

**MARKET CONDUCT EXAMINATION REPORT**  
**NATIONWIDE PROPERTY AND CASUALTY INSURANCE COMPANY**

**NAIC #37877**

**June 30, 2009**

Karen Weldin Stewart, CIR-ML  
Commissioner



Delaware Department of Insurance

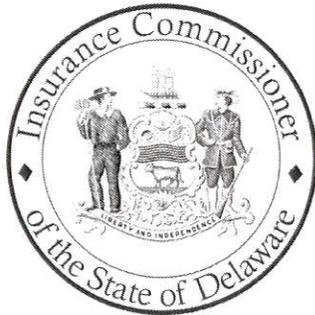
I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of June 30, 2009 on

**NATIONWIDE PROPERTY AND CASUALTY INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.

Attest By:

*Laurie J. Noyes*



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover.

*[Signature]*  
Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

11/29/11

Karen Weldin Stewart, CIR-ML  
Commissioner



Delaware Department of Insurance

**REPORT ON EXAMINATION**  
**OF THE**  
**NATIONWIDE PROPERTY AND CASUALTY INSURANCE COMPANY**  
**AS OF**  
**June 30, 2009**

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.

  
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Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

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## SALUTATION

January 30, 2011

Honorable Karen Weldin Stewart CIR-ML  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 09.718, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

### **Nationwide Property and Casualty Insurance Company**

The examination was performed as of June 30, 2009. Nationwide Property and Casualty Insurance Company, hereinafter referred to as “The Company”, NPCIC or as “Nationwide P&C”, is incorporated under the laws of Ohio. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following locations:

7125 Columbia Gateway Drive  
Columbia, Maryland 21046  
and  
7501 Boulder View Drive, Suite 300  
Richmond, Virginia 23235

The off-site examination was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the “Department” or “DDOI”, or other suitable locations.

The report of examination herein is respectfully submitted.

## EXECUTIVE SUMMARY

Nationwide Property and Casualty Insurance Company was incorporated on November 9, 1979, under the laws of the state of Ohio. The Company commenced business on July 18, 1981. The Company writes private passenger auto insurance and homeowners insurance. Their direct premiums written in Delaware for personal lines were \$ 18,830,461 in 2008.

The examination was a market conduct examination of the following business areas: Company Operations and Management; Complaint Handling; Policyholder Services; Marketing and Sales, Underwriting and Rating; and Claims Settlement Practices. This was a targeted examination of the Company's private passenger automobile and homeowners operations.

Three areas of concern were noted during the examination. These issues are more fully discussed under:

VI-1 Underwriting and Rating – Rating Practices - The Company failed to issue policies at rates in accordance with filed rates or the rating plan in nine (9) homeowner policies during the review of one hundred eight (108) sampled new business files or 8%. The failures result in a violation of *18 Del. C. § 2304 (7) b.* which states, in part: “No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner.” The incorrect rating is also non-compliant with *18 Del. C. §2517* which states, in part “No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer...”

VI-16 - Underwriting and Rating - Cancellation/nonrenewal notices do not comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract.

The Company failed to properly provide notice of cancellation to consumers. Three (3) of the eighteen (18) or 17% sampled NPCIC cancelled auto policy files and three (3) of the fifty (50) or 6% of cancelled homeowners files contained no cancellation documentation.

Additionally, the Company failed to properly provide non-renewal notices to consumers. Six (6) of the twenty two (22) or 27% sampled NPCIC non-renewed auto policy files and six (6) of the thirty nine (39) or 15% of non-renewed homeowners files contained no notice of non-renewal.

Recommendations have been made to remedy these concerns.

*Subsequent Event: Subsequent to the completion of the examination the Company conducted an additional search for the missing documents and was ultimately able to provide notices of cancellation for 1 of the 3 auto policies and 2 of the 3 homeowner policies. In addition, the*

*company provided the non-renewal notices for 5 of the 6 auto policies and 3 of the 6 homeowners policies noted above. In addition the Company provided a summary of corrective actions that have reportedly been put in place to address the issues noted in this report.*

## **SCOPE OF EXAMINATION**

The basic business areas that are subject to a Delaware Market Conduct Examination vary depending on the type of insurer. For this examination they include:

- Company Operations/Management
- Complaint Handling
- Policyholder Service
- Underwriting and Rating
- Claims Practices and Procedures

The examination report is a report by exception rather than a report by test. This means that only those areas where recommendations are suggested are described and results indicated.

The experience period for this examination is July 1, 2008 through June 30, 2009.

## **HISTORY AND PROFILE**

Nationwide Property and Casualty Insurance Company (NPCIC) was incorporated on November 9, 1979 under the laws of Ohio and began business July 1, 1981. The Company's present name was adopted on September 1, 1955.

The following is an excerpt from the AM Best Report of the Nationwide Group.

*Nationwide Group's rating is based on the consolidated operating performance and financial condition of its twenty-eight property-casualty affiliates. The main rating unit, Nationwide Group, consists of the four members of an intercompany reinsurance pool led by the Nationwide Mutual Insurance Company plus twenty-two affiliates that reinsure with either a pool member or another affiliate and thereby qualify for a reinsurance affiliation code.*

*Nationwide's primary lines of business include private passenger automobile liability and physical damage, homeowners and main-street commercial business. Nationwide Mutual Insurance Company predominately writes standard personal automobile and main-street commercial coverages. Nationwide Mutual Fire specializes in providing homeowners insurance. Nationwide Property and Casualty Insurance Company provides alternative-*

*priced personal automobile products to Nationwide's agents. Nationwide General Insurance Company specializes in providing auto insurance for select mid-size employer groups and professional organizations. Thirteen service centers are maintained throughout the country to issue and service policies, collect premiums and pay claims in their respective territories.*

## **METHODOLOGY**

This examination is based on the Standards and Tests for a Market Conduct Examination of a Property and Casualty Insurer found in the Delaware Market Conduct Examiner's Handbook. This chapter is derived from applicable Delaware Statutes, Rules and Regulations as referenced herein and the *NAIC's Market Regulation Handbook* (2008 Edition).

The type of review used in this examination fall into three general categories: generic, sample, and electronic.

A “*generic*” review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A “*sample*” review indicates that a standard was tested through direct review of a random sample of files using a sampling methodology described in the Delaware Market Conduct Examiner's Handbook and the *NAIC's Market Regulation Handbook*. Samples of complaint files, underwriting files and settlement files were reviewed to determine that the processes described by the Company are actually used by the Company.

An “*electronic*” review indicates that a standard was tested through the use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically reviews one hundred percent (100%) of the records of a particular type.

In this examination, the standards were tested through a combination of “sample”, “generic” review and direct observation of the processes used. Each standard contains a brief description of the purpose of reason for the Standard. The examiners' “Observations” are noted following each Standard tested. In some cases a “Recommendation” is made. Comments, Results, Observations and Recommendations are reported with the appropriate corresponding Standard.

## EXAMINATION FINDINGS

The following examination areas were reviewed and deemed as passing without notable exceptions:

### I. Company Operations and Management – 2008 NAIC MRH Chapter XVI

- Standard 1 - The regulated entity has an up-to-date, valid internal or external audit program.
- Standard 2 - The regulated entity has appropriate controls, safeguards and procedures for protecting the integrity of computer information.
- Standard 3 - The regulated entity has antifraud initiatives in place that are reasonably calculated to detect, prosecute and prevent fraudulent insurance acts.
- Standard 4 - The regulated entity has a valid disaster recovery plan.
- Standard 5 - Contracts between the regulated entity and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to, managing general agents (MGAs), general agents (GAs), third-party administrators (TPAs) and management agreements, must comply with applicable licensing requirements, statutes, rules and regulations.
- Standard 6 - The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.
- Standard 7 - Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.
- Standard 8 - The regulated entity is licensed for the lines of business that are being written.
- Standard 9 - The regulated entity cooperates on a timely basis with examiners performing the examinations
- Standard 10 - The regulated entity has procedures for the collection, use and disclosure of information gathered in connection with insurance transactions so as to minimize any improper intrusion into the privacy of applicants and policyholders.
- Standard 11 - The regulated entity has developed and implemented written policies, standards and procedures for the management of insurance information.
- Standard 12 - The regulated entity has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.
- Standard 13 - The regulated entity provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding treatment of nonpublic personal financial information.
- Standard 14 - If the regulated entity discloses information subject to an opt out right, the regulated entity has policies and procedures in place so that nonpublic personal financial information will not be disclosed when a consumer who is not a customer has opted out, and the regulated entity provides opt out notices to its customers and other affected consumers.

- Standard 15 - The regulated entity's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.
- Standard 16 - In states promulgating the health information provisions of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the insurance department, the regulated entity has policies and procedures in place so that nonpublic personal health information will not be disclosed, except as permitted by law, unless a customer or a consumer who is not a customer has authorized the disclosure.
- Standard 17 - Each licensee shall implement a comprehensive written information security program for the protection of nonpublic customer information.

## II. Complaint Handling – 2008 NAIC MRH Chapter XVI

- Standard 1- All complaints are recorded in the required format on the regulated entity's complaint register.
- Standard 2 - The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.
- Standard 3 - The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.
- Standard 4 - The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

## V. Policyholder Services – 2008 NAIC MRH Chapter XVI

- Standard 1 - Premium notices and billing notices are sent out with an adequate amount of advance notice.
- Standard 2 - Policy issuance and insured-requested cancellations are timely.
- Standard 3 - All correspondence directed to the regulated entity is answered in a timely and responsive manner by the appropriate department.
- Standard 5 - Policy transactions are processed accurately and completely.
- Standard 6 - Reasonable attempts to locate missing policyholders or beneficiaries are made.
- Standard 7 - Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

## VI. Underwriting and Rating – 2008 NAIC MRH Chapter XVI

- Standard 2 - All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.

- Standard 3 - The regulated entity does not permit illegal rebating, commission-cutting or inducements.
- Standard 4 - The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and regulated entity guidelines in the selection of risks.
- Standard 5 - All forms, including contracts, riders, endorsement forms and certificates are filed with the insurance department, if applicable.
- Standard 6 - Policies, riders and endorsements are issued or renewed accurately, timely and completely.
- Standard 7 - Rejections and declinations are not unfairly discriminatory.

#### VI. Underwriting and Rating – 2008 NAIC MRH Chapter XVII

- Standard 1 - Credits, Debits and deviations are consistently applied on a non-discriminatory basis.
- Standard 3 - Verification of use of the filed expense multipliers; the regulated entity should be using a combination of loss costs and expense multipliers filed with the insurance department.
- Standard 8 - Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.
- Standard 10 - The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and the regulated entity's guidelines in the selection of risks.
- Standard 11 - All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department (if applicable).
- Standard 12 - Regulated entity verifies that the VIN number submitted with the application is valid and that the correct symbol is utilized.
- Standard 13 - The regulated entity does not engage in collusive or anti-competitive underwriting practices.

#### VII. Claims – 2008 NAIC MRH Chapter XVI

- Standard 1 - The initial contact by the regulated entity with the claimant is within the required time frame.
- Standard 2 - Timely investigations are conducted.
- Standard 3 - Claims are resolved in a timely manner.
- Standard 4 - The regulated entity responds to claims correspondence in a timely manner.
- Standard 5 - Claim files are adequately documented.
- Standard 6 - Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

- Standard 7 - Regulated entity claim forms are appropriate for the type of product.
- Standard 8 - Claim files are reserved in accordance with the regulated entity's established procedures.
- Standard 9 - Denied and closed without payment claims are handled in accordance with policy provisions and state law
- Standard 10 - Canceled benefit checks and drafts reflect appropriate claim handling practices.
- Standard 11 - Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

#### VII. Claims – 2008 NAIC MRH Chapter XVII

- Standard 1 - Regulated entity uses the reservation of rights and excess of loss letters, when appropriate.
- Standard 2 - Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.

Exceptions were identified in the following examination area:

## **VI. UNDERWRITING AND RATING**

Evaluation of the Standards in this business area is based on (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information requests, and (c) a review of several types of files at the Company.

### **Standard VI-1**

*NAIC'S Market Conduct Examiner's Handbook – Chapter XVI § Standard 1*

**The rates charged for the policy coverage are in accordance with filed rates or the regulated entity's rating plan.**

*18 Del. C. §2517 and 2304*

The review methodology for this standard is "sample". This standard has a direct insurance statutory requirement.

*Results:* Fail

*Observations:* According to the documentation reviewed by the examiners, there were nine (9) homeowner policies that had been rated using incorrect territories. In some instances the use of the incorrect territory resulted in either an overcharge of premium, an undercharge of premium, or a statistical error. The incorrect rating is in violation of *18 Del. C. § 2304 (7) b.* which states, in part: “No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner.”

The incorrect rating is also non-compliant with *18 Del. C. §2517* which states, in part “No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer...”

In response to the examiners’ findings, the NPCIC reviewed all of the sampled policies in question and confirmed that the policies were rated using the incorrect territory number. In researching the cause of the territory misclassifications, the the Company discovered that the incorrect territory was assigned to the policy by the agent in each of these cases. As a result of these findings, the Company reviewed all of their 48,295 homeowner, tenant, condo, and mobile home policies and determined that 813 have been rated using incorrect territories. The territory misclassifications were statistical in nature and had no premium impact for 287 policies. The territory misclassifications resulted in a premium undercharge for 241 policies and a premium overcharge for 285 policies.

The Company initiated a project to correct this issue. In the cases where the misclassification resulted in statistical errors and overcharges, they will correct the territory effective immediately. In the case of undercharges, the Company will set the territory to update at the customers’ next renewal date. In addition, in all overcharge cases, the Company will refund the premium overcharge for the current term and the prior term, with interest.

In order to ensure these types of territory misclassifications do not occur in the future, the NPCIC will introduce additional system validations on the policy quoting/rating system that agents use. The additional validation will prevent new policies from being released and policy changes from being made when the territory, county, and zip code that the agent enters are not a valid territory, county and zip code combination. The Company is working to finalize project timelines and will notify the DDOI of the expected completion date.

*Recommendation:* The Company must review its record management and territory rating procedures to ensure complete and accurate data is provided in compliance with *18 Del. C. §320 (c)*. The Company must also submit a finalized project completion report that provides evidence that the territory misclassification explained herein is resolved, tested, and ensures compliance with *18 Del. C. §2517 and 2304*.

## Standard VI - 16

*NAIC'S Market Conduct Examiner's Handbook – Chapter 17 § Standard 16*

**Cancellation/nonrenewal, discontinuance and declination notices comply with policy provisions, state laws and the regulated entity's guidelines.**

*18 Del. C. §3905(a)-(e).*

*Objective:* This Standard is concerned with whether the NPCIC has adequate procedures and processes to provide notice of cancellation/non-renewal and to determine that the documents were mailed or delivered by the insurer to the first named insured's last known address.

*Results:* Fail

*Observations:* Through examining available file documentation, the examiners found that the Company failed to properly provide notice of cancellation to consumers. Three (3) of the eighteen (18) or 17% sampled NPCIC cancelled auto policy files and three (3) of the fifty (50) or 6% of cancelled homeowners files contained no cancellation documentation.

Additionally, the Company failed to properly provide non-renewal notices to consumers. Six (6) of the twenty two (22) or 27% sampled NPCIC non-renewed auto policy files and six (6) of the thirty nine (39) or 15% of non-renewed homeowners files contained no notice of non-renewal.

The missing notices could not be located by the Company following the review. Failure to provide timely notification is a violation of 18 *Del. C. § 3905 (a)* which states, "No cancellation of a policy to which s 3904(a) of this title applies shall be effective unless notice thereof is mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation and accompanied by the reason for cancellation, except that, where cancellation is for nonpayment of premium, at least 10 days notice of cancellation accompanied by the reason therefore shall be given."

*Recommendation:* The Company must review its record management procedures to ensure that notices of cancellation and non-renewal are provided to the customer and that copies of the documents are maintained in the Company's underwriting files. See Delaware statute 18 *Del. C. §3905(a) - (e)*.

*Subsequent Event:* Subsequent to the completion of the examination the Company conducted an additional search for the missing documents and was ultimately able to provide notices of cancellation for 1 of the 3 auto policies and 2 of the 3 homeowner policies. In addition, the company provided the non-renewal notices for 5 of the 6 auto policies and 3 of the 6 homeowners policies noted above. In addition the Company provided a summary of

*corrective actions that have reportedly been put in place to address the issues noted in this report.*

## **CONCLUSION**

The examination was conducted by Roger Fournier, Ron Poplos, Steven Misenheimer, Cyndy Campbell and Heather Harley and supervised by Shelly Schuman. This report is respectfully submitted

A handwritten signature in black ink, appearing to read "Roger Fournier", is written over a horizontal line.

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Roger Fournier, CIE  
Market Conduct Examiner-in-Charge  
Delaware Insurance Department