



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

125 South Webster • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: Information@oci.state.wi.us
Web Address: oci.wi.gov

Notice of Adoption and Filing of Examination Report

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

PROGRESSIVE CLASSIC INSURANCE COMPANY
6300 WILSON MILLS RD
MAYFIELD VILLAGE OH 44143

dated March 19, 2010, and served upon the company on December 2, 2010, 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 31st day of OCTOBER, 2011.



Theodore K. Nickel
Commissioner of Insurance

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

MARKET CONDUCT EXAMINATION

OF

**PROGRESSIVE CLASSIC INSURANCE COMPANY
MAYFIELD VILLAGE, OHIO**

**JULY 28-AUGUST 11, 2008
MARCH 8, 2010-MARCH 19, 2010**

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State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

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Bureau of Market Regulation
125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
(608) 266-3585 • (800) 236-8517
Fax: (608) 264-8115
E-Mail: ocicomplaints@wisconsin.gov
Web Address: oci.wi.gov

March 19, 2010

Honorable Sean Dilweg
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted July 28 to August 11, 2008 and March 8 to March 19, 2010:

PROGRESSIVE CLASSIC INSURANCE COMPANY
Mayfield Village, Ohio

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Progressive Classic Insurance Company is a stock company domiciled in Wisconsin where it was incorporated on September 30, 1983. The company was incorporated under the name "Classic Insurance Company", until it became known under its current name, Progressive Classic Insurance Company, on April 18, 1997.

In 2006, 2007, 2008, and 2009 the company reported written premium in Arizona, Arkansas, Delaware, Georgia, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Oregon, Utah, Virginia, Washington, West Virginia, and Wisconsin.

The following table summarizes the total direct national premium written in 2009, 2008, 2007, and 2006 as compared it to the total direct premium written in Wisconsin.

National Direct Premium Written to Wisconsin Direct Premium Written

Year	National Direct Premium Written	Wisconsin Direct Premium Written	WI As a Percentage of the National Premium
2009	\$355,228,682	\$61,121,875	17.2%
2008	\$395,516,266	\$75,830,574	18.9%
2007	\$482,211,401	\$87,948,808	20.5%
2006	\$475,583,232	\$78,367,403	16.5%

The majority of the premium earned by the company in 2009, 2008, 2007, and 2006 was for private passenger auto. The following tables summarize the premium earned and incurred losses in Wisconsin for 2009, 2008, 2007, and 2006 broken down by line of business.

Wisconsin Direct Premium and Loss Summary

Line of Business	2009	
	Premium Earned	Losses Incurred
Private Passenger Auto	\$34,374,721	\$23,163,505
Commercial Auto	\$0	\$0
All Others	\$29,980,859	\$15,729,115
Total	\$64,355,580	\$38,892,620

Line of Business	2008	
	Premium Earned	Losses Incurred
Private Passenger Auto	\$42,961,263	\$34,773,216
Commercial Auto	\$0	\$0
All Others	\$36,791,337	\$24,085,686
Total	\$79,752,600	\$58,858,902

Line of Business	2007	
	Premium Earned	Losses Incurred
Private Passenger Auto	\$47,806,650	\$31,266,976
Commercial Auto	\$0	\$0
All Others	\$36,681,328	\$24,582,584
Total	\$84,487,978	\$55,849,560

Line of Business	2006	
	Premium Earned	Losses Incurred
Private Passenger Auto	\$42,977,256	\$24,092,838
Commercial Auto	\$0	\$0
All Others	\$30,410,377	\$20,082,662
Total	\$73,387,633	\$44,175,500

In 2008, the company was the fourth leading insurer writing auto insurance business in Wisconsin with a 3.3% market share. In 2007, the company ranked third at 3.9%. In 2006,

the company ranked as the fifth largest writer of auto insurance in Wisconsin with 3.5% market share. In 2005, the company ranked as the sixth largest writer of auto insurance in Wisconsin with 2.6% market share.

The Office of the Commissioner of Insurance received 75 complaints against the company between January 1, 2007 through December 31, 2009. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.'

A total of 12 complaints were received against the company in 2006. However, the number of complaints increased to 38, an increase of 216%, in 2007. The majority of the complaints against the company are related to claim handling issues. The complaints trended downward in 2008 and 2009, with 20 total complaints in 2008 and 17 total complaints in 2009.

For the years 2005 and 2007 the company appeared on the private passenger automobile above-average complaint-to-premium list with rankings of 8th and 14th, respectively. The company did not appear on the list in 2008.

The following table categorizes 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.

2009		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	14	2	1	11	0	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	0	0	0	0	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	3	1	0	1	0	0
Total	17	3	1	12	0	0

2008		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	17	2	1	13	1	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	0	0	0	0	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	3	0	3	2	0	0
Total	20	2	1	15	1	0

2007		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	38	3	0	35	4	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	0	0	0	0	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	38	3	0	35	4	0

2006		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	12	2	0	6	4	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	0	0	0	0	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	12	2	0	6	4	0

E-COMMERCE

The website for the company is Progressive's group website "progressive.com". The website is interactive; it allows a visitor to obtain a quote, and also find an agent via an online search through the website. Moreover, current policyholders can access online customer service by entering their userIDs and passwords. Online claim reporting is accessible, with third

party claimants able to access their claims by entering their claim numbers into the appropriate section of the claims' webpage.

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 2008 examination focused on the period from July 1, 2006 through December 31, 2007. The 2010 examination focused on the period from January 1, 2009 through December 31, 2009. The examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The 2008 portion of the examination included, but was not limited to, a review of private passenger automobile business in Wisconsin and included a review of claims, policy forms and rates, underwriting and rating, producer licensing, marketing and sales, policyholder service and complaints, and company operations and management, including privacy. The 2010 portion of the examination included a review of private passenger automobile and mobile homeowners business in Wisconsin and included a review of policy forms and rates, underwriting and rating, and producer licensing.

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

Marketing & Sales

During the 2008 portion of the examination, the examiners requested that the company supply forms relating to its marketing & sales so that they could be reviewed for compliance, i.e., readability; policy language simplification; proper notifications; inclusion of authorized clauses; and type of forms available. The company failed to supply the forms or applications as requested by OCI. The company provided the requested information during the 2010 portion of the examination.

Producer Licensing

During the 2008 examination, in order to review the company's obligation to notify the Commissioner of producers that are appointed or terminated, the examiners requested that the company provide a list consisting of all producers appointed to represent the company as of the end of the examination period under review. The company's list was then compared to the Commissioner's database of producers appointed to represent the company as of that date. The examiners identified ten producers from OCI's database that should have been included in the company's producers' data, which was provided in response to the data call. The examiners provided the company with a list of these ten producers and requested that the company confirm if they represented the company at the end of the examination period. If the producer was appointed as representing the company, then the company was to explain why the producer was not provided in the data call. If the producer was not listed at the end of the examination period, the company was to provide documentation to demonstrate that the producer was terminated with the Commissioner. The company's initial response to OCI was unclear and did not specifically provide the listing status for each producer as requested. Therefore, the examiners again requested that the company provide the information and/or documentation as previously requested. The company's second response stated that the original ten agents were not provided in response to the data call due to system limitations. The

company provided copies of termination transactions sent to the Commissioner for three agents. However, those notices were terminations for Progressive Northern Insurance Company. In further reviewing the Commissioner's records, the appointments for the company were still active as of November 2008. The company also provided copies of termination letters sent to the three agents. The notices to the agents did not state that the agent could no longer act as a representative of the company and did not request the return of indicia.

In the 2010 examination, 50 producer termination files were reviewed. The examiners found 37 files that contained termination notices that the company sent to its terminated producers which failed to state that the terminated agent may not act as a representative of the company. Thirty-eight files reviewed contained termination notices that failed to make a formal demand for the return of all indicia. Also, 10 files did not contain notices from the company informing the producers that they were terminated. Three files contained termination notices that were sent to the producers after the statutorily required 15 days. Section Ins 6.57 (2), Wis. Adm. Code, requires an insurer to file a notice of termination prior to or within 30 days of the termination date of a producer with the Commissioner. Also, prior to or within 15 days of filing the termination notice with the Commissioner, the insurer shall provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as a representative and must include a formal demand for the return of all indicia.

1. **Recommendation:** It is recommended that the company develop and implement written procedures that will demonstrate compliance with the requirements of s. Ins. 6.57 (2), Wis. Adm. Code, by providing notice of termination to the Commissioner prior to or within 30 days of the termination date of a producer.
2. **Recommendation:** It is recommended that the company revise its termination notices sent to its agents to include a statement that the agent may no longer represent the company and request the return of indicia as required by s. Ins. 6.57 (2), Wis. Adm. Code.
3. **Recommendation:** It is recommended that within 15 days of the company terminating an agent with OCI, the company shall provide the agent with

written notice of termination, in order to comply with s. 6.57 (2), Wis. Adm. Code.

Underwriting & Rating

During the 2008 examination, the examiners reviewed 99 new business and 100 termination private passenger automobile files. During the 2010 portion of the examination, the examiners reviewed 100 termination private passenger automobile files. Moreover, the examiners reviewed 25 new business private passenger automobile files to verify that the company was issuing policies using rates and rate-related rules that had been filed for use in Wisconsin. In addition, the examiners reviewed the company's underwriting procedures and manuals. The following exceptions were noted.

In 2008, the examiners found twenty-four underwriting termination files where the company mailed a rescission of coverage notice. The notices indicated that in accordance with the terms of the policy, which require payment of the premium as consideration for coverage, all coverage is rescinded and declared void as of 12:01 A.M. on the policy inception date. When the company learned that a check or Electronic Funds Transfer (EFT) payment was not honored by the bank for new business policies, the company did not provide a ten day notice of cancellation required by s. 631.36, Wis. Stat., and cancelled the policy back to the inception date of the policy. The files did not include supporting documentation demonstrating policyholder intent to deceive required for compliance with s. 631.11 (1), Wis. Stat. Section 631.36 (2), Wis. Stat., requires that insurers provide 10 days advance notice when cancelling for non-payment of premium. Section 631.11 (1), Wis. Stat., states in part, that no misrepresentation made by a person constitutes grounds for rescission of the policy unless the person knew that the misrepresentation was false and the insurer relies on the misrepresentation and the misrepresentation is either material or made with intent to deceive.

- 4. Recommendation:** It is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2), Wis. Stat., in order to comply with this section.

5. **Recommendation:** It is recommended that the company investigate whether non-sufficient funds payments for new business are made with intent to deceive before voiding policies in order to comply with s. 631.11, Wis. Stat.

During a review of company policy terminations in 2008, the examiners found that the Notice of Cancellation or Non-renewal (Form No 6683 6-92) contained a disconnected phone number for the Wisconsin Automobile Insurance Plan (WAIP). The phone number on the bottom of this notice was not the correct number for the WAIP. The disconnected WAIP phone number appeared on roughly 50 of the 100 files reviewed. Section 631.36 (7), Wis. Stat., requires that a notice of cancellation or nonrenewal contain adequate instructions to the policyholder for applying for insurance through a risk-sharing plan.

6. **Recommendation:** It is recommended that the company amend all cancellation, termination, and nonrenewal notices to provide the correct and current contact information for the Wisconsin Automobile Insurance Plan in order to comply with s. 631.36 (7) (a), Wis. Stat.

In order to ensure the company is properly applying its filed rates and rules to new business, the examiners attempted to review new business files with effective dates from January 1, 2006 to December 31, 2007 during the 2008 examination. Due to incomplete information from the company, the examiners were unable to complete the review. During the 2010 portion of the examination, the examiners were able to review 29 new business files. The following exceptions were noted.

The company's 5/10/04 rate filing (OCI File No. 110701) included its 'Increased UMBI Limit Factors' table. (UMBI refers to Uninsured Motorist Bodily Injury.) The company notified the examiner that it revised its 'Increased UMBI Limit Factors' for use effective 4/26/2006 but failed to file the revised 'Increased UMBI Limit Factors' table with its 4/26/2006 rate filing (SERFF Filing No. USPH-6Q3PLW780, OCI File No. 131294). Since the company only submits revised rates in its rate filings to the commissioner, rather than submitting a complete set of its rates with each rate filing, the company did not include the 4/26/06 revised 'Increased UMBI Limit Factors' table in its subsequent rate filing submissions effective

11/01/2006, 2/13/2007, and 7/27/2007. The company continued to use the unfiled 'Increased UMBI Limit Factors' until the company revised the rates again and filed them with its 11/9/07 rate filing (SERFF Filing No. PRGS-125381761, OCI File No. 147653). The examiner found, due to the rounding calculations, there was no impact to insureds' premiums.

The company's 4/26/06 rate filing introduced new 'Monthly Rate Factors'. The company indicated it revised its 'Monthly Rate Factor' table for use effective 2/13/07 but failed to file the revised 'Monthly Rate Factors' in its 2/13/2007 rate filing (SERFF Filing No. PRGS-125126622, OCI File No. 139508) and subsequent 7/27/07 rate filing (SERFF Filing No. PRGS-125262966, OCI No. 143735). The company continued to use these unfiled rates until the company revised the rates again and filed them with its 11/09/2007 rate filing. The examiners found the company's use of the unfiled 'Monthly Rate Factor' rates resulted in an undercharge to insureds' premiums.

The company's 4/26/06 rate filing included its 'Market Factor' table. The examiners found that the company revised its 'Market Factors' that applied to the bodily injury, property damage and medical payments coverages effective 11/9/07 but failed to file the revised 'Market Factors' table with its 11/9/07 rate filing. The examiner found the company's use of the unfiled 'Market Factor' rates resulted in an undercharge to insureds' bodily injury, property damage and medical payments premiums.

The examiner found that the company submitted a rate/rule filing on 3/27/07 (SERFF Filing No. PRGS-125138514, OCI File No. 140001) to add 1044 vehicle symbols for new 2007/2006 model years. However, the company began using the new symbols for new business policies effective on or after 12/15/06. The company failed to submit the filing on a timely basis and any policies issued with these vehicle symbols between 12/15/06-2/25/07 contained unfiled rates. Section 625.13 (1), Wis. Stat. states, in part, that every authorized insurer shall file with the commissioner all rates and all changes and amendments thereof made by it for use in this state within 30 days after they become effective.

7. **Recommendation:** It is recommended that the company submit all rate filings to the commissioner within 30 days after they become effective and issue policies using only the rates that have been filed with the commissioner, in order to comply with s. 625.13 (1) Wis. Stat.

The company filed a rate revision to be effective 7/27/07 for new business (SERFF Filing No. PRGS-125262966, OCI File No. 143735). The examiners found a new policy file that was issued effective July 31, 2007, however the company issued the policy using the rates from the previous rate filing effective February 13, 2007. The company advised that it provides a seven (7) day 'grace period' during which agents that previously provided a quote using the old rates can choose to upload the policy for issuance using the old quoted rates or the new rates. This practice allows agents to arbitrarily choose which insureds receive old rates and which insureds receive new rates. Section 628.34 (3) states, in part, that no insurer may unfairly discriminate among policyholders by charging different premiums except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

8. **Recommendation:** It is recommended that the company use only the filed rates that are in effect on the effective date of the policy, disallow a seven-day grace period during which time the agent may choose to use previously filed rates or newly filed rates and provide formal written notice of such to its agents in order to comply with s. 628.34 (3) (a), Wis. Stat.

The examiners found that all of the rate/rule filings submitted by the company during the examination period did not contain sufficient supplemental rating information, as required by s. 625.13 (1), Wis. Stat., to support and explain how the applicable 'Monthly Rate Factor' is determined for each policy and to explain how this factor is not unfairly discriminatory pursuant to s. 628.34 (3), Wis. Stat. The company advised that the 'Monthly Rate Factor' for each policy is solely determined by comparing the effective date of the filed 'Monthly Rate Factor' (e.g. 4/26/06) to the policy's effective date and rounding the difference down to the nearest whole month. The company also provided a copy of a detailed presentation that was made to the commissioner prior to filing the 'Monthly Rate Factor'. However, such supplemental rating information was never included in the company's rate/rule filings. Section 628.34 (3), Wis. Stat.

states, in part, that no insurer may unfairly discriminate among policyholders by charging different premiums except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved. The commissioner recognizes that the company submitted a rate/rule filing to change the 'Monthly Rate Factor' to 1.00 for all policyholders, effective November 9, 2007 for new business policies and January 8, 2008 for renewal policies, which essentially discontinued this rate factor.

The examiners found that all of the rate/rule filings submitted by the company during the examination period did not contain sufficient supplemental rating information to support and explain how the applicable 'Household Structure Factor' is determined for each policy. Such rate/rule filings failed to explain specifically for the 'Household Structure Factor':

- that each of the 'Y/N' subfactors are based only on the first named insured, except the 'Parent/Child' subfactor, and the subfactors for the first named insured apply to all vehicles at a policy level.
- that 'PNI' stands for 'Primary Named Insured' with regard to the 'Youthful PNI' subfactor.
- that the 'Parent/Child' subfactor applies regardless of whether the parent or the child is the first named insured.

The examiners found that all of the rate/rule filings submitted by the company during the examination period did not contain any supplemental rating information to support and explain how the 'AAF (at-fault accident)/MAJ (major) Violation Merit Factors', 'AAF/MAJ Violation Surcharge Merit Factors', 'MIN (minor)/SPD (speeding)/DUI (driving under influence) Violation Merit Factors', and 'MIN/SPD/DUI Violation Merit Factors' are determined for each policy. Such rate/rule filings failed to explain specifically:

- which violations are considered MAJ and MIN.
- whether non-rated AAF, MAJ, MIN, SPD & DUI's are counted (e.g. concurrent violations/accidents with zero points).
- how the months are counted.

The examiners found that all of the rate/rule filings submitted by the company during the examination period did not contain sufficient supplemental rating information to support and explain how the 'SR-22 Surcharge' is applied to each policy. The company's filed Product & Underwriting Guides state in the Surcharge Table that the SR-22 surcharge 'applies when an eligible-to-be-rated driver has an SR-22 filing'. However, it does not explain that the surcharge applies to all vehicles on the policy.

The examiners found that all of the rate/rule filings submitted by the company during the examination period contained different names for the same discount. The filed Rate Order of Calculation (ROC) formulas and rate tables contain a 'Years Clean Discount'. However, the corresponding supplemental rating information under the 'Fees & Discounts/Surcharges Tables' section of the company's Product & Underwriting Guides and the policy declaration page refer to this discount as the '3 year accident and violation free' discount.

The examiners also found that the 'Fees & Discounts/Surcharges Tables' section of the company's Product & Underwriting Guides identifies the coverages to which its discounts and surcharges are applied. The table indicates the 'Three Year Accident & Violation Free Discount' applies to 'BI/PD (bodily injury/property damage), Med Pay (medical payments), Comp (comprehensive), Collision, UM (uninsured), UIM (underinsured)' coverages. However, all of the rate tables filed by the company during the examination period for this discount indicate a 0.00 discount factor applies for medical payments coverage. It is misleading for the Product & Underwriting Guide to imply the discount applies to medical payments coverage when a discount is not actually being applied.

The company's filed Product & Underwriting Guides contain a 'Fees & Discounts/Surcharges Tables' section which lists all of the fees, discounts and surcharges applicable to Wisconsin personal auto policyholders along with their guidelines/rules. The company filed a 'Multi-Policy Discount' rate factor as a new discount effective 7/27/07. However, the examiners found that the company failed to revise and file the Product &

Underwriting Guide to add the new 'Multi-Policy Discount' guideline/rule to the 'Fees & Discounts/Surcharges Tables' section. The company's subsequent rate/rule filings which were applicable during the exam period also failed to include a revised Product & Underwriting Guide, which is misleading pursuant to s. 628.34 (1), Wis. Stat. and violates s. 625.13 (1), Wis. Stat. Section 628.34 (1), Wis. Stat. states, in part, that no person who is licensed under chs. 600 to 646 may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or intermediary which contains false or misleading information, including information misleading because of incompleteness.

The examiners found that all of the rate/rule filings submitted by the company during the examination period contained incomplete supplemental rating information for its Rate Order of Calculation (ROC) as they do not provide the rounding rules. Rounding rules for premium algorithms/calculations are considered supplementary rate information under s. 625.13 (1), Wis. Stat.

Section 628.34 (1), Wis. Stat. states, in part, that no person who is licensed under chs. 600 to 646 may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or intermediary which contains false or misleading information, including information misleading because of incompleteness. Section 625.13 (1), Wis. Stat. states, in part, every authorized insurer shall file with the commissioner all rates and supplementary rate information, as defined under s. 625.02 (3), Wis. Stat., for use in this state within 30 days after they become effective. Section 625.02 (3), Wis. Stat. defines 'supplementary rate information' to include, in part, any manual or plan of rates, rating rule and rate-related underwriting rule.

9. Recommendation: If the company decides to reinstate the 'Monthly Rate Factor' in the future, it is recommended that the company include complete supplemental rating information with each filing to support and explain this factor, in order to comply with s. 625.13 (1), Wis. Stat.

10. Recommendation: With each 'Household Structure Factor' rate filing to the commissioner, it is recommended that the company submit complete

supplementary rating information for the subfactors to support and explain how the applicable 'Household Structure Factor' is determined for each policy, in order to comply with s. 625.13.(1), Wis. Stat.

- 11. Recommendation:** With each rate filing to the commissioner for the 'AAF/MAJ Violation Merit Factors', 'AAF/MAJ Violation Surcharge Merit Factors', 'MIN/SPD/DUI Violation Merit Factors', and 'MIN/SPD/DUI Violation Merit Factors', it is recommended that the company submit complete supplementary rating information to support and explain how these factors are determined for each policy, in order to comply with s. 625.13 (1), Wis. Stat.
- 12. Recommendation:** It is recommended that the company amend the SR-22 requirements in its Product & Underwriting Guide to provide complete supplementary rating information, in order to comply with s. 625.13 (1), Wis. Stat.
- 13. Recommendation:** It is recommended that the company amend its rate/rule filing to consolidate its naming convention for the Years Clean/3 Year Accident And Violation Free discount, in order to comply with s. 625.13 (1), Wis. Stat. It is also recommended that the company amend its Product & Underwriting Guide to accurately reflect the coverages to which discounts and surcharges actually apply, in order to comply with ss. 625.13 (1), Wis. Stat. and 628.34 (1), Wis. Stat.
- 14. Recommendation:** It is recommended that the company amend and file its Product & Underwriting Guide to add the new 'Multi-Policy Discount' guideline/rule, in order to comply with ss. 625.13 (1), Wis. Stat. and 628.34 (1), Wis. Stat.
- 15. Recommendation:** With each rate filing to the commissioner for its Rate Order of Calculation (ROC), it is recommended that the company include the corresponding rounding rules, in order to comply with s. 625.13 (1), Wis. Stat.
- 16. Recommendation:** It is recommended that the company submit rate and rule filings to the commissioner within 30 days after they become effective which contain all rates and complete supplementary rate information, in order to comply with s. 625.13 (1), Wis. Stat.

Policy Forms & Rates

During the forms review for the 2008 exam, the examiners found a declaration page [form number 6489 (11/03)] which had not been filed with the Commissioner prior to its use in Wisconsin. Section 631.20, Wis. Stat., states, in part, that no form may be used unless it has been filed with the Commissioner.

17. Recommendation: It is recommended the company implement a procedure to ensure it submits all forms subject to s. 631.01, Wis. Stat., 30 days prior to use, to comply with s. 631.20, WI Stat.

During the 2010 portion of the examination, the examiners reviewed 36 private passenger automobile, motorcycle, motor home, and travel trailer forms the company indicated were currently being used in Wisconsin in order to verify that the provisions of the policy forms comply with the Wisconsin insurance laws and regulations. The following exceptions were noted.

The examiners found ten application forms contained language that if the initial payment for insurance was made by credit card and the company was unable to collect the payment from the card issuer, the policy would be void. The form numbers for the applications follow: 7982 WI (08/09), Z030 WI (09/09), Z031 WI (09/09), Z030 WI (08/09), Z031 WI (08/09), Z030 WI (10/08), Z031 WI (10/08), 4868 WI (08/09), 4868 WI (10/08) and 4868 (03/07). When the company had filed applications containing this language with OCI in 2003, OCI objected to the language. In response to the objection, the company revised its application language to provide that the company would cancel the policy for nonpayment of premium rather than void the policy. The examiners also found that the Auto Product & Underwriting Guide, in the Billing & Payment section, under the Non-Sufficient Funds (NSF) for Insured Payments heading, the company indicated that if the NSF was on the down payment of a policy, the coverage would be null and void. Section 631.36 (2) (b), Wis. Stat, states, in part, that no insurance policy may be canceled by the insurer prior to the expiration of the agreed term except for failure to pay a premium when due. No cancellation is effective until at least 10 days after the 1st class mailing or delivery of a written notice to the policyholder. Voiding a policy for nonpayment of premium, without providing notice to the policyholder, does not comply with the statute. The company responded that it has not voided any policy during the period of review due to nonpayment of premium of the initial payment.

18. Recommendation: It is recommended that the company revise the language in its Auto Product & Underwriting Guide and its applications to provide for cancellation of a policy for nonpayment of premium if the down payment is rejected due to non-sufficient funds or the initial payment for insurance is made by credit card and the company is unable to collect the payment from the card issuer in order to comply with s. 631.36 (2), Wis. Stat.

Effective November 1, 2009, statutory changes were made to s. 632.32, Wis. Stat., that affected every policy of insurance issued or delivered in Wisconsin against an insured's liability for loss or damage resulting from an accident caused by any motor vehicle, whether the loss or damage is to property or to a person. The policy forms used on and after November 1, 2009, were reviewed for compliance with the newly enacted laws. The following exceptions were noted.

The examiners found that policy forms Z798 WI (08/09), Z445 WI (08/09), and Z797 WI (08/09) contain language that provides an additional definition of underinsured motor vehicle that lists vehicles and equipment which are not included within the definition: owned by you or a relative; operated on rails or crawler treads; and while used as a residence or premises. By excluding these vehicles, the company is narrowing the definition as provided by the statute. Section 632.32 (2) (e), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, states, in part, that an underinsured motor vehicle means a motor vehicle to which all of the following apply: 1. the motor vehicle is involved in an accident with a person who has underinsured motorist coverage, 2. at the time of the accident, a bodily injury liability insurance policy applies to the motor vehicle or the owner or operator of the motor vehicle has furnished proof of financial responsibility for the future under subch. III of ch. 344 and it is in effect or is a self-insurer under another applicable motor vehicle law, 3. the limits under the bodily injury liability insurance policy or with respect to the proof of financial responsibility or self-insurance are less than the amount needed to fully compensate the insured for his or her damages. 2011 WI Act 14 repeals s. 632.32 (2) (e), Wis. Stat., in its entirety. However, s. 632.32 (2) (at), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines a 'motor vehicle' as a

self-propelled land motor vehicle designed for travel on public roads and subject to motor vehicle registration under ch. 341. A trailer or semitrailer that is designed for use with and connected to a motor vehicle shall be considered a single unit with the motor vehicle. 'Motor vehicle' does not include farm tractors, well drillers, road machinery, or snowmobiles.' Chapter 341 uses definitions set forth in ch. 340. Section 340.01 (35), Wis. Stat., defines a 'motor vehicle' as a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. The company's exemption to the definition is not limited to vehicles that are operated exclusively on a rail. 2011 WI Act 14 is effective for newly issued and renewed policies on or after November 1, 2011.

19. Recommendation: It is recommended that the company revise its automobile policy forms to amend its definition of underinsured motor vehicle regarding vehicles operated on rails in order to comply with ss. 632.32 (2) (at), as modified by 2009 WI Act 342, and 340.01 (35), Wis. Stat.

In lieu of revising all its automobile policy forms to comply with 2009 WI Act 28, as modified by 2009 WI Act 342, regarding vehicles owned by an insured or a relative of the insured and while used as a residence or premises, it is also recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted using the definition of underinsured motor vehicle in compliance with ss. 632.32 (2) (at), 632.32 (2) (e), and 340.01 (35), Wis. Stat., as modified by 2009 WI Act 342.

The examiners found that policy forms Z798 WI (08/09), Z445 WI (08/09), and Z797 WI (08/09) contain language that provides an additional definition of uninsured motor vehicle that lists vehicles and equipment which are not included within the definition: owned by you or a relative or furnished or available for the regular use of you or a relative; operated on rails or crawler treads; and while located for use as a residence or premises. By excluding these vehicles, the company is narrowing the definition as provided by the statute. Section 632.32 (2) (g), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines an "uninsured motor vehicle" as a motor vehicle that is involved in an accident with a person who has uninsured motorist coverage and with respect to which, at the time of the accident, a bodily injury liability insurance policy is not in effect and the owner or operator has not furnished proof

of financial responsibility for the future under subch. III of ch. 344 and is not a self-insurer under any other applicable motor vehicle law. 'Uninsured motor vehicle' also includes any of the following motor vehicles involved in an accident with a person who has uninsured motorist coverage: 1. an insured motor vehicle, or a motor vehicle with respect to which the owner or operator is a self-insurer under any applicable motor vehicle law, if before or after the accident the liability insurer of the motor vehicle, or the self-insurer, is declared insolvent by a court of competent jurisdiction, 2. except as provided in subd. 3., an unidentified motor vehicle, provided that an independent 3rd party provides evidence in support of the unidentified motor vehicle's involvement in the accident, or 3. an unidentified motor vehicle involved in a hit-and-run accident with a person. 2011 WI Act 14 revises the definition of an uninsured motor vehicle regarding unidentified motor vehicles by replacing s. 632.32 (2) (g) 2., Wis. Stat. in its entirety to read: 2. A phantom motor vehicle, if all of the following apply: a. The facts of the accident are corroborated by competent evidence that is provided by someone other than the insured or any other person who makes a claim against the uninsured motorist coverage as a result of the accident; b. Within 72 hours after the accident, the insured or someone on behalf of the insured reports the accident to a police, peace, or judicial office or to the department of transportation or, if the accident occurs outside of Wisconsin, the equivalent agency in the state where the accident occurs; c. Within 30 days after the accident occurs, the insured or someone on behalf of the insured files with the insurer a statement under oath that the insured or a legal representative of the insured has a cause of action arising out of the accident for damages against a person whose identity is not ascertainable and setting forth the facts in support of the statement. In addition, s. 632.32 (2) (at), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines a 'motor vehicle' as a self-propelled land motor vehicle designed for travel on public roads and subject to motor vehicle registration under ch. 341. A trailer or semitrailer that is designed for use with and connected to a motor vehicle shall be considered a single unit with the motor vehicle. 'Motor vehicle' does not include farm tractors, well drillers,

road machinery, or snowmobiles.' Chapter 341 uses definitions set forth in ch. 340. Section 340.01 (35), Wis. Stat., defines a 'motor vehicle' as a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. The company's exemption to the definition is not limited to vehicles that are operated exclusively on a rail.

20. Recommendation: It is recommended that the company revise its automobile policy forms to amend its definition of uninsured motor vehicle in order to comply with ss. 632.32 (2) (at), 632.32 (2) (g), and 340.01 (35), Wis. Stat. It is also recommended that the company revise all automobile policy forms to amend its definition of uninsured motor vehicle for policies newly issued and renewed on or after November 1, 2011, in order to comply with s. 632.32 (2) (g) 2, Wis. Stat. of 2011 WI Act 14 and refile the revised policy forms with the commissioner.

IV. CONCLUSION

A total of 20 recommendations were made as a result of this targeted examination relating to the company's need to modify producer licensing, underwriting and rating, and policy forms.

In order to comply with s. Ins 6.57 (2), Wis. Adm. Code, the company must timely provide notice to OCI of its terminated producers. Moreover, the company's producer termination notices need to include a statement that the agent may no longer act as a representative of the company and must return all indicia. The company must also provide notice of termination to its terminated agents and send the notices timely.

The company needs to provide ten days notice of cancellation for non-payment of premium to a new business applicant if payment is rejected due to non-sufficient funds or if an electronic funds transfer is dishonored, unless it is demonstrated the applicant intended to deceive the company. The company must revise its termination notices to ensure the correct contact information is used for the Wisconsin Automobile Insurance Plan. The company also needs to file all rates with OCI within 30 days of using them and ensure that only filed rates are used. In addition, the rate filings must contain complete and accurate supplemental rating information to explain and support its rating factors and amend its Product & Underwriting Guide accordingly. In addition, the company must disallow a seven day grace period during which time the agent may choose to use previously filed rates in order to avoid unfair discrimination.

The company needs to implement a procedure to ensure it submits all forms to OCI 30 days prior to using them. The company must also revise its Auto Product & Underwriting Guide procedures and the language in its applications to provide for the company to send a notice of cancellation to new business applicants whose initial payment of premium is rejected or dishonored, whether by check, electronic funds transfer or credit card, unless proof of the applicant's intention to deceive the company is documented. In addition, the company must revise the definitions of an 'uninsured motor vehicle' and an 'underinsured motor vehicle' in its

policy forms to conform to the revised statutory law changes that were effective November 1, 2009. It also must revise its forms to comply with the changes effective November 1, 2011 regarding 'uninsured motor vehicle' and 'underinsured motor vehicle' for all policies renewed on or after November 1, 2011.

V. SUMMARY OF RECOMMENDATIONS

Producer Licensing

- Page 8 1. It is recommended that the company develop and implement written procedures that will demonstrate compliance with the requirements of s. Ins. 6.57 (2), Wis. Adm. Code, by providing notice of termination to the Commissioner prior to or within 30 days of the termination date of a producer.
- Page 8 2. It is recommended that the company revise its termination notices sent to its agents to include a statement that the agent may no longer represent the company and request the return of indicia as required by s. Ins. 6.57 (2), Wis. Adm. Code.
- Page 8 3. It is recommended that within 15 days of the company terminating an agent with OCI, the company shall provide the agent with written notice of termination, in order to comply s. 6.57 (2), Wis. Adm. Code.

Underwriting and Rating

- Page 9 4. It is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2), Wis. Stat., in order to comply with this section.
- Page 10 5. It is recommended that the company investigate whether non-sufficient funds payments for new business are made with intent to deceive before voiding policies in order to comply with s. 631.11, Wis. Stat.
- Page 10 6. It is recommended that the company amend all cancellation, termination, and nonrenewal notices to provide the correct and current contact information for the Wisconsin Automobile Insurance Plan in order to comply with s. 631.36 (7) (a), Wis. Stat.
- Page 12 7. It is recommended that the company submit all rate filings to the commissioner within 30 days after they become effective and issue policies using only the rates that have been filed with the commissioner, in order to comply with s. 625.13 (1) Wis. Stat.
- Page 12 8. It is recommended that the company use only the filed rates that are in effect on the effective date of the policy, disallow a seven-day grace period during which time the agent may choose to use previously filed rates or newly filed rates and provide formal written notice of such to its agents in order to comply with s. 628.34 (3) (a), Wis. Stat.
- Page 15 9. If the company decides to reinstate the 'Monthly Rate Factor' in the future, it is recommended that the company include complete supplemental rating information with each filing to support and explain this factor, in order to comply with s. 625.13 (1), Wis. Stat.
- Page 15 10. With each 'Household Structure Factor' rate filing to the commissioner, it is recommended that the company submit complete supplementary rating

information for the subfactors to support and explain how the applicable 'Household Structure Factor' is determined for each policy, in order to comply with s. 625.13 (1), Wis. Stat.

- Page 16 11. With each rate filing to the commissioner for the 'AAF/MAJ Violation Merit Factors', 'AAF/MAJ Violation Surcharge Merit Factors', 'MIN/SPD/DUI Violation Merit Factors', and 'MIN/SPD/DUI Violation Merit Factors', it is recommended that the company submit complete supplementary rating information to support and explain how these factors are determined for each policy, in order to comply with s. 625.13 (1), Wis. Stat.
- Page 16 12. It is recommended that the company amend the SR-22 requirements in its Product & Underwriting Guide to provide complete supplementary rating information, in order to comply with s. 625.13 (1), Wis. Stat.
- Page 16 13. It is recommended that the company amend its rate/rule filing to consolidate its naming convention for the Years Clean/3 Year Accident And Violation Free discount, in order to comply with s. 625.13 (1), Wis. Stat. It is also recommended that the company amend its Product & Underwriting Guide to accurately reflect the coverages to which discounts and surcharges actually apply, in order to comply with ss. 625.13 (1), Wis. Stat. and 628.34 (1), Wis. Stat.
- Page 16 14. It is recommended that the company amend and file its Product & Underwriting Guide to add the new 'Multi-Policy Discount' guideline/rule, in order to comply with ss. 625.13 (1), Wis. Stat. and 628.34 (1), Wis. Stat.
- Page 16 15. With each rate filing to the commissioner for its Rate Order of Calculation (ROC), it is recommended that the company include the corresponding rounding rules, in order to comply with s. 625.13 (1), Wis. Stat.
- Page 16 16. It is recommended that the company submit rate and rule filings to the commissioner within 30 days after they become effective which contain all rates and complete supplementary rate information, in order to comply with s. 625.13 (1), Wis. Stat.

Policy Forms & Rates

- Page 17 17. It is recommended the company implement a procedure to ensure it submits all forms subject to s. 631.01, Wis. Stat., 30 days prior to use, to comply with s. 631.20, Wis. Stat.
- Page 18 18. It is recommended that the company revise the language in its Auto Product & Underwriting Guide and its applications to provide for cancellation of a policy for nonpayment of premium if the down payment is rejected due to non-sufficient funds or the initial payment for insurance is made by credit card and the company is unable to collect the payment from the card issuer in order to comply with s. 631.36 (2), Wis. Stat.
- Page 19 19. It is recommended that the company revise its policy forms Z798 WI (08/09), and Z445 WI (08/09), and Z797 WI (08/09) to amend the definition of

underinsured motor vehicle in order to comply with s. 632.32 (2) (e), Wis. Stat. In lieu of revising all its automobile policy forms to comply with 2009 WI Act 28, as modified by 2009 WI Act 342, regarding vehicles owned by an insured or a relative of the insured and while used as a residence or premises, it is also recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted using the definition of underinsured motor vehicle in compliance with ss. 632.32 (2) (af), 632.32 (2) (e), and 340.01 (35), Wis. Stat., as modified by 2009 WI Act 342.

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20. It is recommended that the company revise its policy forms Z798 WI (08/09), Z445 WI (08/09), and Z797 WI (08/09) to amend the definition of uninsured motor vehicle in order to comply with s. 632.32 (2) (g), Wis. Stat. It is also recommended that the company revise all automobile policy forms to amend its definition of uninsured motor vehicle for policies newly issued and renewed on or after November 1, 2011, in order to comply with s. 632.32 (2) (g) 2, Wis. Stat. of 2011 WI Act 14 and refile the revised policy forms with the commissioner.

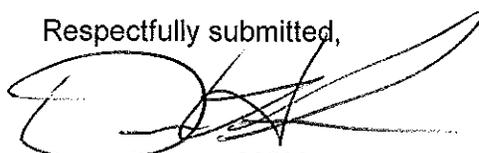
VI. ACKNOWLEDGEMENT

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>
Karen Becker	Insurance Examiner
Ellen Schwartz, MCM	Insurance Examiner
Gary Morris	Insurance Examiner
Ashley Natysin, CIE, MCM	Insurance Examiner
Barry Haney	Insurance Examiner
Ronnie Demergian, CPCU, MCM	Insurance Examiner

Respectfully submitted,



Drew Hunkins, MCM
Examiner-in-Charge