

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

**IN RE:  
BRICKSTREET MUTUAL INSURANCE COMPANY**

**ADMINISTRATIVE PROCEEDING  
19-MAP-02006**

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

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 Brickstreet Mutual Insurance Company for the examination period ending December 31, 2018 based upon the following findings, to wit:

**PARTIES**

1. James A. Dodrill 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 Chapters 23 and 33 of the West Virginia Code.
2. Brickstreet Mutual Insurance Company (hereinafter, "Brickstreet" or "Insurer") operates under the provisions of Chapters 23 and 33, of the West Virginia Code and is domiciled in West Virginia.
3. Insurer is licensed in the State of West Virginia as a property and casualty insurance company under the provisions of Article 33 of the West Virginia Code.

4. This Market Conduct Examination was instituted pursuant to W.Va. Code §33-2-9 which requires the Insurance Commissioner to examine each West Virginia domestic insurance company every five (5) years. The conclusions and findings of this examination are public record.

#### **FINDINGS OF FACT**

1. The Market Conduct Examination was a comprehensive examination focusing on the methods used by the company to manage its operations. The examination was conducted in accordance with W. Va. Code §33-2-9(c) by examiners duly appointed by the West Virginia Insurance Commissioner.

2. The examination fieldwork began on May 20, 2019 and concluded on August 18, 2019. A total of twenty-eight (28) standards were tested during this examination. Of these twenty-eight (28), the company was found to be compliant with all standards.

3. There were no violations found in the exam.

4. On or about September 18, 2019, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code §33-2-9, a Report of Market Conduct Examination.

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

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

7. Insurer has filed no objections and has elected to enter into this Agreed Order.

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

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

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

4. Brickstreet did not fail any standards during the examination which is evident from the Market Conduct Examination Report.

## ORDER

Pursuant to W. Va. Code §33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and the response of Brickstreet thereto, if any, the Insurance Commissioner and Brickstreet have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. It is accordingly **ORDERED** as follows:

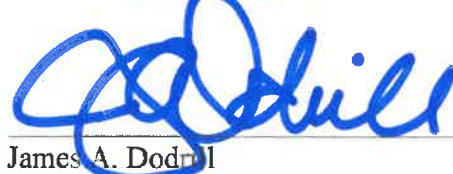
(A) The Report of Market Conduct Examination of Brickstreet Mutual Insurance Company for the period ending December 31, 2018, is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Brickstreet shall file with the West Virginia Insurance Commissioner, in accordance with W. Va. Code §33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this Order.

(C) It is **ORDERED** that Brickstreet shall continue to ensure compliance with the West Virginia Code and the Code of State Rules.

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


Entered this 30<sup>th</sup> day of October, 2019.



James A. Dodrill  
Insurance Commissioner  
State of West Virginia

**REVIEWED AND AGREED TO BY:**

**On behalf of the INSURANCE COMMISSIONER:**



Jeffrey C. Black, Attorney Supervisor  
Regulatory Compliance and Enforcement

Dated: 10/30/19

**On Behalf of Brickstreet Mutual Insurance Company**

By: THOMAS J. OBROKTA JR  
Print Name

Its: PRESIDENT

Signature: 

Date: 10/23/19

# Report of Market Conduct Examination

As of December 31, 2018



## BRICKSTREET MUTUAL INSURANCE COMPANY

400 Quarrier St  
Charleston, WV 25301

NAIC COMPANY CODE: 12372

Examination Number: 19-MC-TRGT-02000

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September 18, 2019

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 December 31, 2018 of the business affairs of

**BRICKSTREET MUTUAL INSURANCE COMPANY**

400 Quarrier St  
Charleston, WV 25339

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

## EXECUTIVE SUMMARY

This examination is the third Market Conduct examination of BrickStreet Mutual Insurance Company by the State of West Virginia. The principal purposes of the market conduct examination described within this report was to both determine if the Company complied with the recommendations as outlined in the previous report and to comply with West Virginia's code requirement of §33-2-9 requiring domestic insurers to be examined once every five (5) years. The examination fieldwork began May 20, 2019 and concluded on August 18, 2019. Twenty-eight (28) standards were selected for review. The Company was found to be compliant with all standards. No major areas of concern were determined. Notes of observations are contained within the report.

Reducing duplication of effort, this examination did not review standards included in the most recent West Virginia Offices of the Insurance Commissioner's, "WVOIC", financial examination completed for the period ending December 31, 2017 and adoption order signed June 6, 2019. The reports should be referenced in conjunction for complete overview of items reviewed and of company compliance.

This examination was finalized prior to the Market Conduct examinations on the Company's subsidiaries PinnaclePoint Insurance Company and SummitPoint Insurance Company. The reports were done sequentially following the examination of the parent company, as they had not been examined previously by the WVOIC. All companies use the same operating systems and staffing for business operations.



## **COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS**

The WVOIC previously conducted a comprehensive market conduct examination of the Company as of December 31, 2013 pursuant to the statutory obligation of the Commissioner's Office to periodically examine West Virginia domestic insurance companies. Business areas reviewed and tested included, Company Operations & Management, Complaint Handling, Marketing & Sales, Producer Licensing, Underwriting and Claims.

Although identical business areas and standards were not reviewed comparatively between examinations, the Company appeared to have no repeat instances of non-compliance on standards contained in both this and the prior examination.

## **SCOPE OF EXAMINATION**

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

- Complaint Handling
- 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 testing to see if the company complies with West Virginia statutes and rules. The examiners may not have discovered every unacceptable or non-compliant activity in which the company is engaged. The failure to identify or comment on or criticize specific company practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its designee.

## **HISTORY AND PROFILE**

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

Between January 1, 2006 and July 1, 2008, the Company was the sole provider for workers' compensation insurance in the state. The Company was required to accept all employers who sought coverage and had the ability to pay the assessed premiums. When the Company privatized, it was issued a Surplus Note from the State of West Virginia. In compliance with the contractual arrangements of that Note, the Company was not to provide any other kind of

insurance other than (a) insurance for employers against liability for injuries and occupation diseases for which their employees may be entitled to benefits under Chapter 23 of the West Virginia Code or similar statutes in other states, (b) coal workers' pneumoconiosis coverage, including coverage required by Title IV of the Federal Coal Mine Health & Safety Act of 1969; and (c) employers' excess liability coverage. As of July 1, 2008, the market in West Virginia opened to full competition among all private carriers licensed to write workers' compensation insurance.

On January 15, 2013, the West Virginia Secretary of State certified BrickStreet's incorporation of two (2) new wholly owned subsidiaries SummitPoint Insurance Company and PinnaclePoint Insurance Company. These subsidiaries are mono-line workers' compensation carriers domiciled in the state of West Virginia.

In October 2016, BrickStreet announced the intent to affiliate through a joint venture with Motorists Mutual Insurance Co., and approval from all necessary regulatory agencies to do so was granted six (6) months later. In July 2019 Motorists Insurance Group and BrickStreet Insurance announced a change in the group name to Encova Mutual Insurance Group.

The Company's 2018 market share in West Virginia was 43.26%.

#### **METHODOLOGY**

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

Tests designed to measure the level of compliance with West Virginia's statutes, rules and regulations were applied to the files. All tests are described in the Elements of Review section of the report and the results displayed in the Compliance Table, indicating results of each area of review with the compliance percentage for the Company.

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.

All samples were generated via an Audit Command Language (ACL™) with a random sample taken from a given population. The breakdown of those populations, sample sizes and number of files reviewed are indicated in the following:

- The entire population of seventy (70) complaints was reviewed.
- The examiners sampled one hundred fifteen (115) on both new business and renewals based on the populations of 2,515 & 22,221 respectively. Sample concentration was on

years 2017 and 2018. For each, based on a review of twenty-five (25) with no issues found, the examiner determined that further assessment was unnecessary.

- The examiners sampled one hundred nine (109) paid claims and one hundred eight (108) denied claims based on populations of 21,304 and 4,467 respectively. For each, based on a review of twenty-five (25) with no issues found, the examiner determined that further assessment was unnecessary.

## ELEMENTS OF REVIEW

### 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. The reviews indicated in this section can expose underlying issues detrimental to both the Company and/or the policyholders and claimants that may not necessarily present during other areas of standard review.

**Standard B1: All complaints are recorded in the required format on the regulated entity's complaint register.** (2018 NAIC Market Regulation Handbook Chapter 20, § B Standard 1)

**Test Methodology:**

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

**Standard B2: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.** (2018 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 §33-11-4(10)]

**Standard B3: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules, and regulations and contract language.** (2018 NAIC Market Regulation Handbook Chapter 20, § B Standard 3)

**Test Methodology:**

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

**Standard B4: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules, and regulations.** (2018 NAIC Market Regulation Handbook Chapter 20, § B Standard 4)

**Test Methodology:**

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

**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.

**Standard F1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan.** (2018 NAIC Market Regulation Handbook Chapter 20, § F Standard 1)

**Test Methodology:**

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

**Standard F2: All mandated disclosures are documented and in accordance with applicable statutes, rules, and regulations.** (2018 NAIC Market Regulation Handbook Chapter 20, § F Standard 2)

**Test Methodology:**

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

**Standard F3: The regulated entity does not permit illegal rebating, commission-cutting, or inducements.** (2018 NAIC Market Regulation Handbook Chapter 20, § 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)]

**Standard F6: Policies, riders, and endorsements are issued or renewed accurately, timely, and completely.** (2018 NAIC Market Regulation Handbook Chapter 20, § F Standard 6)

**Test Methodology:**

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

**Standard F11: Scheduled rating or individual premium risk modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 2)

**Test Methodology:**

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

**Standard F12: Verification of use of the filed expense multipliers; the regulated entity should be using a combination of loss costs and expense multipliers filed with the insurance department.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 3)

**Test Methodology:**

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

**Standard F14: Verification of experience modification factors.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 5)

**Test Methodology:**

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

**Standard F17: Underwriting, rating, and classification are based on adequate information developed at or near inception of the coverage rather than near**

**expiration or following a claim.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 8)

**Test Methodology:**

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

**Standard F18: Audits, when required, are conducted accurately and timely.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 9)

**Test Methodology:**

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

**Standard F19: The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules, and regulations, and the regulated entity's guidelines in the selection of risks.** (2018 NAIC Market Regulation Handbook Chapter 20, § F Standard 4)

**Test Methodology:**

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

**Standard F20: All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department, if applicable.** (2018 NAIC Market Regulation Handbook Chapter 20, § F Standard 5)

**Test Methodology:**

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

**Standard F22: The regulated entity does not engage in collusive or anti-competitive underwriting practices.** (2019 NAIC Market Regulation Handbook Chapter 21, § F Standard 13)

**Test Methodology:**

- Are there any unlawful pricing or other prohibited anti-competitive acts or practices? [W. Va. Code §33-11-3 and 7]

- Has the Company entered into any agreements with other West Virginia companies to divide the market within West Virginia by territory? [W. Va. Code §33-11-4(4)]

**Standard F26: All policies are correctly coded.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 17)

**Test Methodology:**

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

**Standard F27: Application or enrollment forms are properly, accurately, and fully completed, including any required signatures, and file documentation adequately supports decisions made.** (2018 NAIC Market Regulation Handbook Chapter 21, § F Standard 18)

**Test Methodology:**

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

**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 compliant with applicable statutes and rules.

**Standard G1: Initial compensability decisions and investigations are conducted in a timely manner.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standards 1 & 2)

**Test Methodology:**

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

not reasonably required for or material to the resolution of the claim dispute? [W. Va. Code §33-11-4(9)(d)(e)(f)]

**Standard G3: Claims are resolved in a timely manner.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 3)

**Test Methodology:**

- Does the Company act upon requests for authorization of medical treatment, medications, appliances, devices, and supplies within fifteen (15) working days? [W. Va. Code §§33-2-21(a), 23-2C-22; 33-2-10(b) and W. Va. Code R. §85-1-10.3]
- Does the Company refer claimants to physicians for examinations and evaluations within twenty (20) days of the end of the one hundred twenty (120) day period of temporary total disability? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.4.a]
- Does the Company transmit notice of scheduling examinations evaluations performed by the Occupational Pneumoconiosis Board within sixty (60) days of a non-medical decision directing referral to the Board? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.4.b]
- Does the Company act upon a permanent disability evaluation report within thirty (30) working days of receipt? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.a]
- Does the Company refer claimants to a physician for examination and evaluation for consideration of a permanent disability award within thirty (30) working days of receipt? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.b]
- Does the Company initiate payment of permanent partial disability awards (either lump sum or installments) within fifteen (15) working days of the decision? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.c]
- Does the Company transmit findings of the Occupational Pneumoconiosis Board within thirty (30) working days after the examination? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.5.d]
- Does the Company rule upon applications for reopening of disability claims within thirty (30) days of receipt of the application? [W. Va. Code §§33-2-10(b), 33-2-21(a), 23-2C-22 and W. Va. Code R. §85-1-10.6]

**Standard G4: The regulated entity responds to claim correspondence in a timely manner.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 4)

**Test Methodology:**

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

**Standard G5: Claim files are adequately documented.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 5)

**Test Methodology:**



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

**Standard G6: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 6)

**Test Methodology:**

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

**Standard G7: Regulated entity claim forms are appropriate for the type of product.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 7)

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

**Standard G9: Denied and closed-without-payment claims are handled in accordance with policy provisions and state laws.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 9)

**Test Methodology:**

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

**Standard G10: Cancelled checks and drafts reflect appropriate claim handling practices.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 10)

**Test Methodology:**

- Do the checks include the correct payee and are they for the correct amount?
- Do the checks indicate that the payment is “final” only when it is the case?

- Do the checks purport to release the insurer from total liability only when it is the case? [W. Va. Code §23-4-1c]

**Standard G11: Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.** (2018 NAIC Market Regulation Handbook Chapter 20, § G Standard 11)

**Test Methodology:**

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

**Standard G14: Loss statistical coding is timely and accurate.** (2018 NAIC Market Regulation Handbook Chapter 21, § G Standard 3)

**Test Methodology:**

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

**COMPLIANCE TABLE**

Standard	#Pass	#Failed	N/A	Compliance%	Individual Corrective Action	Systemic Corrective Action
B1	Pass	N/A	N/A	100		
B2	Pass	N/A	N/A	100		
B3	70	0		100		
B4	69	1		99	*	
F1	50	0		100		
F2	50	0		100		
F3	50	0		100		
F6	50	0		100		
F11	50	0		100		
F12	50	0		100		
F14	50	0		100		
F17	50	0		100		
F18	25	0		100		
F19	50	0		100		
F20	50	0		100		
F22	50	0		100		
F26	50	0		100		
F27	50	0		100		
G1	50	0		100		
G3	50	0		100		
G4	50	0		100		
G5	50	0		100		
G6	25	0		100		
G7	Pass	N/A	N/A	100		
G9	25	0		100		
G10	25	0		100		
G11	50	0		100		
G14	50	0		100		

## **OBSERVATIONS**

B1 – The Company kept a log of all complaints.

B2 – The Company has adequate complaint handling and tracking procedures and they satisfactorily tracked responses for all the complaints in the sample.

B3 – Complaints were promptly and properly resolved in accordance with the applicable statutes, rules, and regulations and contract language.

B4 – Examiners' review of the seventy (70) complaints received during the examination period indicated the Company response time to the WVOIC was generally within the required fifteen (15) working days as required by W. Va. Code R. §§114-14-5.2 and 85-1-16. In all instances except one (1) in which the response was beyond fifteen (15) working days there was documentation that the WVOIC had granted additional time due to reasonable extenuating circumstances. For the one (1) exception, the examiner was not provided documentation of WVOIC permission for an extension.

F1 – The rates used in the calculation of premiums were correct throughout the reviewed files of new business and renewal, and filings.

F2 – There are no mandated disclosure forms for Workers' Compensation in West Virginia. However, there is a mandatory disclosure endorsement, Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement and this was provided to all insureds.

F3 – There was no evidence of any form of illegal rebating, commission cutting or inducement during the review of new business policies and renewal policies.

F6 – Policies, riders, and endorsements were issued or renewed accurately, timely, and completely. The policy's Extension of Information Page-List of Endorsements consistently showed the forms and endorsements that were applicable and were included with the policy packet sent to the insured.

F11 – When applicable, scheduled rating plans were applied properly, and the credits/debits afforded were documented.

F12 – The Company followed its filed lost cost and expense multiplier filings. No exceptions were noted.

F14 – Experience modification factors applied matched what was supplied by the NCCI.

F17 - Pricing was developed at or near the policy effective date. File review showed no evidence of pricing near the expiration date or following a claim.

F18 – When applicable the company conducted premium audits promptly. The Company has a structured system in place to conduct these audits.

F19 – Company underwriting guidelines, risk selection criteria, filings, internal correspondence and other documents do not show any evidence of unfair discriminatory practices. Review determined that the Company follows the applicable statutes, rules and regulations.

F20 – All forms and endorsements were filed with the WVOIC. The policy's Extension of Information Page-List of Endorsements consistently showed the forms and endorsements that were applicable and were included with the policy packet sent to the insured.

F22 - There was no evidence of any form of collusive or anti-competitive underwriting practices or behavior during our review of New Business policies and Renewal policies.

F26 – The Company is using the most current manuals and programs for coding purposes.

F27 – The Company developed an electronic portal between the agents and the Company for direct inputting, so paper applications are rare. The electronic files were documented with all information necessary to process the new business.

G1 – Timely decisions were made on compensability and investigations were conducted properly and promptly.

G3 – Claim resolution was done in a timely manner.

G4 – Claim file records indicated that the Company responded timely to correspondence received.

G5 – The claims files contained relevant documentation to reconstruct events leading to a decision.

G6 – Claim files appeared to have been calculated and paid correctly. Proper notices were issued. Claimants were treated properly in respect to medical management of the claim and return-to-work aspects.

G7 – The Company used appropriate forms for the type claim.

G9 – The Company provided a reasonable basis for denials and gave the right to contact the WVOIC to protest the decision on denied and closed-without-payment claims.

G11 - Sampled claims were reviewed and none of the claims reviewed indicate any action or inaction on the part of the Company which would compel the claimants to litigate.

G14 – The Company appeared to timely and accurately comply with EDI submission requirements.

## **SUMMARY OF RECOMMENDATIONS**

**Recommendation B4:** The Company should ensure that all WVOIC complaint requests are responded to within the required fifteen (15) working days. [W. Va. Code R. §§114-14-5.2 and 85-1-16.]

**EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination, in particular Dr. Martin (Skip) J. Langlois, Jr., DEL, CPA, CIA, CFE, CISA, FLMI and Deepesh Randeri, CISSP, CISM, CEH, AFI.

In addition to the undersigned, Letha G. Tate, MCM with the West Virginia Offices of the Insurance Commissioner also participated in this examination.



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Desiree D. Mauller, CIE, CWCP, 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, Desiree D. Mauller, being duly sworn, states as follows:

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

The affiant says nothing further.



Desiree D. Mauller, CIE, CWCP, MCM  
Examiner-in-Charge

Subscribed and sworn before me by Desiree D. Mauller on this 16th day of SEPTEMBER, 2019.



Notary Public

My commission expires: 10-11-2019 (date).

