West Virginia Code of State Rules*.

(E) Safeco shall pay an administrative penalty to the State of West Virginia in the amount of Five Thousand Dollars (\$5,000.00) for its non-compliance, as aforesaid, with the *West Virginia Code* and *West Virginia Code of State Rules*. The assessment of this administrative

penalty is in lieu of any other regulatory penalty or remedy and payment thereof is due within thirty (30) days of the entry of this order

(F) All statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All applicable or available rights are preserved by the Parties regarding implementation or further action with respect to such Agreed Order by the Commissioner against Safeco.


ENTERED this 15th day of May, 2020.



James A. Dodrill
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the INSURANCE COMMISSIONER:



Jeffrey C. Black, Attorney Supervisor
Regulatory Compliance and Enforcement

Dated: 5/14/2020

On Behalf of Safeco Insurance Company of America

By: Sebestyen Q. Martens

Print Name

Its: Regulatory Counsel

Signature: 

Date: May 12, 2020

Report of Market Conduct Examination

As of September 30, 2019



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

NAIC COMPANY CODE: 24740
Examination Number 19-MC-TRGT-02004

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April 14, 2020

The Honorable James A. Dodrill
West Virginia Insurance Commissioner
900 Pennsylvania Avenue
Charleston, West Virginia 25302

Dear Commissioner Dodrill:

Pursuant to your instructions and in accordance with W.Va. Code §33-2-9, an examination has been made as of September 30, 2019 of the business affairs of

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.

FOREWARD

This is a report by test of company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2019 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 Safeco Insurance Company of America. "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 Safeco Insurance Company of America 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, 2017 through September 30, 2019.

The examination fieldwork began November 18, 2019 and concluded January 24, 2019. Nine (9) standards were tested during the examination; the Company was found to be compliant with eight (8) standards and non-compliant with one (1).

SCOPE OF EXAMINATION

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

- Complaint Handling
- Marketing and Sales
- Underwriting and Rating

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. Most areas were tested to see if the Company complies with West Virginia statute and rules specific to the Company's handling of mine subsidence coverage. It was determined the Company had no reported claims involving mine subsidence coverage within the examination review period therefore, the decision was made not to review a sample of the claim population. It is worth noting that the Company had a total of four (4) mine subsidence claims, which were reported within the last five years, with dates of loss ranging from February 2015 and November 2016. Of the four (4) claims reported, one (1) was withdrawn and three (3) were closed without payment.

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

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 of 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, the Company acquired American States Financial Corporation, which helped it expand east allowing the Company's operations to expand further in the eastern United States. In September 2008, Safeco became part of Liberty Mutual Insurance Company Group (NAIC Group Number 111).

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. Specific to their Homeowners line of business, the Company's West Virginia written premium for 2018 was \$8,201,241 with a state market share of 1.794%.

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 standard of 10% error ratio (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 17- Sampling. The actual samples and categories reviewed are reflected in the tables throughout the report.

A. 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. (2019 NAIC Market Regulation Handbook Chapter 20, § 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 four (4) complaints from the WVOIC and eight (8) internal written consumer complaints during the exam period. The examiners did not observe any communications from policyholders that could be construed as complaints specific to mine subsidence coverage. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

Table B1 Results: Complaints Sample

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
Complaints	4	4	4	0	90	100

Standard B2: The Company has adequate complaint handling procedures in place and communicates such procedures to policyholders. (2019 NAIC Market Regulation Handbook Chapter 20, § 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 detailed complaint procedures in place. The process is to enter the complaint into their corporate complaint database for processing by their Residential Service Team (PST) 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. (2019 NAIC Market Regulation Handbook Chapter 20, § 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	4	4	4	0	90	100

B. MARKETING & SALES

The evaluation of standards in this business area is based on a review of Company responses to examiner information requests. 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. (2019 NAIC Market Regulation Handbook Chapter 20, § 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 Company's advertising materials consisted of producer training guidelines, field marketing brochures, direct mailings, online videos & brand images and social media ads. Company representatives from claims, legal and product teams meet weekly with marketing to review new and/or updated marketing material.

Examiner Recommendations: None

Results: Compliant

Standard C2: Company internal producer training materials are in compliance with applicable statutes, rules, and regulations. (2019 NAIC Market Regulation Handbook Chapter 20, § 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 guidelines for marketing agents to utilize for approved legal disclaimers and marketing language regarding products, services and benefits. Review of the Company guidelines found no references to employing unfair discrimination tactics. No exceptions were noted.

Examiner Recommendations: None

Results: Compliant

C. 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 specific to mine subsidence coverage.

Standard F1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company rating plan. (2019 NAIC Market Regulation Handbook Chapter 20, § F Standard 1)

Test Methodology:

- Was the mine subsidence premium calculated in accordance with the rates established by the West Virginia Board of Risk and Insurance Management (BRIM) pursuant to W. Va. Code §33-30-6 and W.Va. Code R §§115-1-3.2 & 3.3?

Examiner Observations: A sample of new business policies was reviewed, and the mine subsidence premium calculated to determine if the Company was following the established rates. The Company properly charged rates on all sampled policies in accordance with the rates established by BRIM. 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	4,721	115	115	0	90	100

Standard F2: All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations. (2019 NAIC Market Regulation Handbook Chapter 20, § F Standard 2)

Test Methodology:

- Does the Company provide mine subsidence coverage unless waived in writing by the insured per W.Va. Code §33-30-6 & W.Va. Code R §§115-1-3.1 & 3.10?

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. A review of new business policy files found mine subsidence coverage was

offered where applicable and the applicant signed to accept or reject coverage. One exception the examiner observed was that the Company includes a notice on the declarations page of a rental only policy stating “mine subsidence coverage was rejected”. The Company is not required to offer mine subsidence coverage under a rental policy therefore, inserting a notice stating the insured rejected coverage could potentially appear confusing and/or misleading to the policyholder.

Examiner Recommendations: None

Results: Compliant

Table F2 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	4,721	115	115	0	90	100

Standard F3: Policies, contracts, riders, amendments and endorsements are issued or renewed accurately, timely and completely. (2019 NAIC Market Regulation Handbook Chapter 20, § F Standard 6)

Test Methodology:

- Did the Company renew the mine subsidence coverage correctly from the prior policy term? W.Va. Code R §115-1-3.11. Did the Company issue policies to include coverage forms for mine subsidence insurance approved by both the West Virginia Board of Risk and Insurance Management (BRIM) and the Insurance Commissioner of West Virginia? W.Va. Code R §115-1-3.4.

Examiner Observations: A sample of new business and renewal policy files was reviewed to ensure the Company issued and renewed all policies, riders and endorsements accurately, completely and on a timely basis on all policies in the sample selected. The Company documents a written notice if mine subsidence coverage was rejected on each policy declarations page of the new business and renewal mailings. Examiners found no exceptions.

Examiner Recommendations: None

Results: Compliant

Table F3 Results: Underwriting & Rating Practices Sample

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	4,721	115	115	0	90	100
Renewal policies	20,520	116	116	0	90	100

Standard F4: Application or enrollment forms are properly and fully completed, including any required signatures, and file documentation adequately supports decision made. (2019 NAIC Market Regulation Handbook Chapter 21, § F Standard 18)

Test Methodology:

- Is the file adequately documented with the proper application and mine subsidence waiver forms per W.Va. Code R. §114-14-3?

Examiner Observations: Examiners reviewed a sample of Company new business files. The examiner conducted interviews with Company representatives and it was determined that all new business documentation including the policy application and the mine subsidence waiver are maintained at the agency level. Company representatives confirmed they generally do not maintain electronic copies of the new business forms in their system. In response to the examiner's inquiry, the Company however was unable to provide copies of five (5) mine subsidence waivers from a sampled portion of the policy files.

Examiner Recommendations: None

Results: Non-compliant

Table F4 Results: Underwriting File Documentation Sample

Type	Population	Sample	Pass	Fail	Standard %	Compliance %
New business policies	4,721	14	9	5	90	64

SUMMARY OF RECOMMENDATIONS:

F2: The Company should consider omitting any wording on notices that references mine subsidence coverage was rejected on the declaration page of rental only policies when the coverage was not offered by the Company nor rejected by the policyholder.

F4: The Company should consider adopting procedures to obtain copies of any and all documents relating to new business policies from their agents and maintain such materials at a Company level to serve as a back-up repository for critical coverage decisions made by the policyholder.

EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

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


Letha Tate, ALMI, MCM
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, Letha Tate, being duly sworn, state 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.

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

Subscribed and sworn before me by Letha Tate on this 12 day of Feb, 2020.

Janice L. Hemmelgarn
Notary Public

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

