

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

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

ORDER OF THE DIRECTOR

NOW, on this 10th 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)¹, 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

¹ 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 16th day of September, 2018.



Chlora Lindley-Myers
Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
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)	
UNITED WISCONSIN INSURANCE COMPANY (NAIC #29157))	Market Conduct Investigation No. 13113-29157-PC

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 §287.955.3¹.

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

¹ 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: 9/5/2018



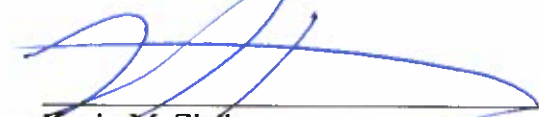
Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation

DATED: 8/29/18




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

DATED: 8/29/18




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

DATED: 8/29/18



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

DATED: 8/29/18



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 General Insurance Company
NAIC Group #0572
NAIC #12304**

MISSOURI EXAMINATION # 1401-01-TGT

NAIC EXAM TRACKING SYSTEM # M0341-M109

September 5, 2018

**Accident Fund General Insurance Company
200 North Grand Avenue
Lansing, Michigan 48901-7990**

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FOREWORD

This is a targeted market conduct examination report of Accident Fund General Insurance Company (NAIC Code #12304). This examination was conducted at the Missouri Department of Insurance, Financial Institutions and Professional Registration's Jefferson City Missouri Offices at 301 West High Street, Room 530 and at 615 East 13th 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:

- "Admin" refers to Administrative Fund Surcharge;
- "CNR" refers to Cancelled or Non-Renewed;
- "Company" and "Co." refer to Accident Fund General Insurance Company;
- "Coop" refers to Cooperative;
- "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;
- "Est" refers to Estimated;
- "Exh" refers to Exhibit;
- "Exp" refers to Expiration;
- "Incr" refers to Increased;
- "Insd" refers to Insured;
- "Int" refers to Interest;
- "Mult" refers to Multiple;
- "NAIC" refers to the National Association of Insurance Commissioners;
- "NCCI" refers to the National Council on Compensation Insurance;
- "O/C" refers to Overcharge;
- "O/Pay" refers to Overpayment;
- "PD/NP" refers to Paid/Not Paid;
- "Prem" refers to Premium;
- "RSMo" refers to the Revised Statutes of Missouri;
- "SIF" refers to Second Injury Fund;
- "Surv" refers to Survey;
- "U/C" refers to 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 to the examiners by the Company:

Accident Fund (“the Company”) provides workers compensation insurance primarily for companies located in Michigan and several other Midwestern and Southeastern states. The Company was licensed in and wrote business in 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, 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.

EXECUTIVE SUMMARY

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

Small Deductible Policies

- The examiners found three instances where the Company failed to include the officers' payroll in the final audit.
- The examiners found one instance where the Company failed to complete and bill the audit and return premiums within 120 days of policy expiration or cancellation.
- The examiners found seven instances where the Company failed to apply the Second Injury Fund rate to the correct premium.
- The examiners found four instances where the Company incorrectly calculated the Administrative Fund surcharge.
- The examiners found five instances where the Company failed to collect the Administrative Fund surcharge at the same time as the premium.
- The examiners found eight instances where the Company failed to issue participating policies.
- The examiners found two instances where the Company utilized incorrect, unfiled deductible premium credits.
- The examiners found two instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.
- The examiners found one instance where the Company failed to apply 10% of the officers payroll in classification code 8810.
- The examiners found two instances where the Company attached an incorrect Premium Discount Rate endorsement to the policies.
- The examiners found two instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.

Active Policies

- The examiners found one instance where the Company failed to attach an exclusion endorsement to the policy excluding the member of the LLC from Workers' Compensation coverage.
- The examiners found 50 instances where the Company failed to issue participating policies.
- The examiners found one instance where the Company failed to maintain the application and NCCI Missouri Contractors Classification Adjustment Program Credit Worksheet that determined the premium used for the Final Audit Statement.
- The examiners found one instance where the Company utilized a Terrorism rate that was not on file with the DIFP to calculate the policy's final premium.
- The examiners found four instances where the Company failed to file the 1.25 rate that was applied to the payroll for insureds that failed to cooperate with the final audit process.
- The examiners found three instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.

- The examiners found three instances where the Company failed to apply 10% of the officers' payroll in classification code 8810.
- The examiners found nine instances where the Company attached an incorrect Premium Discount Rate endorsement to the policies.
- The examiners found one instance where the Company failed to apply the correct officer payroll limit at audit.
- The examiners found one instance where the Company failed to verify at audit that the information reported to the NCCI on the Missouri Contractors Classification Adjustment Program Credit Worksheet was accurate.
- The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.
- The examiners found 10 instances where the Company waived the final audits and failed to base the final premium on actual payroll.
- The examiners found four instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.
- The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase of \$551.00, which was not justified by claims experience or other schedule rating factors.

Non-Active Policies

- The examiners found two instances where the Company failed to attach an exclusion endorsement to the policy excluding the member of the LLC from Workers' Compensation coverage.
- The examiners found three instances where the Company failed to file the 1.25 rate that was applied to the payroll for insureds that failed to cooperate with the final audit process.
- The examiners found two instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.
- The examiners found one instance where the Company excluded an officer from Workers' Compensation coverage. Missouri NCCI rules do not allow officers to be excluded from coverage.
- The examiners found seven instances where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.
- The examiners found 21 instances where the Company waived the final audits and failed to base the final premium on actual payroll.
- The examiners found one instance where the Company sent an automated "notice of credit", when, in fact, an outstanding premium balance was still due. This notice informed the insured of a premium credit, when, in actuality, an outstanding balance was still owed.
- The examiners found two instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.

Late Audit Policies

- The examiners found two instances where the Company failed to complete and bill the audit and return premiums within 120 days of policy expiration or cancellation.
- The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.
- The examiners found one instance where the Company failed to attach the Missouri Contracting Classification Premium Adjustment Endorsement WC 24 04 01 to the policy.

Dividend Policies

- The examiners found three instances where the Company issued participating policies where a dividend was paid.

Construction Policies With Waiver of Subrogation

- The examiners found one instance where the Company utilized a Waiver of Our Right to Recover rate that was not on file with the DIFP.

Policies Where The Class Code Was Changed at Audit

- The examiners found one instance where the Company added a higher rated Classification Code at audit. Classification Codes that result in an increase in premium cannot be added at audit retroactively to the inception date of the policy.
- The examiners found one instance where the Company attached an incorrect Premium Discount Rate endorsement to the policies.
- The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.

Policies Shifted Between Companies

- The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase of \$772.38, which was not justified by claims experience or other schedule rating factors.

Terrorism Policies

- The examiners found two instances where the Company utilized a Terrorism rate that was not on file with the DIFP to calculate the policy's final premium.

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. This 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>
Small Deductible	Census	10	10
Active Policies	Random	240	52
Non-Active Policies	Random	58	32
Late Audits	Random	46	8
Dividend Policies	Census	3	3
Construction Policies w/Waiver of Sub	Census	1	1
Policies Where the Class Code was Changed at Audit	Census	8	8
Policies Which Shifted Between Companies	Census	3	3
Terrorism Policies	Census	3	3

Total Number Of Files Reviewed: 120 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 examiners found no evidence to show that policy premium overcharges discovered were paid to the insureds.

The following are the results of the reviews:

Small Deductible Policies

- 1. The examiners found three instances where the Company failed to include the officers’ payroll in the final audit.

#	Crit#	Policy#	Effective Date	Expiration Date	Prem U/C
1	29	XXXXXX2091	12/31/2011	12/31/2012	\$1,335.00
2	30	XXXXXX3638	12/31/2012	12/31/2013	
3	31	XXXXXX2242	4/7/2012	4/7/2013	\$1,213.00

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

- 2. The examiners found one instance where the Company failed to complete and bill the audit and return premiums within 120 days of the policy expiration/cancellation.

#	Crit#	Policy#	Effective Date	Expiration Date	# Of Days
1	36	XXXXXXXXXX0103	11/15/10	11/15/11	168

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.

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

#	Crit#	Policy#	Effective Date	Expiration Date	SIF U/C
1	14	XXXXXX2673	10/22/12	10/22/13	\$8.00
2	14	XXXXXX3318	11/28/12	11/28/13	\$191.00
3	29	XXXXXX2091	12/31/11	12/31/12	\$622.00
4	30	XXXXXX3638	12/31/12	12/31/13	
5	31	XXXXXX2242	04/07/12	04/07/13	\$735.00
6	35	XXXXXXXXXX0003	09/01/11	09/01/12	\$9.00
7	39	XXXXXX1121	04/07/11	04/07/12	\$588.00

Reference: §§287.715 and 287.310.9 RSMo.

4. The examiners found four instances where the Company failed to calculate the Administrative surcharge correctly.

#	Crit#	Policy#	Effective Date	Expiration Date	Admin U/Pay
1	15	XXXXXX2673	10/22/12	10//22/13	\$5.00
2	29	XXXXXX2091	12/31/11	12/31/12	\$23.00
3	31	XXXXXX2242	04/07/12	04/07/13	\$75.00
4	39	XXXXXX1121	04/07/11	04/07/12	\$67.00

Reference: §§287.716.2 and 287.310.9 RSMo.

5. The examiners found five instances where the Company failed to collect the Administrative Fund surcharge at the same time as the premium.

#	Crit#	Policy#	Effective Date	Expiration Date	Admin U/Pay
1	12	XXXXXX3318	11/28/12	11/28/13	
2	12	XXXXXX3638	12/31/12	12/31/13	
3	40	XXXXXX6746	06/24/11	06/24/12	\$16.00
4	40	XXXXXX7050	09/01/11	09/01/12	\$27.00
5	40	XXXXXX4479	11/15/10	11/15/11	\$116.00

Reference: §287.717.1 RSMo.

6. The examiners found eight instances where the Company failed to issue participating policies. There were 10 policies reviewed. Two were issued participating policies and eight were issued non-participating policies. Missouri law prohibits companies from offering both participating and non-participating policies.

#	Crit #	Policy #	Eff. Date	Non-Participating	Participating
1	9	XXX6746	6/24/2011	Y	
2	9	XXX7050	9/1/2011	Y	
3	9	XXX4479	11/15/2010	Y	
4	9	XXXXXX0957	12/31/2010	Y	
5	9	XXXXXX1121	4/7/2011	Y	
6	9	XXXXXX2091	12/31/2011	Y	
7	9	XXXXXX2673	10/22/2012	Y	
8	9	XXXXXX3638	12/31/2012	Y	
9	9	XXXXXX2242	4/7/2012		Y
10	9	XXXXXX3318	11/28/2012		Y

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

7. The examiners found two instances where the Company utilized unfiled deductible credit percentages.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF U/Pay	Admin U/Pay
1	36	XXXXXXXXXX0103	11/15/10	\$1,748.00	\$94.00	
2	38	XXXXXX0957	12/31/10	\$3,889.00	\$706.00	\$108.00

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

8. The examiners found two instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	30	XXXXXX3638	12/31/12	\$43,879.00	\$691.00
2	34	XXXXXXXXXX0103	06/24/11	\$1,030.00	\$33.00

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

9. The examiners found one instance where the Company failed to apply 10% of the officers' payroll in Class Code 8810.

#	Crit#	Policy#	Effective Date	Expiration Date
1	31	XXXXXX2242	04/07/12	04/07/12

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

10. The examiners found two instances where the Company attached an incorrect Premium Discount Rate endorsement to the policies.

#	Crit#	Policy#	Effective Date	Expiration Date
1	37	XXXXXX0957	12/31/10	12/31/11
2	37	XXXXXX1121	04/07/11	04/07/12

Reference: §§287.955.1, 287.310.1 RSMo and 20 CSR 500-6.100(1).

11. The examiners found two instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.

#	Crit#	Policy#	Effective Date	Expiration Date
1	30	XXXXXX3638	12/31/12	12/31/13
2	34	XXXXXXXXXX0103	06/24/11	06/24/12

Reference: §379.888.3 RSMo and 20 CSR 500-4.100(7)(D)2.

Active Policies

12. The examiners found one instance where the Company failed to attach an endorsement to the policy excluding the member of the LLC from Workers' Compensation coverage.

#	Crit#	Policy#	Effective Date	Expiration Date
1	5	XXXXXXXXXX0303	01/01/11	01/01/12

Reference: §287.037 RSMo.

13. The examiners found 50 instances where the Company failed to issue participating policies. There were 52 policies reviewed. Two were issued participating policies and 50 were issued non-participating policies. Missouri law prohibits a company from issuing both participating and non-participating policies.

#	Crit#	Policy#	Effective Date	Non-Participating	Participating
1	12A	XXX0885	6/13/2011	Y	
2	12A	XXX3517	4/4/2010	Y	
3	12A	XXX4470	3/24/2011	Y	
4	12A	XXXXXX1398	6/30/2011	Y	
5	12A	XXXXXX2644	6/30/2012	Y	
6	12A	XXX6641	4/1/2011	Y	
7	12A	XXXXXX1192	4/18/2011	Y	
8	12A	XXXXXX2311	4/18/2012	Y	
9	12A	XXX2789	6/18/2011	Y	
10	12A	XXX2458	1/17/2011	Y	

#	Crit#	Policy#	Effective Date	Non-Participating	Participating
11	12A	XXX4715	12/30/2010	Y	
12	12A	XXX5558	10/1/2011	Y	
13	12A	XXX9158	4/7/2010	Y	
14	12A	XXXXXX2419	6/1/2012	Y	
15	12A	XXXXXX3207	10/22/2012	Y	
16	12A	XXX2705	1/1/2010	Y	
17	12A	XXX5232	7/11/2010	Y	
18	12A	XXX6035	8/1/2011	Y	
19	12A	XXX0494	11/27/2011	Y	
20	12A	XXX3866	3/7/2010	Y	
21	12A	XXX6002	11/10/2011	Y	
22	12A	XXX3308	3/9/2011	Y	
23	12A	XXX7216	6/23/2010	Y	
24	12A	XXX3276	8/25/2010	Y	
25	12A	XXX7272	9/1/2011	Y	
26	12A	XXX1181	1/1/2011	Y	
27	12A	XXX1418	1/17/2011	Y	
28	12A	XXX2690	1/15/2010	Y	

#	Crit#	Policy#	Effective Date	Non-Participating	Participating
29	12A	XXXXXX1261	5/15/2011	Y	
30	12A	XXX1895	7/19/2011	Y	
31	12A	XXX9211	10/14/2011	Y	
32	12A	XXX1025	5/23/2011	Y	
33	12A	XXX7666	8/17/2011	Y	
34	12A	XXX7719	10/4/2011	Y	
35	12A	XXX2093	1/15/2011	Y	
36	12A	XXX1014	2/18/2010	Y	
37	12A	XXX1014	2/18/2011	Y	
38	12A	XXX3392	2/17/2010	Y	
39	12A	XXX8005	7/17/2010	Y	
40	12A	XXX4975	10/16/2011	Y	
41	12A	XXX7895	7/15/2011	Y	
42	12A	XXX2948	1/1/2011	Y	
43	12A	XXX2687	4/1/2011	Y	
44	12A	XXX8415	9/5/2010	Y	
45	12A	XXX0094	4/30/2010	Y	

#	Crit#	Policy#	Effective Date	Non-Participating	Participating
46	12A	XXX9596	1/1/2011	Y	
47	12A	XXX2905	4/1/2011	Y	
48	12A	XXX7321	10/1/2011	Y	
49	12A	XXXXXX2739	7/1/2012	Y	
50	12A	XXX4445	4/1/2010	Y	
51	12A	XXXXXX0973	1/1/2011		Y
52	12A	XXXXXX6762	6/1/2010		Y

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

14. The examiners found one instance where the Company failed to maintain the application and NCCI Missouri Contractors Classification Adjustment Program Credit Worksheet that determined the premium used for the Final Audit Statement.

#	Crit#	Policy#	Effective Date	Expiration Date
1	6	XXXXXXXXXX0603	04/01/11	04/01/12

Reference: §§ 287.937.2, 287.955 RSMo and 20 CSR 100-8.040(3)(A).

15. The examiners found one instance where the Company utilized a Terrorism rate that was not on file with the DIFP to calculate the policy's final premium.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF U/Pay
1	10	XXXXXX0973	01/01/11	\$1,369.00	\$5.00

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

16. The examiners found four instances where the Company failed to file the 1.25 rate that was applied to the payroll for insureds that failed to cooperate with the final audit process.

#	Crit#	Policy#	Effective Date	Expiration Date
1	16	XXXXXX5232	07/11/10	07/11/11
2	16	XXXXXX6002	11/10/11	11/10/12
3	16	XXXXXX9211	10/14/11	10/14/12
4	16	XXXXXX3392	02/17/10	02/17/11

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

17. The examiners found three instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	14A	XXXXXXXXXX0203	03/09/11	\$531.00	\$15.00
2	15A	XXXXXXXXXX0403	08/25/10	\$179.00	\$6.00
3	22	XXXXXXXXXX0103	03/01/11	\$569.00	\$16.00

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

18. The examiners found three instances where the Company failed to apply 10% of the officers' payroll in Class Code 8810.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	1	XXXXXXXXXX0503	06/13/11	\$92.00	\$2.00
2	4	XXXXXX2093	01/15/11	\$107.00	\$3.00
3	7	XXXXXXXXXX0803	06/18/11	\$468.00	\$14.00

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

19. The examiners found nine instances where the Company attached an incorrect Premium Discount Rate endorsement to the policies.

#	Crit#	Policy#	Effective Date	Expiration Date
1	10	XXXXXX0973	01/01/11	01/01/12

2	11	XXXXXX1398	06/30/11	06/30/12
3	11	XXXXXX2644	06/30/12	06/30/13
4	11	XXXXXX1192	04/18/11	04/18/12
5	11	XXXXXX2311	04/18/12	04/18/13
6	11	XXXXXX2419	06/01/12	06/01/13
7	11	XXXXXX3207	10/22/12	10/22/13
8	3	XXXXXXXX1261	05/05/11	05/05/12
9	8	XXXXXXXX2739	07/01/12	07/01/13

Reference: §§287.955.1, 287.310.1 RSMo and 20 CSR 500-6.100(1).

20. The examiners found one instance where the Company failed to apply the correct officer payroll limit at audit.

#	Crit#	Policy#	Effective Date	Expiration Date
1	7	XXXXXXXXXX0803	06/18/11	06/18/12

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

21. The examiners found one instance where the Company failed to verify at audit that the information reported to the NCCI on the Missouri Contractors Classification Adjustment Program Credit Worksheet was accurate.

#	Crit#	Policy#	Effective Date	Expiration Date
1	6	XXXXXXXXXX0603	04/01/11	04/01/12

Reference: §287.955.3 RSMo.

22. The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.

#	Crit#	Policy#	Effective Date	Expiration Date
1	2	XXXXXXXXXX0003	09/01/11	09/01/12

Reference: §287.955.3 RSMo.

23. The examiners found 10 instances where the Company waived the final audits and failed to base the final premiums on actual payroll.

#	Crit#	Policy#	Effective Date	Expiration Date
1	9A	XXX3517	04/04/10	04/04/11
2	9A	XXX4470	03/24/11	03/24/12
3	9A	XXX2458	01/17/11	01/17/12
4	9A	XXX7216	06/23/10	06/23/11
5	9A	XXX1181	01/01/11	01/01/12
6	9A	XXX2690	01/15/10	01/15/11
7	9A	XXX1895	07/19/11	07/19/12
8	9A	XXX1014	02/18/10	02/18/11
9	9A	XXX1014	02/18/11	02/18/12
10	9A	XXX8415	09/05/10	09/05/11

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

24. The examiners found four instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.

#	Crit#	Policy#	Effective Date	Expiration Date
1	13	XXXXXXXXXX0103	10/01/11	10/01/12
2	15A	XXXXXX2673	10/22/12	10/22/13
3	22	XXXXXXXXXX0103	03/01/11	03/01/12
4	29A	XXXXXXXXXX0103	12/30/10	12/30/11

Reference: §379.888.3 RSMo. and 20 CSR 500-4.100(7)(D)2.

25. The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase of \$551.00, which was not justified by claims experience or other schedule rating factors.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	29A	XXXXXXXXXX0103	12/30/10	\$551.00	\$16.00

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

Non-Active Policies

26. The examiners found two instances where the Company failed to attach an exclusion endorsement to the policy excluding the member of the LLC from Workers' Compensation coverage.

#	Crit#	Policy#	Effective Date	Expiration Date
1	18	XXXXXXXX6204	04/01/11	04/01/12
2	19	XXXXXX7887	12/31/11	12/31/12

Reference: §287.037 RSMo.

27. The examiners found three instances where the Company failed to file the 1.25 rate that was applied to the payroll for insureds that failed to cooperate with the final audit process.

#	Crit#	Policy#	Effective Date	Expiration Date
1	24	XXXXXX6002	11/10/10	11/10/11
2	24	XXXXXX3945	11/10/11	11/10/12
3	24	XXXXXX3876	03/08/11	03/08/12

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

28. The examiners found two instances where the Company failed to provide supporting evidence justifying the reduction in the Schedule Modification Credit.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	25	XXXXXXXXXX0203	06/21/10	\$381.00	\$16.00
2	27	XXXXXXXXXX0103	09/25/10	\$240.00	\$7.00

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

29. The examiners found one instance where the Company excluded an officer from Workers' Compensation coverage. Missouri NCCI rules do not allow officers to be excluded from coverage.

#	Crit#	Policy#	Effective Date	Expiration Date
1	28	XXXXXXXXXX0003	01/08/10	01/08/11

Reference: §287.955.3 RSMo and NCCI Workers Compensation Manual Rule C-1-a.

30. The examiners found seven instances where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.

#	Crit#	Policy#	Effective Date	Expiration Date
1	20	XXXXXX5495	08/31/11	08/31/12
2	21	XXXXXX3876	03/08/11	03/08/12
3	23	XXXXXXXXXX0003	07/27/10	07/27/11
4	26	XXXXXX5688	05/06/10	05/06/11
5	26	XXXXXX4372	03/11/10	03/11/11
6	26	XXXXXX5291	04/25/11	04/25/12
7	26	XXXXXX2474	01/08/10	01/08/11

Reference: §287.955.3 RSMo.

31. The examiners found 21 instances where the Company waived the final audit and failed to base the final premiums on actual payroll.

#	Crit#	Policy#	Effective Date	Expiration Date
1	31A	XXX5688	05/06/10	05/06/11
2	31A	XXX4445	04/01/11	04/01/12
3	31A	XXX4372	03/11/10	03/11/11
4	31A	XXX5291	04/25/11	04/25/12
5	31A	XXX9787	10/29/11	10/29/12
6	31A	XXX9423	12/08/11	12/08/12
7	31A	XXX5570	10/21/10	10/21/11
8	31A	XXX3881	07/31/10	07/31/11
9	31A	XXX3073	09/30/11	09/30/12
10	31A	XXX6883	02/01/10	02/01/11
11	31A	XXX2474	01/08/10	01/08/11
12	31A	XXX9288	09/25/10	09/25/11

13	31A	XXX3573	04/01/11	04/01/12
14	31A	XXX8050	05/16/11	05/16/12
15	31A	XXX1634	07/01/10	07/01/11
16	31A	XXX4936	10/13/11	10/13/12
17	31A	XXX3392	02/17/11	02/17/12
18	31A	XXX4086	11/13/11	11/13/12
19	31A	XXX3276	08/25/11	08/25/12
20	31A	XXX2944	03/01/11	03/01/12
21	31A	XXX7714	07/27/10	07/27/11

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

32. The examiners found one instance where the Company sent an automated “notice of credit”, when, in fact, an outstanding premium balance was still due. This notice informed the insured of a premium credit, when, in actuality, an outstanding balance was still owed. The Company was aware of the problem with the automated system since 2003.

#	Crit#	Policy#	Effective Date	Expiration Date
1	111	XXX3881	07/31/10	07/31/11

Reference: §375.936(6)(a) RSMo.

33. The examiners found two instances where the Company failed to send a notice to the insured stating that the Schedule Modification Credit Factor had been reduced for the renewal policy period.

#	Crit#	Policy#	Effective Date	Expiration Date
1	25	XXXXXXXXXX0203	06/21/10	06/21/11
2	27	XXXXXXXXXX0103	09/25/10	09/25/11

Reference: §379.883.3 RSMo and 20 CSR 500-4.100(7)(D)2.

Late Audit Policies

34. The examiners found two instances where the Company failed to complete and bill the audit and return premiums within 120 days of the policy expiration or cancellation.

#	Crit#	Policy#	Effective Date	Expiration Date	# Of Days
1	45	XXXXXXXXXX0503	10/03/10	10//3/11	122
2	46	XXXXXX7830	03/23/11	03/23/12	146

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.

35. The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.

#	Crit#	Policy#	Effective Date	Expiration Date
1	45	XXXXXX2629	10/03/10	10/03/11

Reference: §287.955.3 RSMo.

36. The examiners found one instance where the Company failed to attach the Missouri Contracting Classification Premium Adjustment Endorsement WC 24 04 01 to the policy.

#	Crit#	Policy#	Effective Date	Expiration Date
1	45	XXXXXX2629	10/03/10	10/03/11

Reference: §287.955.3 RSMo.

Dividend Policies

37. As previously documented in this report, the examiners found both participating policies and non-participating policies in its review of 62 policy files. Of those files, it was discovered that four were issued as participating policies and 58 were issued as non-participating policies.

Additionally, through analysis of the total population of 308 policy files, the examiners identified three policies where a dividend was paid. The examiners reviewed the three 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.

#	Crit#	Policy#	Effective Date	Expiration Date
1	41	XXXXXX5726	03/16/11	03/16/12
2	41	XXXXXX5295	06/01/11	06/01/12
3	41	XXXXXX6795	06/01/11	06/01/12

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

Construction Policies w/Waiver of Sub

38. The examiners found one instance where the Company utilized a Waiver of Our Right to Recover rate that was not on file with the DIFP.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	42	XXXXXX9107	04/18/10	\$288.00	\$9.00

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

Policies Where the Class Code was Changed at Audit

39. The examiners found one instance where the Company failed to follow the NCCI Manual for changes/corrections to class codes by adding a higher rated Classification Code at audit.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF O/Pay
1	44	XXXXXX9158	04/07/10	\$468.00	\$13.00

Reference: §287.955.1 RSMo and NCCI Basic Manual Rule 1.F.

40. The examiners found one instance where the Company attached an incorrect Premium Discount Rate endorsement to the policy.

#	Crit#	Policy#	Effective Date	Expiration Date
1	43	XXXXXX2517	07/01/12	07/01/13

Reference: §§287.955.1, 287.310.1 RSMo and 20 CSR 500-6.100(1).

41. The examiners found one instance where the Company failed to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program.

#	Crit#	Policy#	Effective Date	Expiration Date
1	30A	XXXXXX9180	10/01/10	10/01/11

Reference: §287.955.3 RSMo.

Policies Shifted Between Companies

42. The examiners found one instance where the Company moved the insured to an affiliated insurer resulting in a premium increase of \$772.38, which was not justified by claims experience or other schedule rating factors.

#	Crit#	Policy#	Effective Date	Prem O/C
1	49	XXXXXX7887	12/31/11	\$772.38

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

Terrorism Policies

43. The examiners found two instances where the Company utilized an unfiled Terrorism rate.

#	Crit#	Policy#	Effective Date	Prem O/C	SIF U/Pay	SIF O/Pay
1	32	XXXXXX0359	01/01/10	\$1,397.00	\$41.00	
2	33	XXXXXX1290	06/01/11	\$40.00		\$1.00

Reference: §287.947.1 RSMo and 20 CSR 500-6.950(7).

II. COMPLAINT HANDLING PRACTICES

This section of the report is designed to provide a review of the Company's complaint handling practices. The examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

Section 375.936.(3) RSMo, requires companies to maintain a registry of all written complaints received for the last three years. The registry must include all Missouri complaints, including those sent to the DIFP and those sent directly to the Company.

The examiners verified the Company's complaint registry, dated January 1, 2010 through December 31, 2012.

A. Complaints Sent Directly to the DIFP

The examiners reviewed the nature of each complaint, the disposition of the complaint, and the time taken to process the complaint as required by §375.936.(3), RSMo, and 20 CSR 100-8.040(3)(D). There were two complaints sent to the DIFP during the examination period.

The examiners discovered no issues or concerns.

B. Complaints Sent Directly to the Company

The Company did not receive any complaints that were sent directly from the consumer or their managing agent during the market conduct examination period. The examiners discovered no evidence to the contrary.

III. 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

Calendar Days	Number of Criticisms	Percentage
Received within the time limit including any extensions	56	100.0%
Received outside time limit including any extensions	0	0.0%
No response	0	0.0%
Total	56	100.0%

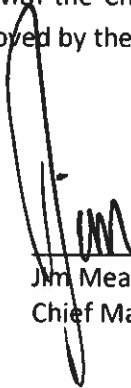
B. Formal Request Time Study

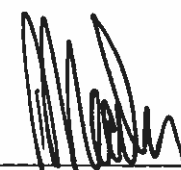
Calendar Days	Number of Formal Requests	Percentage
Received within the time limit including any extensions	11	100.0%
Received outside time limit including any extensions	0	0.0%
No response	0	0.0%
Total	11	100.0%

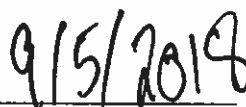
Reference: §374.205.2(2) RSMo and 20 CSR 100-8.040(6).

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Accident Fund General Insurance Company (NAIC #12304), Examination Number 1401-01-TGT. This examination was conducted by Scott B. Pendleton, Dale Hobart, Dennis Foley, Jon Meyer, Teresa Koerkenmeier, Darren Jordan, and Shelly Herzing. 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


Date


9/5/2018