

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
STATE OF MISSOURI**

<b>In Re:</b>	)	
	)	
<b>ACCIDENT FUND GENERAL INSURANCE COMPANY (NAIC #12304)</b>	)	<b>Market Conduct Exam No. 1401-01-TGT</b>
	)	
<b>ACCIDENT FUND NATIONAL INSURANCE COMPANY (NAIC #12305)</b>	)	<b>Market Conduct Exam No. 1401-02-TGT</b>
	)	
<b>ACCIDENT FUND INSURANCE COMPANY OF AMERICA (NAIC #10166)</b>	)	<b>Market Conduct Exam No. 1403-07-TGT</b>
	)	
<b>UNITED WISCONSIN INSURANCE COMPANY (NAIC #29157)</b>	)	<b>Market Conduct Investigation No. 13113-29157-PC</b>

**ORDER OF THE DIRECTOR**

NOW, on this 10<sup>th</sup> day of September, 2018, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination reports of Accident Fund General Insurance Company (NAIC #12304) (hereinafter “AFG”), report number 1401-01-TGT, Accident Fund National Insurance Company (NAIC #12305) (hereinafter “AFN”), report number 1401-02-TGT, and Accident Fund Insurance Company of America (NAIC #10166) (hereinafter “AFICA”), report number 1403-07-TGT, prepared and submitted by the Division of Insurance Market Regulation (hereinafter “Division”) pursuant to §374.205.3(3)(a)<sup>1</sup>, and review of the market conduct investigation of United Wisconsin Insurance Company (NAIC #29157) (hereinafter “UWIC”), investigation number 13113-29157-PC, conducted by the Division pursuant to §374.190, and of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”), entered into by the Division, AFG, AFN, AFICA, and UWIC, does hereby adopt such reports as filed. After consideration and review of the Stipulation, report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such reports are deemed to be the Director’s findings and conclusions accompanying this order pursuant to §374.205.3(4). Director does hereby issue the following orders:

This order, issued pursuant to §374.205.3(4), §374.280 RSMo, and §374.046.15. RSMo, is in the public interest.

**IT IS THEREFORE ORDERED** that AFG, AFN, AFICA, UWIC, and the Division

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<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016 as amended.

having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

**IT IS FURTHER ORDERED** that AFG, AFN, AFICA, and UWIC shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place each in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

**IT IS FURTHER ORDERED** that AFG shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$5,000.00 payable to the Missouri State School Fund.

**IT IS FURTHER ORDERED** that AFN shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$5,000.00 payable to the Missouri State School Fund.

**IT IS FURTHER ORDERED** that AFICA shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$5,000.00 payable to the Missouri State School Fund.

**IT IS FURTHER ORDERED** that UWIC shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$5,000.00 payable to the Missouri State School Fund.

**IT IS SO ORDERED.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 10<sup>th</sup> day of September, 2018.



*Chlora Lindley-Myers*  
Chlora Lindley-Myers  
Director

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
STATE OF MISSOURI**

<b>In Re:</b>	)	
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<b>ACCIDENT FUND GENERAL INSURANCE COMPANY (NAIC #12304)</b>	)	<b>Market Conduct Exam No. 1401-01-TGT</b>
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<b>ACCIDENT FUND INSURANCE COMPANY OF AMERICA (NAIC #10166)</b>	)	<b>Market Conduct Exam No. 1403-07-TGT</b>
	)	
<b>UNITED WISCONSIN INSURANCE COMPANY (NAIC #29157)</b>	)	<b>Market Conduct Investigation No. 13113-29157-PC</b>

**STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”), and Accident Fund General Insurance Company (NAIC #12304) (hereinafter “AFG”), Accident Fund National Insurance Company (NAIC #12305) (hereinafter “AFN”), Accident Fund Insurance Company of America (NAIC #10166) (hereinafter “AFICA”), and United Wisconsin Insurance Company (NAIC #29157) (hereinafter “UWIC”), as follows:

**WHEREAS**, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, “the Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri;

**WHEREAS**, AFG, AFN, AFICA, and UWIC have been granted certificates of authority to transact the business of insurance in the State of Missouri;

**WHEREAS**, the Division conducted Market Conduct Examinations of AFG, AFN, and AFICA and prepared report numbers 1401-01-TGT, 1401-02-TGT, and 1403-07-TGT, and a Market Conduct Investigation of UWIC and prepared investigation findings 13113-29157-PC;

**WHEREAS**, based on the Market Conduct Examination of AFG, the Division alleges:

1. In three instances, AFG failed to include officer’s payroll in the final audit in

violation of §287.955.3<sup>1</sup>.

2. In three instances, AFG failed to complete and bill the audit and return premiums within 120 days of policy expiration/cancellation in violation of §287.955.1, §287.310.10 and 20 CSR 500-6.500 (2) (A).

3. In seven instances, AFG failed to apply the Second Injury Fund (“SIF”) rate to the correct premium in violation of §287.715 and §287.310.9.

4. In four instances, AFG failed to correctly calculate the Administrative Surcharge (“AS”) in violation of §287.716.2 and §287.310.9.

5. In five instances, AFG failed to collect the AS at the same time as premium in violation of §287.717.1.

6. AFG issued both participating and non-participating policies in violation of §287.932.1 and 20 CSR 500-6.100 (8).

7. In two instances, AFG utilized unfiled deductible credit percentages in violation of §287.947.1 and 20 CSR 500-6.950 (7).

8. In seven instances, AFG failed to maintain evidence in the file justifying the reduction in the Schedule Modification Credit in violation of §287.950.2 and 20 CSR 500-4.100 (7) (D).

9. In four instances, AFG failed to apply 10% of the officer’s payroll in Class Code 8810 in violation of §287.955.3.

10. In 12 instances, AFG attached an incorrect premium discount rate endorsement to policies in violation of §287.955.1, §287.310.1 and 20 CSR 500-6.100 (1).

11. In eight instances, AFG failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period in violation of §379.888.3 and 20 CSR 500-4.100 (7) (D) 2.

12. In three instances, AFG failed to attach an endorsement to the policy excluding a member of an LLC from workers compensation coverage in violation of §287.037.

13. In one instance, AFG failed to maintain the application and NCCI Missouri Contractors Classification Adjustment Program Credit Worksheet in violation of §287.937.2, §287.955 and 20 CSR 100-8.040 (3) (A).

14. In three instances, AFG utilized a Terrorism rate not on file with the Department in

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<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended.

violation of §287.947.1 and 20 CSR 500-6.950 (7).

15. In seven instances, AFG failed to file the 1.25 rate applied to payroll for insured that failed to cooperate with the final audit process in violation of §287.947.1 and 20 CSR 500-6.950 (7).

16. In one instance, AFG failed to apply the correct officer payroll limit at audit in violation of §287.955.3.

17. In one instance, AFG failed to verify at audit information reported to the NCCI on a credit worksheet was accurate in violation of §287.955.3.

18. In 10 instances, AFG failed to send notification to the insured on an approved form that they might be eligible for a premium adjustment credit in violation of §287.955.3.

19. In 31 instances, AFG waived the final audit and failed to base final premium on actual payroll in violation of §287.955.2.

20. In two instances, AFG moved an insured to an affiliated insurer which move was not justified by claims experience or other schedule rating factors and resulted in a premium increase in violation of §379.889 and 20 CSR 500-4.100 (7) (C).

21. In one instance, AFG excluded an officer from workers compensation coverage in violation of §287.955.3.

22. In one instance, AFG sent an automated “notice of credit” when an outstanding premium balance was actually due implicating the provisions of §375.936 (6) (a).

23. In one instance, AFG failed to attach the Missouri Contracting Classification Premium Endorsement to the policy in violation of §287.955.3.

24. In one instance, AFG utilized a waiver of the right to recover rate that was not on file with the Department in violation of §287.947.1 and 20 CSR 500-6.950 (7).

25. In one instance, AFG added a higher rated classification code at audit then permitted by the NCCI manual in violation of §287.955.1.

**WHEREAS**, based on the Market Conduct Examination of AFN, the Division alleges:

1. In three instances, AFN failed to include officers’ payroll in violation of §287.020.1 and §287.955.3.

2. In two instances, AFN failed to attach the exclusion endorsement for members of an LLC in violation of §287.037.

3. In 39 instances, AFN failed to apply the Second Injury Fund rate to correct premium

in violation of §287.715.1 and §287.310.9.

4. AFN issued both participating and non-participating policies in violation of §287.932.1 and 20 CSR 500-6.100 (8).

5. In two instances, AFN failed to retain an NCCI MOCCPAP Credit Letter in the underwriting file in violation of §287.937.2 and 20 CSR 100-8.040 (3) (A).

6. In 28 instances, AFN changed schedule rating credits/debits at renewal without documenting the basis for the changes in violation of §287.950.2 and 20 CSR 500-4.100 (7) (D).

7. In three instances, AFN failed to apply 10% of officer payroll to Class Code 8810 in violation of §287.955.3.

8. In one instances, AFN failed to apply the correct experience modification factor to premium in violation of §287.955.1.

9. In 13 instances, AFN failed to send notice on the approved form that the policyholder was eligible for a MOCCPAP premium adjustment credit in violation of §287.955.3.

10. In one instance, AFN applied MOCCPAP credit from a prior policy in violation of §287.955.3.

11. In 33 instances, AFN waived final audits and failed to base final premiums on actual payroll in violation of §287.955.3.

12. In three instances, AFN moved an insured to an affiliated insurer resulting in premium increases that were not justified by claims experience or other schedule rating factors in violation of §379.889 and 20 CSR 500-4.100 (7) C.

13. In six instances, AFN failed to collect the Administrative Surcharge at the same time as premium in violation of §287.717.1.

14. In four instances, AFN failed to apply the correct deductible credit rate to policy premium in violation of §287.955.3.

15. In 33 instances, AFN failed to complete and bill audits and return premiums within 120 days of policy expiration or cancellation in violation of §287.955.1, §287.310.10 and 20 CSR 500-6.500 (2) (A).

**WHEREAS**, based on the Market Conduct Examination of AFICA, the Division alleges:

1. In 30 instances, AFICA failed to apply the Second Injury Fund rate to correct premium in violation of §287.715 and §287.310.9.

2. AFICA issued both participating and non-participating policies in violation of

§287.932.1 and 20 CSR 500-6.100 (8).

3. In eight instances, AFICA failed to apply 10% of the officers' payroll in Class Code 8810 in violation of §287.955.3.

4. In one instance, AFICA failed to adhere to the NCCI's experience rating factor in violation of §287.955.1.

5. In nine instances, AFICA changed schedule rating credits/debits at renewal without documenting the changes in violation of §287.950.2 and 20 CSR 500-4.100 (7) (D).

6. In nine instances, AFICA failed to send notice to the insured of changes to scheduled rating in violation of §379.888.3 and 20 CSR 500-4.100 (7) (D) 2.

7. In eight instances, AFICA failed to include the proper payroll amount for members of an LLC in violation of §287.955.3.

8. In 25 instances, AFICA waived the final audit and failed to base the final premiums on actual payroll in violation of §287.955.2.

9. In 13 instances, AFICA failed to maintain a copy of the MOCCPAP form 24-1 to support its delivery in violation of §287.955.3, §287.310.10 and 20 CSR 100-8.040 (3) (A).

10. In 49 instances, AFICA failed to complete the audit within 120 days of policy expiration/cancellation in violation of §287.955.1, §287.310.10 and 20 CSR 500-6.500 (2) (A).

11. In one instance, a file did not contain a copy of the NCCI experience modification factor in violation of §287.937.2 and 20 CSR 100-8.040 (3) (A).

12. In four instances, AFICA utilized unfiled deductible credit percentages in violation of §287.947.1 and 20 CSR 500-6.950 (7).

13. In six instances, AFICA failed to collect the Administrative Surcharge at the same time as premium in violation of §287.717.1.

14. In one instance, AFICA failed to calculate the Administrative Surcharge correctly in violation of §287.310.9 and §287.716.2.

15. In one instance, AFICA failed to include officers' payroll in violation of §287.020.1 and §287.955.3.

16. In three instances, AFICA used an unfiled rate to calculate final premium in violation of §287.947.1 and 20 CSR 500-6.950 (7).

17. In one instance, AFICA attached a waiver of subrogation to a construction risk policy in violation of §287.150.6.

18. In two instances, AFICA failed to follow the NCCI Basic Manual for changes/corrections to Class Codes in violation of §287.955.1.

19. In 100 instances, AFICA sent an automated “notice of credit”, when, in fact, an outstanding premium balance was still due in violation of §374.936 (6) (a) and §374.934.

**WHEREAS**, based on the Market Conduct Investigation of UWIC, the Division alleges that:

1. In one instance, UWIC calculated the Second Injury Fund surcharge by total premium reduced by the portion of the premium resulting from the deductible credit in violation of §287.715.1 and §287.310.9.

2. In one instance, UWIC did not collect Administrative Surcharge premium in violation of §287.716, §287.717 and §287.310.9.

3. In six (6) instances, UWIC offered both participating and non-participating plans to policyholders in violation of §287.932.1 and 20 CSR 500-6.100 (8).

4. In two (2) instances, a waiver of subrogation was applied to Missouri employers in construction lines in violation of §287.150.6.

**WHEREAS**, the Division, AFG, AFN, AFICA, and UWIC have agreed to resolve the issues raised in the Market Conduct Examinations and the Market Conduct Investigation through a voluntary settlement as follows:

**A. Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

**B. Remedial Action.** AFG, AFN, AFICA, and UWIC agree to take remedial action bringing each into compliance with the statutes and regulations of Missouri and agree to maintain those remedial actions at all times, to reasonably assure that the alleged errors noted in the above-referenced market conduct examinations do not recur. Such remedial actions shall include, but not be limited to, the following:

1. AFG, AFN, and AFICA agree that audits on workers compensation insurance policies with Missouri premium or exposure will be completed, billed and premiums returned within 120 days of policy expiration or cancellation unless a) a delay is caused by the

policyholder's failure to respond to reasonable audit requests provided that the requests are timely and adequately documented or b) a delay is caused by the mutual agreement of the policyholder and the Company, provided that the mutual agreement is adequately documented by the Company.

2. AFG, AFN, AFICA, and UWIC agree that they will not offer both participating and non-participating policies of workers' compensation insurance written in Missouri with Missouri as the primary risk state and will not switch policyholders between participating and non-participating plans.

3. AFG, AFN, and AFICA agree that they will not reduce schedule modification credits or increase schedule modification debits unless there is supporting evidence in the file justifying the reduction or the increase.

4. AFG, AFN, and AFICA agree that they will not increase premium for an insured by moving that insured to an affiliated insurer where the increase in premium is not justified by claims experience or other schedule rating factors.

5. AFG, AFN, and AFICA agree that they will not utilize unfiled rates in workers compensation insurance policies.

6. AFG, AFN, and AFICA agree to ensure that their procedures for determining final premium on workers compensation insurance policies with Missouri premium or exposure comply with NCCI Rule 02-MO-2013.

7. AFG agrees, that to the extent it has not already done so, it will remediate policyholders for any premium overcharges noted in Market Conduct Examination Report 1401-01-TGT together with interest at the rate prescribed in §374.191. A letter must be included with the payment, indicating that "as a result of a Missouri Market Conduct examination," it was found that a refund was due to the insured.

8. AFN agrees, that to the extent it has not already done so, it will remediate policyholders for any premium overcharges noted in Market Conduct Examination Report 1401-02-TGT together with interest at the rate prescribed in §374.191. A letter must be included with the payment, indicating that "as a result of a Missouri Market Conduct examination," it was found that a refund was due to the insured.

9. AFICA agrees, that to the extent it has not already done so, it will remediate policyholders for any premium overcharges noted in Market Conduct Examination Report 1403-07-TGT together with interest at the rate prescribed in §374.191. A letter must be included with

payment, indicating that “as a result of a Missouri Market Conduct examination,” it was found that a refund was due to the insured.

10. If it has not already done so, UWIC agrees to reimburse the Administrative Surcharge Fund for the underpayment to the fund on policy no. xxxxxx6313 with any applicable interest and penalties.

11. AFICA and UWIC agree to cease the practice of issuing a waiver of subrogation on policies that include a class code for construction contractors and further agree to include Missouri on the schedule of excluded states on its approved form when there is a construction code on the policy and there is Missouri premium or exposure.

12. AFG, AFN, AFICA, and UWIC agree to pay a total of \$582,630 in remediation and interest to the policyholders listed on the “Dividend Plan Remediation Chart”, which chart is part of the examination workpapers for Market Conduct Examinations #1401-01-TGT, #1401-02-TGT, and #1403-07-TGT and part of the investigation workpapers for Market Conduct Investigation #13113-29157-PC. A letter shall accompany the payment that includes language indicating that as a result of a Missouri Market Conduct Examination or Investigation, it was determined that an additional payment amount was owed to the policyholder.

C. **Compliance.** AFG, AFN, AFICA, and UWIC agree to file documentation with the Division within 120 days of the entry of a final order of all remedial action taken to implement compliance with the terms of this stipulation and to document the payment of any restitution required by this Stipulation. Such documentation is provided pursuant to §374.190 and §374.205.

D. **Voluntary Forfeiture.** AFG agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$5,000, such sum payable to the Missouri State School Fund in accordance with §374.049.11 and §374.280.2. AFN agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$5,000, such sum payable to the Missouri State School Fund in accordance with §374.049.11 and §374.280.2. AFICA agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$5,000, such sum payable to the Missouri State School Fund in accordance with §374.049.11 and §374.280.2. UWIC agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$5,000, such sum payable to the Missouri State School Fund in accordance with §374.049.11 and §374.280.2.

E. **Other Penalties.** The Division agrees that it will not seek penalties against AFG, AFN, AFICA, or UWIC other than those agreed to in this Stipulation, for the conduct found in

Market Conduct Examinations #1401-01-TGT, #1401-02-TGT, and #1403-07-TGT and Market Conduct Investigation #13113-29157-PC.

F. **Examination Fees.** AFG, AFN, AFICA, and UWIC agree to pay any reasonable examination or investigation fees expended by the Division in conducting its review of the documentation provided by the Companies pursuant to Paragraph C of this Stipulation.

G. **Waivers.** AFG, AFN, AFICA, and UWIC, after being advised by legal counsel, do hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above referenced Market Conduct Examinations and Market Conduct Investigation.

H. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by AFG, AFN, AFICA, or UWIC, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct examinations and investigation.

I. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to representatives of the Division and AFG, AFN, AFICA, and UWIC.

J. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

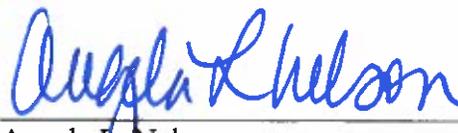
K. **Authority.** The signatories below represent, acknowledge, and warrant that they are authorized to sign this Stipulation, on behalf of the Division, AFG, AFN, AFICA, and UWIC respectively.

L. **Effect of Stipulation.** This Stipulation shall not become effective until entry of a Final Order by the Director of the Department (hereinafter the "Director") approving this Stipulation.

M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation, ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: \_\_\_\_\_

9/5/2018



Angela L. Nelson  
Director, Division of Insurance  
Market Regulation

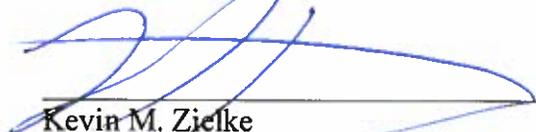
DATED: 9/15/2018

  
\_\_\_\_\_  
Stewart Freilich  
Senior Regulatory Affairs Counsel  
Division of Insurance Market Regulation

DATED: 8/29/18

  
\_\_\_\_\_  
Kevin M. Zielke  
Senior Vice President and General Counsel  
Accident Fund General Insurance Company

DATED: 8/29/18

  
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Kevin M. Zielke  
Senior Vice President and General Counsel  
Accident Fund National Insurance Company

DATED: 8/29/18

  
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Kevin M. Zielke  
Senior Vice President and General Counsel  
Accident Fund Insurance Company of America

DATED: 8/29/18

  
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Kevin M. Zielke  
Senior Vice President and General Counsel  
United Wisconsin Insurance Company

**STATE OF MISSOURI**  
**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS**  
**AND**  
**PROFESSIONAL REGISTRATION**



**FINAL MARKET CONDUCT EXAMINATION REPORT**  
**of the Property and Casualty Business of**

**Accident Fund National Insurance Company**  
**NAIC Group #0572**  
**NAIC #12305**

**MISSOURI EXAMINATION # 1401-02-TGT**

**NAIC EXAM TRACKING SYSTEM # MO341-M110**

**September 5, 2018**

**Accident Fund National Insurance Company**  
**200 North Grand Avenue**  
**Lansing, MI 48933**

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## **FOREWORD**

This is a targeted market conduct examination report of Accident Fund National Insurance Company (NAIC Code #12305). This examination was conducted at the Missouri Department of Insurance, Financial Institutions and Professional Registration's Kansas City office at 615 East 13<sup>th</sup> Street, Room 506, Kansas City, Missouri 64106.

This examination report is generally a report by exception. However, failure to comment on specific practices, procedures, products or files does not constitute approval thereof by the DIFP.

During this examination, the examiners cited errors made by the Company. Statutory citations were as of the examination period unless otherwise noted.

Where used in this report:

- "Company" and "Co." refer to Accident Fund National Insurance Company;
- "Crit" refers to Criticism;
- "CSR" refers to the Missouri Code of State Regulations;
- "Cx" refers to Cancelled;
- "DIFP" refers to the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "Director" refers to the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "Eff. Date" refers to Effective Date;
- "G C Trend" refers to Guaranteed Cost Trending Policies;
- "Guar Cost" refers to Guaranteed Cost Policy;
- "Guar Cost Cx" refers to Guaranteed Cost Cancelled Policy ;
- "LLC" refers to Limited Liability Corporation;
- "MCCPAP" refers to Missouri Contracting Classification Premium Adjustment Program;
- "NAIC" refers to the National Association of Insurance Commissioners;
- "NCCI" refers to the National Council on Compensation Insurance;
- "Non-part" refers to non-participating;
- "O/C" refers to Premium Overcharge;
- "O/Pay" refers to Overpayment;
- "Part" refers to participating;
- "PD/NP" refers to Paid/Not Paid;
- "Q" refers to Quarter;
- "RSMo" refers to the Revised Statutes of Missouri;
- "SIF" refers to Second Injury Fund;
- "Small Ded" refers to Small Deductible Policy;
- "Surv" refers to Survey;
- "U/C" refers to Premium Undercharge; and
- "U/Pay" refers to Underpayment.

## **SCOPE OF EXAMINATION**

The DIFP has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DIFP regulations and to consider whether the Company's operations were consistent with the public interest. The primary period covered by this review was January 1, 2010 through December 31, 2012 unless otherwise noted. Errors found to be outside of this time period but discovered during the course of the examination may also be included in the report.

The examination included a review of the following line of business and areas of the Company operations:

Workers' Compensation Underwriting, Rating, and Policyholder Services.

The examination was conducted in accordance with the standards in the NAIC's *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and trade practices is ten percent (10%). *Note: Most Workers' Compensation laws do not apply a general business practice standard. No error rates were utilized in these reviews unless the violation(s) were applicable to Missouri's Unfair Trade Practices Act.*

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

Policies with multiple violations may be listed in more than one section of the report. However, overpayment or underpayment amounts for the same policy are only listed once in the report to avoid duplication. In addition, premium overcharge amounts of \$5 or less are not tracked by the Missouri DIFP for insured reimbursement purposes.

## **COMPANY PROFILE**

The following company profile was provided by the Company:

Accident Fund (“the Company”) provides workers compensation insurance coverage primarily for companies located in Michigan and several other Midwestern and Southeastern states. The Company was licensed in and wrote business in 51 and 50 states and the District of Columbia as of September 30, 2013, respectively.

Due to the restrictive pricing environment of some states, the Company created two rating subsidiaries, Accident Fund General Insurance Company (“General”) and Accident Fund National Insurance Company (“National”) in 2005. The creation of General and National allows for greater underwriting flexibility and provides our agents and Business Development Consultants additional options when writing insurance policies. General and National are each licensed in 49 states and the District of Columbia as of September 30, 2012. General and National wrote business in 46 and 47 states as of September 30, 2013, respectively. Collectively, these companies are referred to as Accident Fund Companies (“Companies”). Policyholders for Accident Fund, General and National are primarily small and medium-size businesses with average annual policyholder premium of approximately \$9,500.

General’s rates are generally 15% to 25% higher than the Company’s and National’s rates are generally 15% to 25% lower than the Company’s. However, it isn’t necessarily consistent from state to state.

In 2005, the Company purchased United Wisconsin Insurance Company (“UWIC”), a Wisconsin domiciled property and casualty company providing workers compensation coverage and services. Policyholders for UWIC are primarily large-size businesses with average annual policyholder premium of approximately \$150,000. The acquisition of UWIC opened an additional underwriting market for the Group through UWIC’s ability to attract larger accounts that others didn’t necessarily target. UWIC was licensed in 50 states and the District of Columbia and wrote business in 49 states as of September 30, 2013.

In 2007 the Company acquired CWI Holdings, Inc., including its wholly-owned subsidiary CompWest Insurance Company. CompWest is a California-based writer of workers compensation insurance. Policyholders for CompWest are primarily medium-size businesses with average annual policyholder premium of approximately \$50,000. The acquisition of CompWest gives the Company an established presence in California and the ability to expand in other Western states. CompWest was licensed in 12 states as of September 30, 2013, with premium in 7 of them.

In July 2010, Third Coast Underwriters was created as an Operating Unit under Accident Fund. A very skilled, specialized staff was hired in 2Q 2010 and the first policy was written in July, 2010. All business is written on the Accident Fund companies’ paper. They have a focused underwriting model on complex risks, including but not limited to construction, non-trucking transportation, emerging markets, and mergers and acquisitions.

The remainder of this document is written for Companies and Third, as UWIC will be furnishing

their own narratives.

#### PRODUCTS, DISTRIBUTION, AND OPERATIONS:

Virtually all of the Companies' business is produced through independent agents. The Companies have contracts with approximately 800 agencies, which produce over 99% of the premium volume. Products include guaranteed-cost workers compensation contracts as well as certain loss-sensitive products. Also, the Company provided claim processing, claim case management, medical cost containment, loss prevention services, legal and investigative services, and excess insurance coverage for employers who provide workers compensation benefits directly to their employees (self-insured programs) through 9/30/2010. This segment of business was sold to FDI Group effective 10/1/2010.

Agents submit applications, receive quotes, bind coverage in certain circumstances, and obtain policy, billing, claim, production and other information through the internet using the Company's Agency Link software.

Much of the Company's business is automatically underwritten via the Company's systems. Some business is referred for underwriting to Business Development Consultants ("BDC's"), who are Accident Fund employees working out of their homes in various locations and states throughout the country. BDC's are responsible for managing and supporting agencies to which they are assigned.

Accident Fund's core policy administration system is the Point IN system from Computer Sciences Corporation. The Company's former policy administration system – TAS – is scheduled to be retired, but no specific date has been set as of today.

Various policy processing activities, such as endorsement processing, customer service functions and cash processing and premium collection, occur in the Lansing, Michigan, office.

The claims administration system is a product known as ClaimsCenter from Guidewire, which was first implemented at United Heartland in 2008, and then by Accident Fund in 2010. Claims adjusters located in Lansing and at various locations in the field use this system. In addition, the Company uses Crawford & Company as a third-party administrator to manage claims in states not supported by in-house staff and systems; Crawford also continues to manage claims in certain states with dates of injury prior to the date when in-house staff began to manage those states.

All systems produce reports that are recorded in the general ledger reflecting premium cash, premium receivables, written premium, commission and claim activity.

The Company previously acted under a contract with the Michigan Workers Compensation Placement Facility (MWCPF) as a servicing carrier for assigned risk business. The Company ceased to issue new assigned risk policies in 2007, but does still service its remaining policies and claims that are currently in run-off. The Company processes the assigned policies and related claims using many of the same processes and tools utilized for its other business. Policy issue and maintenance costs are paid as incurred. Servicing carrier fees received for which the related policy processing services have not been provided are deferred through the liability

entitled 'Unearned servicing carrier allowance'. Management calculates a reserve for loss adjustment expenses that the Company will incur to process MWCPF claims. Premium is ceded to the MWCPF quarterly (net of service fees, losses paid, producer fees, uncollectible premiums, and statutory assessments).

The Companies also assume allocated results from a number of Workers Compensation assigned risk pools. These results are allocated based upon market share in the respective states.

Accident Fund, a wholly owned subsidiary of Blue Cross Blue Shield of Michigan, was incorporated November 10, 1994 as a property and casualty insurance company under the Michigan Insurance Code. The current name was adopted on November 15, 2002. The Company purchased the assets and assumed certain liabilities of the Accident Fund of Michigan, an agency of the State of Michigan that had operated as a competitive workers compensation fund since its formation in 1912, as of the close of business on December 28, 1994.

As mentioned earlier, the Company created two wholly owned subsidiaries during 2005: General and National. National and General were funded through a cash transfer from the Company in the amount of forty (40) million dollars and twenty-five (25) million dollars, respectively. They were incorporated on June 20, 2005 as property and casualty insurance companies under the Michigan Insurance Code and received final certificates of authority from the State of Michigan on August 30, 2005. General and National began writing business January 1, 2006. General and National will eventually file and become licensed in each state that Accident Fund is licensed in. National and General share expenses with the Company under an expense sharing agreement; they also have a tax sharing agreement with the Company.

On December 28, 2005, the Company purchased UWIC, a Wisconsin property and casualty insurance company. UWIC is licensed in 50 states and the District of Columbia and provides workers compensation insurance coverage and services.

Effective January 1, 2006, the Company created an inter-company pooling arrangement. The Company is the lead insurer of the pool, and other participants include National, General, and UWIC. The Company has also filed in CA for the CW business to be included in the pooling arrangement, and it began being included in the intercompany pooling agreement in 2012.

On August 31, 2007, the Company purchased Third Coast Insurance Company ("TCIC"), an Illinois property and casualty insurance company. TCIC is only licensed in Illinois and is currently in loss run-off. UWIC is the claims administrator for the remaining claims, and the books and records of TCIC are maintained at UWIC's office in New Berlin, Wisconsin.

On November 20, 2007, the Company purchased CWI Holding, Inc., including its subsidiaries CompWest Insurance Company ("CWIC"), a California property and casualty insurance Company, Howard Street Insurance Services and CWI Holdings Statutory Trust. CWIC is licensed in 12 states and provides workers compensation insurance coverage and services. As of 7/1/2013, CWI Holding, Inc was dissolved and all assets were merged into AFICA.

**Related Parties:** The Company and BCBSM have entered into an agreement under which both parties may provide services to each other. The agreement provides for monthly payments and a year-end settlement based on actual cost of services performed. Additionally, the Company

and UWIC have entered into an agreement under which both parties may provide services to each other, with the same payment structure and year-end settlement.

The Company, General and National have entered into an inter-company consolidated service agreement. Under the agreement, General and National will be charged the cost of the service provided or expenses paid by the Company. The agreement provides for monthly payments and a year-end settlement based on actual cost of services performed.

In 2005, the Company became self-insured and utilized BCBSM to administer certain medical, dental, and vision coverage provided to employees. The Company also purchased health insurance for certain of its employees from Blue Care Network.

***Mission Statement:***

Accident Fund is an organization of dedicated people serving the needs of our agents and their customers. We strive to protect employers from financial loss by helping them create and maintain a safe, productive workplace. We provide injured employees with security, care, and the opportunity to return to work as soon as possible. We will achieve financial superiority for our stakeholders by diversifying our products and services nationally, while always placing our customers and communities first.

**Business Goals & Strategies:**

Corporate Vision:

Our vision is to succeed as a profitable, national workers compensation insurance company offering diverse products and services through our independent agency partnerships. As employees of Accident Fund, we will...

**SERVE OUR CUSTOMERS** the independent insurance agents, by making it easy for them to do business with us, offering convenient customer service, competitive pricing, and automated services.

**SEEK COLLABORATION** based on a joint UAW and management partnership, along with a commitment to integrity and teamwork, supported by systems of recognition, reinforcement, and ongoing development and leadership opportunities.

**SHARE INFORMATION** consistently among all members of the Company, as we are convinced active listening and an open exchange of ideas are vital to our success.

## **EXECUTIVE SUMMARY**

The DIFP conducted a targeted market conduct examination of Accident Fund National Insurance Company. The examiners found the following principal areas of concern:

### **Active Guaranteed Cost Policies**

- The examiners found two instances where the Company failed to include the officers' payroll in the audit.
- The examiners found two instances where the Company failed to attach the exclusion endorsement for members of an LLC.
- The examiners found 22 instances where the Company failed to apply the Second Injury Fund rate to the correct premium amount.
- The examiners found 52 instances where the Company failed to issue participating policies to insureds that were eligible.
- The examiners found one instance where the Company failed to retain an NCCI MCPPAP Credit letter in the underwriting file.
- The examiners found 17 instances where the Company failed to document evidence in the policy file for a reduction in the Schedule Modification.
- The examiners found three instances where the Company failed to apply 10% of officer payroll to Class Code 8810.
- The examiners found one instance where the Company failed to apply the correct Experience Modification factor to the premium.
- The examiners found six instances where the Company failed to send notice on the approved form that the policyholder was eligible for a MCPPAP premium adjustment credit.
- The examiners found one instance where the Company applied MCPPAP credit from the prior policy period.
- The examiners found seven instances where the Company waived the final audits.
- The examiners found two instances where the Company moved the insured to an affiliated insurer resulting in premium increases, which were not justified by claims experience or other schedule rating factors.

### **Guaranteed Cost Cancelled Policies**

- The examiners found 10 instances where the Company failed to apply the Second Injury Fund rate to the correct premium amount.
- The examiners found 36 instances where the Company failed to issue participating policies to insureds that were eligible.
- The examiners found one instance where the Company failed to retain an NCCI MCPPAP Credit letter in the underwriting file.
- The examiners found nine instances where the Company failed to document evidence in the policy file for a reduction in the Schedule Modification.
- The examiners found seven instances where the Company failed to send notice on the approved form that the insured was eligible for a MCPPAP premium adjustment credit.
- The examiners found 26 instances where the Company waived the final audits.

#### Active Small Deductible Policies

- The examiners found one instance where the Company failed to include the officers' payroll in the audit.
- The examiners found seven instances where the Company failed to apply the Second Injury Fund rate to the correct premium amount.
- The examiners found six instances where the Company failed to collect the Administrative Surcharge at the same time and in the same manner as the premium, premium deposits, or premium installments were collected.
- The examiners found five instances where the Company failed to issue participating policies to insureds that were eligible.
- The examiners found one instance where the Company failed to document evidence in the policy file for a reduction in the Schedule Modification.
- The examiners found four instances where the Company failed to apply the correct Deductible Credit rate to the policy premium.
- The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase, which was not justified by claims experience or other schedule rating factors.

#### Active-Cancelled-Non-Renewed Policies Late Audits

- The examiners found 33 instances where the Company failed to complete and bill the audit and return premiums within 120 days of policy expiration or cancellation and failed to provide evidence that the audits were late due to mutual agreement between the Company and the insured or due to the insured's non-cooperation.

## EXAMINATION FINDINGS

### I. UNDERWRITING AND RATING PRACTICES

This section of the report provides a review of the Company's underwriting and rating practices. These practices include the use of policy forms, adherence to underwriting guidelines, assessment of premium and procedures to decline or terminate coverage. The examiners reviewed how the Company handled new and renewal policies to ensure that the Company adhered to its own underwriting guidelines and filed rates, and to Missouri statutes and regulations.

A policy/underwriting file is reviewed in accordance with 20 CSR 100-8.040 and the NAIC *Market Regulation Handbook*. Error rates are established when testing for compliance with laws that apply a general business practice standard (e.g., §§375.930 – 375.948 and 375.445 RSMo.) and compared with the NAIC benchmark error rate of ten percent (10%). Error rates in excess of the NAIC benchmark error rate are presumed to indicate a general business practice contrary to the law. As most Workers' Compensation laws do not apply a general business practice standard, no error rates were contemplated in these reviews unless the violation(s) discovered fell within the scope of Missouri's Unfair Trade Practices Act.

The examiners requested the Company's underwriting and rating manuals for its Workers' Compensation business. Those included all rates, guidelines, and rules that were in effect at any point during the examination period to ensure that the examiners could properly rate each policy reviewed. The examiners also reviewed the Company's procedures, rules and forms filed by or on behalf of the Company with the DIFP. The examiners reviewed all Missouri files from a listing furnished by the Company. Finally, the examiners requested a written description of significant underwriting and rating changes that occurred during the examination period.

An underwriting or rating error can include, but is not limited to, any miscalculation of the premium based on the information in the file, an improper acceptance or rejection of an application, the misapplication of the Company's underwriting guidelines or incomplete file information preventing the examiners from readily ascertaining the Company's rating and underwriting practices.

The following list summarizes the number of files reviewed for each type of policy review:

<u>Name of Review</u>	<u>Type of Sample</u>	<u>Population Size</u>	<u># of Files Reviewed</u>
Guar Cost Active Policies	Random	715	69
CNR Policies	Random	95	44
Small Deductible Policies	Census	7	7
Dividend Policies	Random	95	15
Policies Where the Class Code was Changed at Audit	Census	20	20
Policies Which Shifted Between Companies	Census	2	2
Late Audit Policies	Census	110	110

Total Number Of Files Reviewed: 267 policy files.

## A. Forms and Filings

The examiners reviewed the Company's policy and contract forms to determine its compliance with filing, approval, and content requirements to ensure that the contract language was not ambiguous or misleading and was adequate to protect those insured.

The examiners discovered no issues or concerns.

## B. Workers' Compensation Policies:

The examiners reviewed applications for coverage that were issued or modified by the Company to determine the accuracy of rating and adherence to prescribed and acceptable underwriting criteria. The examiners also requested and reviewed policy files as described in the previous section.

The following are the results of the reviews:

### Active Guaranteed Cost Policies

1. The examiners found two instances where the Company failed to include the officers' payroll.

#	Crit #	Surv #	Survey	Policy #	eff. Date	U/C
1	56	25	Guar Cost	<del>XXXXXXXX</del> 002	04/01/11	\$465
2	102	9	Guar Cost	XXXXXXXX0302	01/14/10	

Reference: §§287.020.1 and 287.955.3 RSMo and NCCI Basic Manual Rule 2.E.

2. The examiners found two instances where the Company failed to attach the exclusion endorsement for members of an LLC, resulting in a policy premium undercharge.

#	Crit #	Surv #	Survey	Policy #	eff. Date	U/C
1	53	28	Guar Cost	XXXXXXXX0302	07/21/11	
2	80	61	Guar Cost	XXXXXXXX0002	09/14/11	\$61

Reference: §287.037 RSMo and NCCI Basic Manual MO State Rule Exceptions, Rule 2.E.2.

3. The examiners found 22 instances where the Company failed to apply the Second Injury Fund (SIF) rate to the correct premium.

#	Crit #	Surv #	Survey	Policy #	eff. Date	SIF U/pay	SIF O/pay
1	1	6	Guar Cost	XXXXXXXXXX0002	04/01/11	\$4	
2	2	1	Guar Cost	XXXXXXXXXX0902	07/01/11		\$32
3	3	1	Guar Cost	XXXXXXXXXX0602	07/01/10		\$322
4	4	1	Guar Cost	XXXXXXXXXX0502	03/06/10		\$128
5	5	1	Guar Cost	XXXXXXXXXX0702	07/01/10		\$22
6	7	8	Guar Cost	XXXXXXXXXX0602	4/18/10		\$6
7	52	20	Guar Cost	XXXXXXX0402	07/30/11		\$26
8	53	28	Guar Cost	XXXXXXX0302	07/21/11	\$13	
9	54	13	Guar Cost	XXXXXXX0602	07/27/10		\$123
10	56	25	Guar Cost	XXXXXXX0002	04/01/11	\$13	
11	57	30	Guar Cost	XXXXXXX0302	11/15/11		\$34
12	58	31	Guar Cost	XXXXXXX0102	01/01/10		\$162
13	61	38	Guar Cost	XXXXXXX0202	05/08/11		\$6
14	71	40	Guar Cost	XXXXXXX0302	07/22/11		\$2
15	72	42	Guar Cost	XXXXXXX0202	07/01/11		\$51
16	73	47	Guar Cost	XXXXXXX0202	12/31/10		\$9
17	74	48	Guar Cost	XXXXXXX0102	03/10/11		\$31
18	77	69	Guar Cost	XXXXXXX0302	08/01/11		\$11
19	80	61	Guar Cost	XXXXXXX0002	09/14/11	\$2	
20	81	57	Guar Cost	XXXXXXX0002	11/01/10		\$4
21	83	54	Guar Cost	XXXXXXX0102	09/01/11	\$229	
22	102	9	Guar Cost	XXX7252	01/14/10		\$53

Reference: §§287.715.1 and 287.310.9 RSMo.

4. The examiners found 52 instances where the Company failed to issue participating policies. There were 69 policies reviewed. Seventeen were issued participating policies. Missouri Law prohibits companies from offering both participating and non-participating policies.

#	Crit	Surv#	Survey	Policy #	Eff. Date	Non-Part	Part
1	75	1	Guar Cost	XXX3046	07/01/11	X	
2	75	2	Guar Cost	XXX3096	07/01/10	X	
3	75	3	Guar Cost	XXX4574	09/26/10	X	
4	75	4	Guar Cost	XXX9555	07/01/11	X	
5	75	5	Guar Cost	XXX3093	01/01/10	X	
6	75	6	Guar Cost	XXX2561	04/01/11	X	
7	75	7	Guar Cost	XXX6442	04/01/10	X	
8	75	8	Guar Cost	XXX7264	04/18/10	X	
9	75	9	Guar Cost	XXX0188	07/01/10	X	
10	75	10	Guar Cost	XXX7146	03/06/10	X	
11	75	11	Guar Cost	XXX8430	03/29/11	X	
12	75	12	Guar Cost	XXX9225	04/18/10	X	
13	75	13	Guar Cost	XXX2013	07/27/10	X	
14	75	14	Guar Cost	XXX4684	10/27/11	X	
15	75	15	Guar Cost	XXX5546	11/15/11	X	
16	75	16	Guar Cost	XXX6470	01/01/11	X	
17	75	17	Guar Cost	XXX7419	11/01/11	X	
18	75	18	Guar Cost	XXX9120	03/19/10	X	
19	75	19	Guar Cost	XXX9659	04/01/11	X	
20	75	20	Guar Cost	XXX3244	07/30/11	X	
21	75	21	Guar Cost	XXX4579	09/03/11	X	
22	75	22	Guar Cost	XXX5034	09/01/10	X	
23	75	23	Guar Cost	XXX0640	02/25/10	X	
24	75	24	Guar Cost	XXX2998	03/31/11	X	
25	75	25	Guar Cost	XXX3084	04/01/11		X
26	75	26	Guar Cost	XXX5391	07/01/11	X	
27	75	27	Guar Cost	XXX1994	03/13/11	X	
28	75	28	Guar Cost	XXX6954	07/21/11	X	

#	Crit	Surv#	Survey	Policy #	Eff. Date	Non-Part	Part
29	75	29	Guar Cost	XXX8201	09/02/10	X	
30	75	30	Guar Cost	XXX0360	11/15/11		X
31	75	31	Guar Cost	XXX1698	01/01/10	X	
32	75	32	Guar Cost	XXX3104	02/10/10		X
33	75	33	Guar Cost	XXX3871	03/01/10	X	
34	75	34	Guar Cost	XXX4590	04/01/11	X	
35	75	35	Guar Cost	XXX4676	04/01/10	X	
36	75	36	Guar Cost	XXX4694	04/01/10		X
37	75	37	Guar Cost	XXX6488	08/14/11		X
38	75	38	Guar Cost	XXX5922	05/08/11	X	
39	75	39	Guar Cost	XXX8002	07/19/11	X	
40	75	40	Guar Cost	XXX8194	07/22/11	X	
41	75	41	Guar Cost	XXX8286	07/30/10		X
42	75	42	Guar Cost	XXX8490	07/01/11	X	
43	75	43	Guar Cost	XXX9053	09/01/11		X
44	75	44	Guar Cost	XXX3094	02/01/10		X
45	75	45	Guar Cost	XXX6739	08/24/11		X
46	75	46	Guar Cost	XXX3513	02/21/11	X	
47	75	47	Guar Cost	XXX3879	12/31/10	X	
48	75	48	Guar Cost	XXX4166	03/10/11	X	
49	75	49	Guar Cost	XXX4661	04/01/10	X	
50	75	50	Guar Cost	XXX6186	06/01/10	X	
51	75	51	Guar Cost	XXX6963	07/01/11	X	
52	75	52	Guar Cost	XXX7694	08/01/11	X	
53	75	53	Guar Cost	XXX8609	09/05/10		X
54	75	54	Guar Cost	XXX8997	09/29/11	X	
55	75	55	Guar Cost	XXX6898	08/30/11		X
56	75	56	Guar Cost	XXX9442	10/16/10		X

#	Crit	Surv#	Survey	Policy #	Eff. Date	Non-Part	Part
57	75	57	Guar Cost	XXX9495	11/01/10	X	
58	75	58	Guar Cost	XXX9780	11/01/10		X
59	75	59	Guar Cost	XXX0455	11/01/11		X
60	75	60	Guar Cost	XXX0635	12/20/10	X	
61	75	61	Guar Cost	XXX7232	09/14/11	X	
62	75	62	Guar Cost	XXX7369	09/18/11		X
63	75	63	Guar Cost	XXX8412	10/31/11	X	
64	75	64	Guar Cost	XXX8633	11/05/11	X	
65	75	65	Guar Cost	XXX8708	11/09/11	X	
66	75	66	Guar Cost	XXX0082	04/01/11	X	
67	75	67	Guar Cost	XXX2521	04/15/11		X
68	75	68	Guar Cost	XXX3759	05/16/10		X
69	75	69	Guar Cost	XXX3971	08/07/11	X	

Reference: §287.932.1 RSMo and 20 CSR 500-6.100(8).

- The Examiners found one instance where the Company failed to retain an NCCI MCCPAP Credit letter in the underwriting file, resulting in a policy premium undercharge.

#	Crit	Surv	Survey	Policy #	eff. Date	U/C
1	83	54	Guar Cost	XXXXXXXX0102	09/01/11	\$7,849

Reference: §287.937.2 RSMo and 20 CSR 100-8.040(3)(A).

- The examiners found 17 instances where the Company changed Schedule Rating credits/debits at renewal without documenting the changes, resulting in 17 policy premium overcharges.

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
1	2	1	Guar Cost	XXXXXXXXXX0902	07/01/11	\$1,091
2	3	1	Guar Cost	XXXXXXXXXX0602	07/01/10	\$11,062

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
3	4	1	Guar Cost	XXXXXXXXXX0502	03/06/10	\$4,418
4	5	1	Guar Cost	XXXXXXXXXX0702	07/01/10	\$781
5	52	20	Guar Cost	XXXXXXX0402	07/30/11	\$860
6	53	28	Guar Cost	XXXXXXX0302	07/21/11	\$338
7	54	13	Guar Cost	XXXXXXX0602	07/27/10	\$4,224
8	55	14	Guar Cost	XXXXXXX0502	10/27/11	\$877
9	57	30	Guar Cost	XXXXXXX0302	11/15/11	\$1,186
10	58	31	Guar Cost	XXXXXXX0102	01/01/10	\$5,563
11	61	38	Guar Cost	XXXXXXX0202	05/08/11	\$229
12	71	40	Guar Cost	XXXXXXX0302	07/22/11	\$80
13	72	42	Guar Cost	XXXXXXX0202	07/01/11	\$1,756
14	73	47	Guar Cost	XXXXXXX0202	12/31/10	\$320
15	74	48	Guar Cost	XXXXXXX0102	03/10/11	\$1,063
16	77	69	Guar Cost	XXXXXXX0302	08/01/11	\$392
17	102	9	Guar Cost	XXX7252	01/14/10	\$1,839

Reference: §287.950.2 RSMo and 20 CSR 500-4.100(7)(D).

7. The examiners found three instances where the Company failed to apply 10% of officer payroll to Class Code 8810, resulting in two policy premium overcharges.

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
1	6	8	Guar Cost	XXXXXXX0602	04/18/10	\$208
2	81	57	Guar Cost	XXXXXXX0002	11/01/10	\$120
3	82	52	Guar Cost	XXXXXXX0102	08/01/11	

Reference: §287.955.3 RSMo.

8. The examiners found one instance where the Company failed to apply the correct Experience Modification factor to the premium, resulting in a policy premium undercharge.

#	Crit	Surv	Survey	Policy #	eff. Date	U/C
1	1	6	Guar Cost	XXXXXXXXXX0002	04/01/11	\$118

Reference: §287.955.1 RSMo.

9. The examiners found six instances where the Company failed to send notice on the approved form that the policyholder was eligible for a MCCPAP premium adjustment credit.

#	Crit	Surv	Survey	Policy #	eff. Date
1	54	13	Guar Cost	XXXXXXX0602	07/27/10
2	61	38	Guar Cost	XXXXXXX0202	05/08/11
3	78	27	Guar Cost	XXX1994	03/13/11
4	78	33	Guar Cost	XXX3871	03/01/10
5	78	35	Guar Cost	XXX4676	04/01/10
6	79	60	Guar Cost	XXXXXXX0002	12/20/10

Reference: §287.955.3 RSMo.

10. The examiners found one instance where the Company applied MCCPAP credit from the prior policy period, resulting in a premium undercharge and a SIF underpayment.

#	Crit	Surv	Survey	Policy #	eff. Date	U/C	SIF U/pay
1	60	32	Guar Cost	XXXXXXX0102	02/10/10	\$3,627	\$106

Reference: §287.955.3 RSMo.

11. The examiners found seven instances where the Company waived the final audits and failed to base the final premiums on actual payroll.

#	Crit	Surv	Survey	Policy #	eff. Date
1	76	2	Guar Cost	XXX3096	07/01/10
2	76	4	Guar Cost	XXX9555	07/01/11

#	Crit	Surv	Survey	Policy #	eff. Date
3	76	15	Guar Cost	XXX5546	11/15/11
4	76	16	Guar Cost	XXX6470	01/01/11
5	76	40	Guar Cost	XXX8194	07/22/11
6	76	55	Guar Cost	XXX6898	08/30/11
7	76	45	Guar Cost	XXX6739	08/24/11

Reference: §287.955.3 RSMo and NCCI Basic Manual Rule 3.A.13.

12. The examiners found two instances where the Company moved the insured to an affiliated insurer resulting in premium increases, which were not justified by claims experience or other schedule rating factors.

#	Crit	Surv	Survey	Policy #	eff. Date
1	3	1	Guar Cost	XXXXXXXXXX0602	07/01/10
2	4	1	Guar Cost	XXXXXXXXXX0502	03/06/10

Reference: §379.889 RSMo and 20 CSR 500-4.100(7)(C).

**Guaranteed Cost Cancelled Policies**

13. The examiners found 10 instances where the Company failed to apply the Second Injury Fund rate to the correct premium amount, resulting in SIF overpayments and a SIF underpayment.

#	Crit	Surv	Survey	Policy #	eff. Date	SIF U/pay	SIF O/pay
1	117	4	Guar Cost Cx	XXXXXXXX0102	04/03/10		\$3
2	118	6	Guar Cost Cx	XXXXXXXX0102	04/15/11		\$532
3	119	7	Guar Cost Cx	XXXXXXXX0202	04/01/11		\$28
4	120	11	Guar Cost Cx	XXXXXXXX0302	07/01/10		\$4
5	122	37	Guar Cost Cx	XXXXXXXX0202	01/01/10		\$2
6	123	32	Guar Cost Cx	XXXXXXXX0202	01/01/10		\$10
7	124	25	Guar Cost Cx	XXXXXXXX0102	02/02/10		\$31
8	125	42	Guar Cost Cx	XXXXXXXX0102	02/17/10		\$2
9	126	43	Guar Cost Cx	XXXXXXXX0202	03/01/11		

#	Crit	Surv	Survey	Policy #	eff. Date	SIF U/pay	SIF O/pay
10	128	23	Guar Cost Cx	XXXXXXXX0102	08/27/10	\$4	

Reference: §§287.715 and 287.310.9 RSMo.

14. The examiners found 36 instances where the Company failed to issue participating policies. There were 44 policies reviewed. Eight were issued participating policies and 36 were issued non-participating policies. Missouri law prohibits companies from offering both participating and non-participating policies.

#	Crit	Surv	Survey	Policy #	eff. Date
1	129	1	Guar Cost Cx	XXX445	06/16/10
2	129	2	Guar Cost Cx	XXX5237	06/01/10
3	129	3	Guar Cost Cx	XXX8333	07/30/10
4	129	4	Guar Cost Cx	XXX4908	04/03/10
5	129	5	Guar Cost Cx	XXX2563	03/25/10
6	129	7	Guar Cost Cx	XXX4679	04/01/11
7	129	10	Guar Cost Cx	XXX0228	02/23/10
8	129	11	Guar Cost Cx	XXX6004	07/01/10
9	129	13	Guar Cost Cx	XXX3197	01/01/10
10	129	14	Guar Cost Cx	XXX5184	06/01/10
11	129	15	Guar Cost Cx	XXX7376	09/23/11
12	129	16	Guar Cost Cx	XXX5176	05/12/10
13	129	17	Guar Cost Cx	XXX4068	08/28/10
14	129	18	Guar Cost Cx	XXX8131	07/17/10
15	129	19	Guar Cost Cx	XXX8727	09/17/10
16	129	20	Guar Cost Cx	XXX5958	05/21/10
17	129	22	Guar Cost Cx	XXX8059	10/12/11
18	129	23	Guar Cost Cx	XXX8952	08/27/10
19	129	24	Guar Cost Cx	XXX5679	05/01/11
20	129	26	Guar Cost Cx	XXX3784	04/29/11
21	129	27	Guar Cost Cx	XXX3839	09/18/10

#	Crit	Surv	Survey	Policy #	eff. Date
22	129	28	Guar Cost Cx	XXX6779	01/01/10
23	129	29	Guar Cost Cx	XXX8074	02/17/10
24	129	30	Guar Cost Cx	XXX7556	07/01/10
25	129	31	Guar Cost Cx	XXX7209	10/16/11
26	129	32	Guar Cost Cx	XXX9079	01/01/10
27	129	34	Guar Cost Cx	XXX4580	01/01/11
28	129	35	Guar Cost Cx	XXX1589	02/01/11
29	129	37	Guar Cost Cx	XXX8913	01/01/10
30	129	38	Guar Cost Cx	XXX7032	09/03/11
31	129	39	Guar Cost Cx	XXX3493	04/08/10
32	129	40	Guar Cost Cx	XXX8141	08/27/11
33	129	41	Guar Cost Cx	XXX8141	08/27/10
34	129	42	Guar Cost Cx	XXX3467	02/17/10
35	129	43	Guar Cost Cx	XXX3632	03/01/11
36	129	44	Guar Cost Cx	XXX4602	08/24/10

Reference: §287.932.1 RSMo and 20 CSR 500-6.100(8).

15. The examiners found one instance where the Company failed to retain an NCCI MCCPAP Credit letter in the underwriting file, resulting in a premium undercharge.

#	Crit	Surv	Survey	Policy #	eff. Date	U/C
1	128	23	Guar Cost Cx	XXXXXXXX0102	08/27/10	\$141

Reference: §287.937.2 RSMo and 20 CSR 100-8.040(3)(A).

16. The examiners found nine instances where the Company changed Schedule Rating credits/debits at renewal without documenting the changes.

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
1	117	4	Guar Cost Cx	XXXXXXXX0102	04/03/10	\$73
2	118	6	Guar Cost Cx	XXXXXXXX0102	04/15/11	\$18,281

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
3	119	7	Guar Cost Cx	XXXXXXXX0202	04/01/11	\$955
4	120	11	Guar Cost Cx	XXXXXXXX0302	07/01/10	\$132
5	122	37	Guar Cost Cx	XXXXXXXX0202	01/01/10	\$77
6	123	32	Guar Cost Cx	XXXXXXXX0202	01/01/10	\$320
7	124	25	Guar Cost Cx	XXXXXXXX0102	02/02/10	\$1,068
8	125	42	Guar Cost Cx	XXXXXXXX0102	02/17/10	\$100
9	126	43	Guar Cost Cx	XXXXXXXX0202	03/01/11	\$428

Reference: §287.950.2 RSMo and 20 CSR 500-4.100(7)(D).

17. The examiners found seven instances where the Company failed to send notice on the approved form that the insured was eligible for a MCCPAP premium adjustment credit.

#	Crit	Surv	Survey	Policy #	eff. Date
1	127	2	Guar Cost Cx	XXX5237	06/01/10
2	127	18	Guar Cost Cx	XXX8131	07/17/10
3	127	19	Guar Cost Cx	XXX8727	09/17/10
4	127	20	Guar Cost Cx	XXX5958	05/21/10
5	127	16	Guar Cost Cx	XXX5176	05/12/10
6	127	25	Guar Cost Cx	XXX3002	02/02/10
7	127	41	Guar Cost Cx	XXX8141	08/27/10

Reference: §287.955.3 RSMo.

18. The examiners found 26 instances where the Company waived the final audit and failed to base the final premiums on actual payroll.

#	Crit	Surv	Survey	Policy #	eff. Date
1	130	3	Guar Cost Cx	XXX8333	07/30/10
2	130	4	Guar Cost Cx	XXX4908	04/03/10
3	130	8	Guar Cost Cx	XXX7335	07/01/10

#	Crit	Surv	Survey	Policy #	eff. Date
4	130	9	Guar Cost Cx	XXX7335	07/01/11
5	130	10	Guar Cost Cx	XXX0228	02/23/10
6	130	11	Guar Cost Cx	XXX6004	07/01/10
7	130	12	Guar Cost Cx	XXX0410	02/01/10
8	130	15	Guar Cost Cx	XXX7376	09/23/11
9	130	16	Guar Cost Cx	XXX5176	05/12/10
10	130	19	Guar Cost Cx	XXX8727	09/17/10
11	130	20	Guar Cost Cx	XXX5958	05/21/10
12	130	22	Guar Cost Cx	XXX8059	10/12/11
13	130	23	Guar Cost Cx	XXX8952	08/27/10
14	130	24	Guar Cost Cx	XXX5679	05/01/11
15	130	28	Guar Cost Cx	XXX6779	01/01/10
16	130	29	Guar Cost Cx	XXX8074	02/17/10
17	130	30	Guar Cost Cx	XXX7556	07/01/10
18	130	31	Guar Cost Cx	XXX7209	10/16/11
19	130	32	Guar Cost Cx	XXX9079	01/01/10
20	130	34	Guar Cost Cx	XXX4580	01/01/11
21	130	36	Guar Cost Cx	XXX2585	06/01/11
22	130	37	Guar Cost Cx	XXX8913	01/01/10
23	130	38	Guar Cost Cx	XXX7032	09/03/11
24	130	39	Guar Cost Cx	XXX3493	04/08/10
25	130	42	Guar Cost Cx	XXX3467	02/17/10
26	130	43	Guar Cost Cx	XXX3632	03/01/11

Reference: §287.955.3 RSMo and NCCI Basic Manual Rule 3.A.13.

### **Active Small Deductible Policies**

19. The examiners found one instance where the Company failed to include the officers' payroll.

#	Crit	Surv	Survey	Policy #	eff. Date	U/C
1	21	4	Small Ded	XXX8340	09/01/11	\$487

Reference: §§287.020.1 and 287.955.3 RSMo and NCCI Basic Manual Rule 2.E.1.

20. The examiners found seven instances where the Company failed to apply the Second Injury Fund (SIF) rate to the correct premium.

#	Crit	Surv	Survey	Policy #	eff. Date	SIF U/pay	SIF O/pay
1	13	2	Small Ded	XXX0592	10/31/11		\$12
2	16	1	Small Ded	XXX0592	10/31/10	\$6	
3	17	6	Small Ded	XXXXXX1105	01/26/11	\$3	
4	18	7	Small Ded	XXXXXX1954	01/26/12		\$3
5	19	3	Small Ded	XXXXXX0002	07/01/10		\$137
6	20	5	Small Ded	XXXXXX0002	06/01/11		\$211
7	21	4	Small Ded	XXX8340	09/01/11	\$14	

Reference: §§287.715.1 and 287.310.9 RSMo.

21. The examiners found six instances where the Company failed to collect the Administrative Surcharge at the same time as the premium.

#	Crit	Surv	Survey	Policy #	eff. Date
1	11	1	Small Ded	XXX0592	10/31/10
2	11	2	Small Ded	XXX0592	10/31/11
3	11	3	Small Ded	XXX6988	07/01/10
4	11	4	Small Ded	XXX8340	09/01/11
5	11	5	Small Ded	XXX6332	06/01/11
6	11	6	Small Ded	XXXXXX1105	01/26/11

Reference: §287.717.1 RSMo.

22. The examiners found five instances where the Company failed to issue participating policies. There were seven policies reviewed. Two were issued participating policies and five were issued non-participating policies. Missouri law prohibits companies from offering both participating and non-participating policies.

#	Crit	Surv	Survey	Policy #	eff. Date	Non-Part	Part
1	10	1	Small Ded	XXX0592	10/31/10	X	
2	10	2	Small Ded	XXX0592	10/31/11	X	
3	10	3	Small Ded	XXX6988	07/01/10	X	
4	10	4	Small Ded	XXX8340	09/01/11	X	
5	10	5	Small Ded	XXX6332	06/01/11	X	
6	10	6	Small Ded	XXXXXX1105	01/26/11		X
7	10	7	Small Ded	XXXXXX1954	01/26/12		X

Reference: §287.932.1 RSMo and 20 CSR 500-6.100(8).

23. The examiners found one instance where the Company changed Schedule Rating credits/debits at renewal without documenting the changes.

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
1	20	5	Small Ded	XXXXXXXX0002	06/01/11	\$4,369

Reference: §287.950.2 RSMo and 20 CSR 500-4.100(7)(D).

24. The examiners found four instances where the Company failed to apply the correct Deductible Credit rate to the policy premium, resulting in premium overcharges.

#	Crit	Surv	Survey	Policy #	eff. Date	O/C
1	16	1	Small Ded	XXX0592	10/31/10	\$173
2	17	6	Small Ded	XXXXXX1105	01/26/11	\$14
3	18	7	Small Ded	XXXXXX1954	01/26/12	\$17
4	19	3	Small Ded	XXXXXXXX0002	07/01/10	\$722

Reference: §287.955.3 RSMo.

25. The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase, which was not justified by claims experience or other schedule rating factors.

#	Crit	Surv	Survey	Policy #	eff. Date
1	20	5	Small Ded	XXXXXXXX0002	06/01/11

Reference: §379.889 RSMo and 20 CSR 500-4.100(7)(C).

### **Dividend Policies**

As previously documented in this report, the examiners found both participating and non-participating policies in its review of 120 policy files. Of those files, it was discovered that 27 were issued as participating policies and 93 policies were issued as non-participating policies.

Additionally, through analysis of the total population of 817 policies, the examiners identified 95 policies where a dividend was paid. The examiners reviewed 15 of the 95 policies and verified that a dividend was paid and that they were participating policies. This analysis supports a finding that the Company is issuing both participating and non-participating policies and that the Company is not treating similar insureds similarly in the payment of dividends.

### **Policies Where the Class Code was changed at Audit**

Through analysis, the examiners identified 20 policy files for review. The examiners reviewed the policy files to determine if classification codes were changed or corrected prior to the final audit.

This issue was not discovered during this review.

### **Policies Shifted Between Companies**

Through analysis, the examiners identified two policy files for review. The examiners reviewed the policy files to determine if the Company had moved the insured to an affiliated insurer in order to circumvent the restrictions on schedule rating.

This issue was not discovered during this review.

### **Active-Cancelled-Non-Renewed Policies Late Audits**

26. The examiners found 33 instances where the Company failed to complete and bill audits and return premiums within 120 days of policy expiration or cancellation and failed to provide evidence that the audits were late due to mutual agreement between the Company and the insured or due to the insured's non-cooperation.

#	Crit	Surv	Survey	Policy #	eff. Date
1	136	5	Late Audits	XXX1779	11/01/10
2	136	7	Late Audits	XXX4522	02/01/10
3	136	8	Late Audits	XXX4522	02/01/11
4	136	16	Late Audits	XXX6292	12/15/10
5	136	18	Late Audits	XXX7419	11/01/10
6	136	21	Late Audits	XXX9818	06/21/10
7	136	23	Late Audits	XXX2864	07/08/11
8	136	24	Late Audits	XXX4048	05/31/11
9	136	29	Late Audits	XXX9744	01/15/10
10	136	31	Late Audits	XXX0332	01/31/11
11	136	39	Late Audits	XXX5563	07/01/10
12	136	40	Late Audits	XXX5786	07/01/10
13	136	41	Late Audits	XXX5876	06/20/10
14	136	46	Late Audits	XXX0360	11/15/10
15	136	47	Late Audits	XXX0364	12/15/10
16	136	49	Late Audits	XXX1033	01/01/10
17	136	55	Late Audits	XXX6261	05/21/10
18	136	56	Late Audits	XXX6470	06/01/10
19	136	58	Late Audits	XXX7519	07/01/10
20	136	68	Late Audits	XXX4147	03/12/10
21	136	71	Late Audits	XXX4635	04/05/11
22	136	72	Late Audits	XXX6880	06/28/11
23	136	74	Late Audits	XXX7694	08/01/10
24	136	81	Late Audits	XXX0075	11/16/10
25	136	83	Late Audits	XXX0637	01/01/11
26	136	96	Late Audits	XXX2521	04/15/10
27	136	98	Late Audits	XXX3167	01/01/10

#	Crit	Surv	Survey	Policy #	eff. Date
28	136	102	Late Audits	XXX3834	07/01/10
29	136	105	Late Audits	XXX5128	04/20/10
30	136	109	Late Audits	XXX6119	02/02/11
31	136	7	Late Audits	XXX1092	06/15/10
32	136	11	Late Audits	XXX6768	01/01/10
33	136	12	Late Audits	XXX6769	01/01/11

Reference: §§287.955.1, 287.310.10 RSMo, 20 CSR 500-6.500(2)(A), and NCCI Basic Manual WC 24 06 04 A - Missouri Amendatory Endorsement Section G.

## II. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri law requires companies to respond to criticisms and formal requests within 10 calendar days. Please note that in the event an extension was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the time frame granted by the examiners. If the response was not received within that time period, the response was not considered timely.

### A. Criticism Time Study

<b>Calendar Days</b>	<b>Number of Criticisms</b>	<b>Percentage</b>
Received within the time limit including any extensions	136	100.0%
Received outside time limit including any extensions	0	0.0%
No response	0	0.0%
Total	136	100.0%

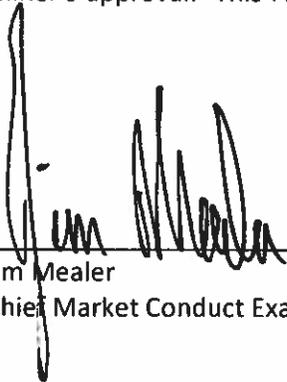
### B. Formal Request Time Study

<b>Calendar Days</b>	<b>Number of Formal Requests</b>	<b>Percentage</b>
Received within the time limit including any extensions	18	100.0%
Received outside time limit including any extensions	0	0.0%
No response	0	0.0%
Total	18	100.0%

Reference: §374.205.2(2) RSMo and 20 CSR 100-8.040(6).

## EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Accident Fund National Insurance Company (NAIC #12305), Examination Number 1401-02-TGT. This examination was conducted by Scott B. Pendleton, Dale Hobart, Dennis Foley, Jon Meyer, Teresa Koerkenmeier, and Darren Jordan. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated December 18, 2017. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Report has been reviewed and approved by the undersigned.

  
\_\_\_\_\_  
Jim Mealer  
Chief Market Conduct Examiner

9/5/2019  
\_\_\_\_\_  
Date