

## Notice of Adoption and Filing of Examination Report

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

Wausau Underwriters Insurance Company  
Wausau, WI 54401-7881

dated September & October, 1997, and served upon the company on June 10, 1998, 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 20th day of October, 1998.

Randy Blumer  
Commissioner of Insurance

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WAUSAU UNDERWRITERS INSURANCE COMPANY  
WAUSAU, WISCONSIN

SEPTEMBER & OCTOBER 1997

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October 3, 1997

Honorable Randy Blumer  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a limited market conduct examination was made in September and October 1997 of:

Wausau Underwriters Insurance Company

## Wausau, Wisconsin

and the following report is respectfully submitted.

## I. INTRODUCTION

Wausau Underwriters Insurance Company (the company) is a property and casualty insurer licensed to transact business in all 50 states including the District of Columbia and Puerto Rico.

Wausau Underwriters Insurance Company was licensed in Wisconsin in 1979. The company affiliated with the Nationwide Insurance Group, of Columbus, Ohio, in 1985. As of December 31, 1996, Wausau Underwriters Insurance Company's direct premiums written and direct losses paid were as follows:

|                         | <b>Direct Premiums<br/>Written</b> | <b>Direct Losses<br/>Paid</b> |
|-------------------------|------------------------------------|-------------------------------|
| Total Company           | \$327,234,631                      | \$187,346,879                 |
| Wisconsin Business Only | 56,337,785                         | 30,840,248                    |

During 1996, Wausau Underwriters Insurance Company reported the following premiums and losses organized by line of business in Wisconsin:

|  | <b>Direct Premiums<br/>Written</b> | <b>Direct Losses<br/>Paid</b> |
|--|------------------------------------|-------------------------------|
| Fire                                     | \$ 166,127                         | \$ 77,911                     |
| Allied lines                             | 83,395                             | 2,916                         |
| Commercial multiple peril (nonliability) | 528,682                            | 740,369                       |
| Commercial multiple peril (liability)    | 322,333                            | 19,822                        |
| Inland marine                            | 170,230                            | 66,684                        |
| Worker's compensation                    | 38,432,561                         | 21,752,056                    |
| Other liability                          | 9,076,292                          | 3,107,473                     |
| Products liability                       | 840,940                            | 700,241                       |
| Other commercial auto liability          | 5,389,588                          | 3,513,060                     |
| Private passenger auto physical damage   | 0                                  | (160)                         |
| Commercial auto physical damage          | 1,324,771                          | 859,876                       |
| Fidelity                                 | 213                                | 0                             |
| Burglary and theft                       | 184                                | 0                             |
| Boiler and machinery                     | 2,469                              | 0                             |
| Total                                    | \$56,337,785                       | \$30,840,268                  |

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## II. SUMMARY OF CONSUMER COMPLAINTS

The Office of the Commissioner of Insurance received 19 complaints against Wausau Underwriters Insurance Company between January 1, 1996, and June 30, 1997. A complaint is defined as "a written communication received by the Commissioner's Office which indicates dissatisfaction with an insurance company or agent." 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 or reason for each complaint.

| Type of Policy                 | Complaint Reason |        |       |
|--------------------------------|------------------|--------|-------|
|                                | Underwriting     | Claims | Other |
| Commercial Fire & Allied Lines | 0                | 0      | 0     |
| Commercial Multiple Peril      | 0                | 4      | 0     |
| Worker's Compensation          | 0                | 5      | 3     |
| Commercial Automobile          | 4                | 3      | 0     |
| All Others                     | 0                | 0      | 0     |
| Total                          | 4                | 12     | 3     |

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## III. PURPOSE AND SCOPE

The 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, 1996, through January 1, 1997. 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 the commercial lines policy forms first used by Wausau Underwriters Insurance Company on or after January 1, 1995, agent/agency monitoring, claims and underwriting procedures, and underwriting and claim files from the following areas:

| Line of Business                 |
|----------------------------------|
| Commercial automobile            |
| Commercial fire and allied lines |
| Commercial multi-peril           |
| Worker's compensation            |

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## IV. FINDINGS

## Agent Monitoring

Wausau Underwriters Insurance Company markets its insurance products using a combination of employe intermediary-agents and independent intermediary-agents/brokers. The company uses the term 'intermediary-brokers' to describe all nonemploye intermediaries.

The examiners reviewed all agent appointments and terminations for the 1996 calendar year. The review was undertaken to determine whether or not the company's practices and procedures related to the appointment and termination of agents comply with Wisconsin insurance statutes and rules.

The examiners found that the company does not provide a formal demand for the return of all indicia of agency when terminating an agent's listing. Pursuant to s. Ins 6.57 (2), Wis. Adm. Code, when terminating an agent's listing, an insurer must provide the agent with written notice that the agent is no longer to be listed as a representative of the company and that he or she may no longer act as its representative. The notice shall also include a formal demand for the return of all indicia of the agency. To ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that the company include a demand for the return of all indicia of the agency in the written notice notifying the agent of the termination of the agent's listing.

The examiners found that the company no longer lists 'intermediary-brokers' with the Commissioner's Office as required by s. 628.11, Wis. Stat., and s. Ins 6.57, Wis. Adm. Code. The company considers all nonemploye intermediaries to be 'intermediary-brokers' and therefore, exempt from the listing requirements of s. Ins 6.57, Wis. Adm. Code. These 'intermediary-brokers', through a Producer Agreement, have authority to, among other things, act on the company's behalf in accordance with the agreement, issue binders for insurance contracts, countersign insurance contracts and certificates, and request the cancellation of any insurance contract. Section 628.02 (3), Wis. Stat., defines an insurance broker as any intermediary that acts in the procuring of insurance on behalf of an applicant for insurance of an insured, and does not act on behalf of the insurer except by collecting premiums or performing other ministerial acts. Section 628.02 (4), Wis. Stat., defines an insurance agent as any intermediary which acts as an intermediary other than as a broker. The Producer Agreement between the company and the 'intermediary-brokers' grants the 'intermediary-broker' authority to act on the company's behalf in capacities other than collecting premiums or performing other ministerial acts. Therefore, the 'intermediary-brokers' as defined by the company are, in fact, intermediary-agents as defined by s. 628.02 (3) and (4), Wis. Stat. Section 628.11, Wis. Stat., requires insurers to report to the Commissioner all appointments and terminations of insurance agents in accordance with s. Ins 6.57, Wis. Adm. Code. In order to ensure compliance with s. 628.11, Wis. Stat., and s. Ins 6.57, Wis. Adm. Code, it is recommended that the company revise its procedures to ensure that all intermediaries submitting applications directly to the company are listed with the company.

## Underwriting

Wausau Underwriters Insurance Company is a multi-line insurer specializing in insurance products for medium to large commercial risks. The company underwrites and services the bulk of its Wisconsin risks out of offices located in Wausau and Milwaukee, Wisconsin. The remaining Wisconsin business is underwritten and serviced out of regional offices located

in states other than Wisconsin.

The examiners selected and reviewed 154 commercial automobile, commercial fire and allied lines and commercial multi-peril, and worker's compensation underwriting files. The company's underwriting procedures were also reviewed.

The examiners found 4 commercial lines prospect files where documentation related to the reason the application was rejected was not included in the prospect file. Failure to maintain this documentation could result in the company's inability to support that it is not being unfairly discriminatory in its underwriting. In addition, the company cannot document that it issued proper notification, if required, to the applicant in accordance with s. 631.36, Wis. Stat., and s. Ins 21.01, Wis. Adm. Code. It is recommended that company maintain sufficient information in its prospect files to document the reason the applicant was rejected and that proper notification, if required, was provided to the applicant in accordance with s. 631.36, Wis. Stat., and s. Ins 21.01, Wis. Adm. Code.

The examiners found that company corporate records procedures call for prospect account files to be purged 13 months after the expiration date of a proposal if coverage for the prospect account is not written. As such, the company was not able to furnish 33 prospect account files requested by the examiners for review. Pursuant to s. Ins 6.80 (4) (b), Wis. Adm. Code, records of insurance company operations and other financial records reasonably related to insurance operations for the preceding 3 years shall be maintained and be available to the Commissioner. It is recommended that the company revise its corporate records procedures related to prospect account files to comply with s. Ins 6.80 (4) (b), Wis. Adm. Code.

The examiners found 12 files where the term of binding on the written binder issued to the policyholder was less than the term of the policy. Pursuant to the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, a binder does not expire on its own terms and is subject to the same terms and conditions of the policy ordinarily used by the company, including the term of the policy. To ensure compliance with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, it is recommended that the company amend its written procedures to provide that the anticipated expiration date and time of the policy should be used as the expiration date and time of the binder. It is further recommended that the company instruct its agents on the proper procedure for completing the expiration date and time of binders.

The examiners found 7 files where the binders issued to the policyholder did not clearly indicate which of the Wausau Insurance Companies was providing coverage under the binder. Page B.23.4 of the company's Reference and Rating Manual instructs agents to use the applicable name of the issuing company and not the trade name of Wausau Insurance Companies when completing binders. To ensure compliance with the company's written procedures and to prevent confusion as to which of the Wausau Insurance Companies is actually providing the coverage under the binder, it is recommended that the company remind all agents to use the exact name of the issuing company and not the trade name of Wausau Insurance Companies when completing a binder.

The examiners found 2 files in which there was an unreasonable delay in issuing the policy after receipt of the application or issuance of a written binder. Section 631.05, Wis. Stat., provides that an insurer shall issue a policy as soon as reasonably possible after the issuance of any binder or negotiation of an oral contract. It is recommended that the

company review its current procedures related to the timeliness of issuing policies after the issuance of any binder or negotiation of an oral contract. It is further recommended that the company amend these procedures accordingly to ensure compliance with s. 631.05, Wis. Stat.

The examiners found 1 file where there was an unreasonable delay between the time the binder was issued and the time the agent sent a copy of the binder to the company. Page B.23.4, of the company's Reference and Rating Manual, instructs agents to distribute copies of binders immediately upon completion of the binder. Section 631.05, Wis. Stat., provides that an insurer shall issue a policy as soon as reasonably possible after the issuance of any binder or negotiation of an oral contract. To ensure compliance with the company's written procedures and s. 631.05, Wis. Stat., it is recommended that the company remind all of its agents to forward a copy of any binders immediately upon completion of the binder.

The examiners noted a significant amount of underwriting-related correspondence did not contain a date stamp or other evidence indicating the date in which the correspondence was received by the company. Without evidence as to when correspondence was received, the exact date of receipt cannot be determined and it is difficult to determine if correspondence is processed timely. To allow the company to monitor the timeliness of processing underwriting correspondence, it is recommended that the company reaffirm its date stamping procedure to ensure that the date of receipt is recorded on all incoming underwriting correspondence.

The examiners found 1 file where the company accepted an application signed by an intermediary-agent prior to the agent being appointed and listed with the company pursuant to s. Ins 6.57, Wis. Adm. Code. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from an intermediary unless that intermediary is a licensed agent listed with that company. It is recommended that the company establish a procedure to ensure that it accepts applications only from listed agents in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

The examiners found 5 files where the company accepted applications from 'intermediary-brokers' which were not agents appointed and listed with the company pursuant to s. Ins 6.57 (1), Wis. Adm. Code. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from an intermediary unless that intermediary is a licensed agent listed with that company. In order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company only accept applications from 'intermediary-brokers' which are listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found 1 file where the company provided less than 10 days' notice of a cancellation of a commercial general liability insurance policy for nonpayment of premium. Section 631.36 (2) (a), Wis. Stat., requires insurers to provide at least 10 days' notice of cancellation of commercial general liability insurance policies for nonpayment of premium. It is recommended that the company provide at least 10 days' notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2) (a), Wis. Stat., in order to comply with this section.

## Policy Forms

Wausau Underwriters Insurance Company provides insurance coverage to its policyholders by using standard coverage forms and endorsements, filed on the company's behalf by the Insurance Services Office, Inc., and independently filed company coverage forms and endorsements. In addition, the company uses the standard National Council on Compensation Insurance Inc., worker's compensation and employer's liability coverage forms and endorsements which have been filed on the company's behalf by the Wisconsin Compensation Rating Bureau.

The examiners selected and reviewed all commercial lines policy forms and endorsements first used by the company on or after January 1, 1995, for commercial automobile, commercial fire and allied lines, and commercial multi-peril insurance.

The examiners found 2 policy forms (form numbers PC9901 02-97 and PC9902 02-97) used by the company which require the insured "give immediate written notice of loss or damage to Covered Property" to the company. Section 631.81, Wis. Stat., provides that notice of loss should be made as soon as reasonably possible. It is recommended that the company revise the notification requirement in form numbers PC9901 02-97 and PC9902 02-97 to comply with s. 631.81, Wis. Stat.

The examiners found 1 form (form number ML1500 11-96) used by the company which provides that coverage is bound for a term of 60 days. The Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, held that an insurance company is required to provide the insured the proper notice of cancellation in both insurance binders and insurance contracts. Therefore, a binder does not expire on its own terms and is subject to the same terms and conditions of the policy ordinarily used by the company. It is recommended that the company revise the binder provision in its applications to eliminate the language that limits the term of binding, in order to comply with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575.

The examiners found 1 form (form number ML1500 11-96) used by the company which states "This Binder is not valid unless signed by an authorized representative of the Company." Section 628.34 (1), Wis. Stat., provides that no person may make or cause to be made any communication relating to an insurance contract which contains false or misleading information. The countersignature requirement is misleading and therefore contrary to s. 628.34 (1), Wis. Stat., as Wisconsin does not require that a policy or binder be countersigned to be valid. It is recommended that the company remove the countersignature requirement from form number ML1500 11-96.

## Claims

In settling claims under policies issued to insureds located in Wisconsin, Wausau Underwriters Insurance Company uses employe representatives from 2 branch offices in Wisconsin and field personnel.

The examiners selected and reviewed 122 commercial automobile, commercial fire and allied lines and commercial multi-peril claim files and 122 worker's compensation claim files. The company's claim practices and methods were also reviewed.

The examiners found 2 files where the company could not document what, if any, activity occurred between the receipt of pertinent information related to the claim and the denial of

the claim between 40 and 61 days after receipt of the information. Pursuant to s. Ins 6.11 (3) (a) 2, Wis. Adm. Code, it is an unfair claim settlement practice to fail to initiate and conclude a claims investigation with all reasonable dispatch. In order to avoid the unfair claim settlement practice described in s. Ins 6.11 (3) (a) 2, Wis. Adm. Code, it is recommended that the company establish a procedure to ensure that all pertinent activity related to a claims investigation is documented in the company's claim files.

The examiners found 1 file where invoices related to the claim were submitted for payment but did not contain a date stamp or other evidence indicating the date in which the invoices were received. Without evidence as to when the invoices were received, the exact date of receipt cannot be determined thereby making it difficult to determine if the invoices were processed timely. Pursuant to s. Ins 6.11 (3) (a), Wis. Adm. Code, it is an unfair claim settlement practice to fail to promptly acknowledge pertinent communications, to fail to initiate and conclude a claims investigation with all reasonable dispatch, and/or to fail to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed. It is recommended that the company institute a procedure to record received dates for all incoming claims-related correspondence, including correspondence received directly by the claims handler, to allow the company to monitor the timeliness of processing pertinent claims correspondence.

The examiners found 1 file where the company determined that no additional recoveries from the responsible third party would be forthcoming; however, it did not repay the insured's deductible. According to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263, when collecting subrogation, the insured is to be made whole, before the company has a right to retain amounts collected from subrogation. It is recommended that the company institute a procedure to ensure that the insured is made whole before the company retains amounts collected from subrogation pursuant to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

The examiners found that when the company is receiving subrogation recoveries on an installment basis from the responsible third party, the company forwards deductibles collected from subrogation to the insured only after collecting the entire deductible amount. The Wisconsin Supreme Court decision, Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263, provides for the insured to be made whole before the insurance company retains any recovery. Pursuant to s. 628.46, Wis. Stat., subrogation recoveries should be returned to the insured within 30 days from the time a reasonable amount is recovered. It is recommended that the company submit a plan to bring its practices into compliance with s. 628.46, Wis. Stat., and Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

The examiners found that the company does not include sales tax incurred by insureds when replacing a covered vehicle following a total loss of the covered vehicle due to a comprehensive or collision loss. The direct reimbursement of incurred sales tax or including sales tax in an all-inclusive settlement is an important step in satisfying the principle of indemnity and meeting the company's obligation under the automobile insurance contract. Failure to do so would violate the principle of indemnity and may result in an inequitable settlement of first party comprehensive or collision claims arising under automobile insurance policies issued by the company. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonable clear constitutes an unfair method or practice pursuant to s. Ins 6.11 (3) (a) 4,

Wis. Adm. Code. In order to avoid the unfair method or practice described in s. Ins 6.11 (3) (a) 4, Wis. Adm. Code, it is recommended that the company allow for the direct reimbursement of incurred sales tax by insureds when replacing a covered vehicle following a total loss of the covered vehicle due to a comprehensive or collision loss.

The examiners found 1 file which the company did not pay a claim within 30 days of receiving proof of loss or equivalent evidence. Section 628.46 (1), Wis. Stat., provides that a company shall promptly pay insurance claims. A claim shall be overdue if not paid within 30 days after the company is furnished written notice, either by a proof of loss or equivalent evidence, of the fact of a covered loss and of the amount of the loss. It is recommended that the company promptly pay claims and if payment is not made within 30 days of receiving proof of loss or equivalent, pay interest as required by s. 628.46 (1), Wis. Stat.

The examiners found 1 file where the company did not pay interest due their insured on a subrogation recovery returned more than 30 days after receipt. Section 628.46 (1), Wis. Stat., provides that any claim shall be overdue if not paid within 30 days after the insurance company is furnished with written notice of the fact of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at the rate of 12% per year. In order to comply with s. 628.46 (1), Wis. Stat., it is recommended that the company pay interest on subrogation recoveries not returned to the insured within 30 days.

The examiners found 1 file where the company failed to report a worker's compensation subrogation recovery to the Wisconsin Compensation Rating Bureau as required by the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance, promulgated by the Commissioner pursuant to s. 626.32 (2), Wis. Stat. Section 626.32 (2), Wis. Stat., provides that all insurers must use the statistical plan promulgated by the Commissioner. It is recommended that the company report all worker's compensation subrogation recoveries to the Wisconsin Compensation Rating Bureau as required by the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance promulgated by the Commissioner pursuant to s. 626.32 (2), Wis. Stat.

The examiners found 2 files where the company reported the worker's compensation subrogation recovery to the Wisconsin Compensation Rating Bureau between 224 and 360 days after the company received the recovery. Section 626.32 (2), Wis. Stat., provides that all insurers must use the statistical plan, the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance, promulgated by the Commissioner. Under this statistical plan, an insurer must file a corrected unit statistical report upon receipt of a subrogation recovery. Since the reporting of a worker's compensation subrogation recovery can impact a policyholder's worker's compensation insurance premium, the receipt of subrogation recovery should be reported promptly to the Wisconsin Compensation Rating Bureau. It is recommended that all worker's compensation subrogation recoveries be promptly reported to the Wisconsin Compensation Rating Bureau as required by the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance promulgated by the Commissioner pursuant to s. 626.32 (2), Wis. Stat.

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## V. CONCLUSION

A total of 24 recommendations were made relating to the need for the Wausau Underwriters Insurance Company to modify certain agency management, underwriting, and claims procedures.

Pursuant to s. Ins 6.57 (5), Wis. Adm. Code, the company must ensure that all intermediaries are listed with the company prior to accepting applications from an employee intermediary-agent or an independent intermediary-agent/broker. To ensure compliance with s. Ins 6.80 (4) (b), Wis. Adm. Code, the company should review and amend its record retention procedures accordingly for prospect account files. In addition, the company must ensure that its subrogation claim procedures comply with the insurance laws, court decisions, and the rules that govern worker's compensation insurance.

Other aspects of the company's forms, agency management, underwriting, and claims practices were noted as being inconsistent with Wisconsin market conduct regulations. The recommendations are intended to bring Wausau Underwriters Insurance Company into compliance with statutory standards of policyholder and claimant treatment.

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## VI. SUMMARY OF RECOMMENDATIONS

### Agent Monitoring

1. To ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that the company include a demand for the return of all indicia of the agency in the written notice notifying the agent of the termination of the agent's listing.
2. In order to ensure compliance with s. 628.11, Wis. Stat., and s. Ins 6.57, Wis. Adm. Code, it is recommended that the company revise its procedures to ensure that all intermediaries submitting applications directly to the company are listed with the company.

### Underwriting

3. It is recommended that company maintain sufficient information in its prospect files to document the reason the applicant was rejected and that proper notification, if required, was provided to the applicant in accordance with s. 631.36, Wis. Stat., and s. Ins 21.01, Wis. Adm. Code.
4. It is recommended that the company revise its corporate records procedures related to prospect account files to comply with s. Ins 6.80 (4) (b), Wis. Adm. Code.
5. To ensure compliance with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, it is recommended that the company amend its written procedures to provide that the anticipated expiration date and time of the policy should be used as the expiration date and time of the binder. It is further recommended that the company instruct its agents on the proper procedure for completing the expiration date and time of binders.
6. To ensure compliance with the company's written procedures and to prevent confusion as to which of the Wausau Insurance Companies is actually providing the coverage under the binder, it is recommended that the company remind all agents to use the exact name of the issuing company and not the trade name of Wausau

Insurance Companies when completing a binder.

7. It is recommended that the company review its current procedures related to the timeliness of issuing policies after the issuance of any binder or negotiation of an oral contract. It is further recommended that the company amend these procedures accordingly to ensure compliance with s. 631.05, Wis. Stat.
8. To ensure compliance with the company's written procedures and s. 631.05, Wis. Stat., it is recommended that the company remind all of its agents to forward a copy of any binders immediately upon completion of the binder.
9. To allow the company to monitor the timeliness of processing underwriting correspondence, it is recommended that the company reaffirm its date stamping procedure to ensure that the date of receipt is recorded on all incoming underwriting correspondence.
10. It is recommended that the company establish a procedure to ensure that it accepts applications only from listed agents in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.
11. In order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company only accept applications from 'intermediary-brokers' which are listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.
12. It is recommended that the company provide at least 10 days' notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2) (a), Wis. Stat., in order to comply with this section.

### Policy Forms

13. It is recommended that the company revise the notification requirement in form numbers PC9901 02-97 and PC9902 02-97 to comply with s. 631.81, Wis. Stat.
14. It is recommended that the company revise the binder provision in its applications to eliminate the language that limits the term of binding, in order to comply with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575.
15. It is recommended that the company remove the countersignature requirement from form number ML1500 11-96.

### Claims

16. In order to avoid the unfair claim settlement practice described in s. Ins 6.11 (3) (a) 2, Wis. Adm. Code, it is recommended that the company establish a procedure to ensure that all pertinent activity related to a claims investigation is documented in the company's claim files.
17. It is recommended that the company institute a procedure to record received dates for all incoming claims-related correspondence, including correspondence received directly by the claims handler, to allow the company to monitor the timeliness of processing pertinent claims correspondence.
18. It is recommended that the company institute a procedure to ensure that the insured is made whole before the company retains amounts collected from subrogation pursuant to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.
19. It is recommended that the company submit a plan to bring its practices into compliance with s. 628.46, Wis. Stat. and Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

20. In order to avoid the unfair method or practice described in s. Ins 6.11 (3) (a) 4, Wis. Adm. Code, it is recommended that the company allow for the direct reimbursement of incurred sales tax by insureds when replacing a covered vehicle following a total loss of the covered vehicle due to a comprehensive or collision loss.
21. It is recommended that the company promptly pay claims and if payment is not made within 30 days of receiving proof of loss or equivalent, pay interest as required by s. 628.46 (1), Wis. Stat.
22. In order to comply with s. 628.46 (1), Wis. Stat., it is recommended that the company pay interest on subrogation recoveries not returned to the insured within 30 days.
23. It is recommended that the company report all worker's compensation subrogation recoveries to the Wisconsin Compensation Rating Bureau as required by the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance promulgated by the Commissioner pursuant to s. 626.32 (2), Wis. Stat.
24. It is recommended that all worker's compensation subrogation recoveries be promptly reported to the Wisconsin Compensation Rating Bureau as required by the Wisconsin Statistical Plan Manual For Worker's Compensation Insurance and Employer's Liability Insurance promulgated by the Commissioner pursuant to s. 626.32 (2), Wis. Stat.

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## ACKNOWLEDGMENT

The courtesy and cooperation extended 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.

| <b>Name</b>     | <b>Title</b>   |
|-----------------|--|
| Philip B. Kress | Section Chief, Property and Casualty Section             |
| Jane Kovacic    | Senior Insurance Examiner, Property and Casualty Section |
| Rhonda Peterson | Senior Insurance Examiner, Property and Casualty Section |

Respectfully submitted,

Jo A. LeDuc, CPCU, API  
Examiner-in-Charge

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Updated: April 9, 1999