



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

AUTO-OWNERS INSURANCE COMPANY  
6101 ANACAPRI BLVD  
LANSING MI 48917

dated September 21, 2015, and served upon the company on October 22, 2015, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 10th day of June, 2016.

A handwritten signature in black ink, appearing to read 'Theodore K. Nickel', written over a horizontal line.

Theodore K. Nickel  
Commissioner of Insurance

**STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**MARKET CONDUCT EXAMINATION**

**OF**

**AUTO-OWNERS INSURANCE COMPANY  
LANSING, MICHIGAN**

**OCTOBER 20, 2014 - OCTOBER 24, 2014**

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September 21, 2015

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Honorable Theodore K. Nickel  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted October 20, 2014 - October 24, 2014, of:

AUTO-OWNERS INSURANCE COMPANY  
Lansing, Michigan

and the following report of the examination is respectfully submitted.

#### I. INTRODUCTION

In 1916 Auto-Owners Insurance Company (the company) was organized in Mt. Pleasant, Michigan. The infant company had no capital and was housed in one room of a bank building. Auto-Owners operated in Mt. Pleasant for a little less than a year. In 1917 the company moved to Lansing, Michigan. Auto-Owners entered the general casualty insurance field in 1940, having previously written only automobile insurance. The company wrote business in Michigan exclusively from 1916 until 1935, when it began writing insurance in other states. The company began operations in Wisconsin in 1969.

The Lansing corporate office services Auto-Owners Insurance Company, and subsidiary companies: Auto-Owners Life Insurance Company, Home-Owners Insurance Company, Owners Insurance Company, Property-Owners Insurance Company, and Southern-Owners Insurance Company. The Lansing Underwriting and Lansing Claim offices are also housed in the same complex. The companies are represented by more than 6,200 independent

agencies, selling personal and commercial property, casualty, life, health and annuity insurance in 26 states.

The national direct premiums written and Wisconsin direct premiums written for the years 2012 and 2013 were as follows:

**National Direct Premium Written to Wisconsin Direct Premium Written**

Year	National Direct Premium Written	Wisconsin Direct Premium Written
2013	\$2,158,404,410	\$98,494,767
2012	\$2,089,636,893	\$92,218,499

The majority of the Wisconsin direct premium earned by the company in 2012 and 2013 was within the homeowners/farmowners line of business. The following tables summarize the premium earned and incurred losses in Wisconsin for 2012 and 2013 broken down by line of business:

**Wisconsin Direct Premium and Loss Summary**

2013		
Line of Business	Premium Earned	Losses Incurred
Fire and Allied Lines	\$11,539,161	\$5,034,113
Homeowners/Farmowners	30,800,762	15,761,027
Commercial Multiple Peril	11,712,131	7,272,242
Worker's Compensation	12,528,815	7,323,954
Private Passenger Auto	11,425,467	7,420,040
Commercial Auto	6,906,606	4,826,037
All Others	10,718,461	1,090,734
Total	\$95,631,403	\$48,728,148

2012		
Line of Business	Premium Earned	Losses Incurred
Fire and Allied Lines	\$10,527,974	\$3,655,570
Homeowners/Farmowners	28,804,893	12,152,832
Commercial Multiple Peril	11,002,661	5,527,134
Worker's Compensation	11,301,323	8,525,299
Private Passenger Auto	11,745,549	5,626,692
Commercial Auto	6,739,230	2,151,290
All Others	10,610,209	267,759
Total	\$90,731,840	\$37,906,576

The Office of the Commissioner of Insurance (OCI) received 45 complaints against the company between January 1, 2012 through June 30, 2013. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The following tables categorize the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

### Complaints Received

2013				
Reason Type	Underwriting	Marketing and Sales	Claims	Policyholder Service
Coverage Type	No.	No.	No.	No.
Home/Farm	3	0	6	0
Commercial Liability	1	0	4	0
Private Passenger Auto	2	0	0	0
All Others	0	0	1	0
Total	6	0	11	0

2012				
Reason Type	Underwriting	Marketing and Sales	Claims	Policyholder Service
Coverage Type	No.	No.	No.	No.
Home/Farm	6	1	10	0
Commercial Liability	1	1	7	0
Private Passenger Auto	0	0	1	0
All Others	0	1	0	0
Total	7	3	18	0

## II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2012 through June 30, 2013. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination. The examination included, but was not limited to, a review of policy forms; personal passenger automobile claims; homeowners claims; company operations and management; policyholder services; and the company's underwriting procedures. The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

### III. CURRENT EXAMINATION FINDINGS

#### Company Operations and Management

Auto-Owners Insurance Company is a mutual insurance company domiciled in Michigan. The company is the parent company of the Auto-Owners Group, which includes four additional property/casualty companies (Owners Insurance Company, Home-Owners Insurance Company, Property-Owners Insurance Company, and Southern-Owners Insurance Company). All of the property/casualty subsidiaries are reinsured by Auto-Owners.

Examiners reviewed the company response to OCI's company operations and management interrogatory, overall organization of the company, its internal audit policies and procedures and exams by other states. The following information was found:

The company Internal Audit Division does not perform state specific audits. The company reported to examiners that independent agents or agencies are monitored on an ongoing basis by the Regional Branch. Issues which arise are then handled on a case by case basis by the business units assigned to handle the area wherein the issue came up. The reviewing business units collaborate with the respective corporate office contact to work toward a resolution.

The internal Audit Division does perform audits related to in-force and unearned premium, agency bill accounts and company bill accounts on an affiliate by affiliate basis. The company reports that it performs an annual application audit on agencies. The audit is coordinated by a personal lines underwriting officer. Marketing representatives and other branch associates perform the audit. A randomly generated list of new business policies is produced which contains a small sample from each agency that submitted new business during the audit year. The company representative visits the agency, reviews the application and verifies that the application is signed. The results are compiled in each Regional Branch and

sent in to the Home Office for compilation of the final results. The company reports that in 2014, 32,978 applications were reviewed.

## Claims

The Wisconsin claim branches are located in Appleton, Eau Claire, and Madison. The Wisconsin claim branches are responsible for the handling of claims in Wisconsin; some of which are also processed by the home office in Lansing, Michigan. The regional vice-president of the Appleton region oversees the managers of the branches. Each region is also assigned a home office claims liaison to work in conjunction with the regional vice-president. The company reports that once it receives a notice of loss, a corresponding claim file is set up and assigned to an individual claim representative to handle. Further, the claim representative has the responsibility to communicate with the appropriate parties, investigate the claim and determine the amount owed, if any, under the applicable insurance policy coverage. The claim representative is also responsible for authorizing the payment to the appropriate party. Claims of a certain type and/or dollar amount should be reported to the home office claims department or home office legal department for additional review pursuant to the company claim handling guidelines.

Branch claim audits are conducted by home office claims on a rotating basis to review for quality control. An audit report is prepared and shared with the claims office management.

The examiners reviewed 400 closed homeowners and personal passenger automobile claim files (200 paid claims, 150 denied or closed without payment, 50 subrogation files). The company's claim practices and claims handling guide was also reviewed. The examiners noted three exceptions.

The examiners found nine files in which the company received payments from subrogation demands, but did not promptly make the insured whole by reimbursement of their

deductible. In the Wisconsin Supreme Court decision of Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis.2d.263, the Wisconsin Supreme Court recognized the "made whole" doctrine, and that an insurer must reimburse the insured before retaining their portion of the claim settlement from a subrogation claim. Examiners found during the review of the claim files that policyholders were not promptly made whole. The company recognized this issue prior to the examiner review of the files. The company advised they were currently reviewing all Wisconsin files with subrogation recovery within the last six years to verify compliance with Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d.263.

Section 628.46 (1), Wis. Stat. states that a claim is overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and the amount of the loss. Any payment is overdue if not paid within 30 days after such written notice is furnished to the insurer. In addition, all overdue payments shall bear simple interest at the rate of 12% per year. Examiners found the company made or agreed to make interest payments, as outlined in s. 628.46 (1), Wis. Stat. for the nine files outlined above. The company reported to examiners that it did not have a written procedure in regards to s. 628.46, Wis. Stat., and timely payment of claims. The company acknowledged that the expectation was to comply with the law as it is written.

1. **Recommendation:** It is recommended that the company develop, document and implement subrogation procedures to ensure that the company first reimburses its policyholders for funds it receives in its subrogation efforts, and ensures that its obligations are met to the policyholders before retaining funds for its own account, in order to comply with Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.
2. **Recommendation:** It is recommended that the company develop, document and implement written procedures to ensure that interest be paid on any claim, deductible or portion thereof, not returned within 30 days of subrogation recovery or notice of a covered claim loss and the amount of the loss, in order to comply with s. 628.46, Wis. Stat.

The examiners found one file in which the company failed to contact the claimant within ten days of receiving notice of the claim. The company received notice of the claim on June 24, 2011. The company reported to examiners that due to storm volume, this claim was intended to be assigned to an independent adjuster to assist in claim handling, but there was an error in submitting the notice of loss to the independent adjuster. This error was not discovered until October of 2011.

The examiners found three auto claim files and three homeowners claim files in which the company did not send a written claim denial after a verbal denial was given. Pursuant to s. Ins 6.11 (3) (a) 7., Wis. Adm. Code, it is an unfair claim settlement practice to fail to affirm or deny coverage of claims within a reasonable time if such act is committed with such frequency as to indicate a general business practice. Examiners found that the company had a procedure in place that stated a coverage position letter should be sent as soon as the investigation and coverage analysis was complete. In addition to sending a coverage position letter, the claim associate may verbally inform the insured of the coverage determination. The company also indicated its claim handling guide states, "if coverage is not provided for the claim, the file should note the reason and a copy of the coverage position letter must be in the claim file".

3. **Recommendation:** It is recommended that the company consistently apply its current documented procedure to promptly send a written claim denial and to place a copy in the claim file. Company compliance with its current documented procedure will ensure continued compliance with s. Ins 6.11 (3) (a) 7, Wis. Adm. Code.

#### Underwriting

The underwriting branch, located in Appleton, is primarily responsible for Wisconsin business. The company's home office underwriting departments in Lansing, MI provide support and program development. Examiners reviewed the company's underwriting guidelines and noted two exceptions.

Examiners found in the mobile homeowners general rule pages reviewed that under "Cancellation, Nonrenewal or Reduction in Amount of Insurance", the company lists a 30 day notice of cancellation or nonrenewal must be given to the insured and lienholder. Section 631.36 (4) (a), Wis. Stat., provides that a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is one year or less, or for one year if the agreed term is longer than one year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder which states clearly the effect of nonpayment of premium by the due date. The company advised the examiners that they were in compliance with the requirements of the Wisconsin law and the rule page found by examiners had a typographical error. The company further advised the error will be fixed and filed with OCI to reference the correct number of days.

4. **Recommendation:** It is recommended that the company revise the general rules for the Mobile Homeowners program to comply with s. 631.36 (4) (a), Wis. Stat.

The examiners found that the private passenger auto underwriting guidelines for personal automobile eligibility provided that any applicant convicted of the following in the preceding 60 months was not eligible: any violation involving alcohol or drugs; negligent homicide; fleeing or eluding a police officer; or leaving the scene of an accident. Section Ins 6.54, Wis. Adm. Code, provided that no insurance company shall refuse, cancel or deny insurance coverage to a class of risks solely on the basis of any of the following factors (taken individually or in combination), nor shall it place a risk in a rating classification on the basis of any of the following factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses:

1. The applicant's or insured's past criminal record;
2. The applicant's or insured's physical condition or developmental disability as defined in s. 51.01 (5) (a), Wis. Stats.;

3. The applicant's or insured's past mental disability;
4. The applicant's or insured's age;
5. The applicant's or insured's marital status;
6. The applicant's or insured's sexual preference;
7. The applicant's or insured's "moral" character.

The company advised examiners that their intent was to underwrite based on violations that were driving related.

5. **Recommendation:** It is recommended that the company revise its Private Passenger Auto underwriting guidelines to clearly indicate that only driving related violations will be considered in the underwriting and rating of an automobile insurance policy, in order to ensure compliance with ss. Ins 6.54 (3) (a) 1 and 7, Wis. Adm. Code.

#### Marketing and Sales

The company writes mainly property and casualty lines of insurance including personal/commercial automobile; homeowners multi-peril; commercial multi-peril; general liability; commercial property; and other lines of business. Auto-Owners products and services are distributed exclusively through the independent agency system. The examiners reviewed the company's marketing and sales information. No exceptions were noted.

#### Policyholder Service and Complaints

The company provides a policyholder service function by servicing the policy processing and changes submitted by independent insurance agencies. The independent agencies are the main contact for policyholders. Questions regarding a policy are referred to the agent. Questions regarding a claim are referred to the handling claim branch. Each division of the company handles their own consumer inquiries and may redirect them back to the agency for further assistance.

Complaints received from consumers are followed in the home office claims department. Once a complaint is received, a complaint file is set up by home office claims. Claims executive support will identify the divisions that may potentially be involved in the

complaint. A complaint is classified as a claims complaint, an underwriting complaint, or a joint complaint involving multiple divisions. Claim related complaints are sent to the appropriate claims branch manager for review and a response. Underwriting related complaints would be sent to the home office underwriting services to identify the appropriate line manager and send him or her a copy of the complaint for review and a response. Marketing complaints are sent to agency services. If a complaint involves multiple divisions, the complaint would be sent to all applicable divisions and follow the same company internal procedures for handling of complaints.

Typically, a home office claims examiner will assist the branch manager in responding to the complaint and meeting response deadlines. A log of the complaint is written by the home office claims examiner which is then stored in the company complaint database. Complaint records are retained and retrievable. The company indicated to examiners that branch managers were encouraged to use the complaint file as a learning opportunity and to train associates on any issues presented in the complaint. If there was an allegation of misconduct or fraud involving the claim, the claim representative should discuss with the branch manager and consider a report to the company SIU Department for further investigation, according to the company claims handling guide.

#### Policy Forms

Examiners reviewed the policy forms used by the company during the period of review to verify that the provisions of the policy forms complied with Wisconsin insurance laws. No exceptions were noted.

#### IV. CONCLUSION

A total of five recommendations were made relating to claim handling and underwriting procedures. It is recommended that the company develop, document and implement claim procedures as outlined in the report. It is also recommended that the company revise the specific two underwriting guidelines and procedures outlined in the report.

## V. SUMMARY OF RECOMMENDATIONS

### Claims

- Page 7 1. It is recommended that the company develop, document and implement subrogation procedures to ensure that the company first reimburses its policyholders for funds it receives in its subrogation efforts, and ensures that its obligations are met to the policyholders before retaining funds for its own account, in order to comply with Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.
- Page 7 2. It is recommended that the company develop, document and implement written procedures to ensure that interest be paid on any claim, deductible or portion thereof, not returned within 30 days of subrogation recovery or notice of a covered claim loss and the amount of the loss, in order to comply with s. 628.46, Wis. Stat.
- Page 8 3. It is recommended that the company consistently apply its current documented procedure to promptly send a written claim denial and to place a copy in the claim file. Company compliance with its current documented procedure will ensure continued compliance with s. Ins 6.11 (3) (a) 7, Wis. Adm. Code.

### Underwriting

- Page 9 4. It is recommended that the company revise the general rules for the Mobile Homeowners program to comply with s. 631.36 (4) (a), Wis. Stat.
- Page 10 5. It is recommended that the company revise its Private Passenger Auto underwriting guidelines to clearly indicate that only driving related violations will be considered in the underwriting and rating of an automobile insurance policy, in order to ensure compliance with ss. Ins 6.54 (3) (a) 1 and 7, Wis. Adm. Code.

## VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Jennifer Harris, MCM	Insurance Examiner
Drew Hunkins, MCM	Insurance Examiner
Rebecca Rebholz, MCM	Insurance Examiner

Respectfully submitted,



Karen Becker, MCM  
Examiner-in-Charge