



Market Conduct Examination

AMERICAN INTERNATIONAL
INSURANCE COMPANY OF DELAWARE
WILMINGTON, DELAWARE

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

Division of Consumer Protection Services
Market Conduct Examination Section

Report Adopted: April 27, 2004

REPORT
OF THE
MARKET CONDUCT EXAMINATION
OF THE
AMERICAN INTERNATIONAL
INSURANCE COMPANY OF DELAWARE
LOCATED IN
WILMINGTON, DELAWARE
AS OF
JULY 7, 2003
BY EXAMINERS
OF THE
STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF CONSUMER PROTECTION SERVICES
MARKET CONDUCT EXAMINATION UNIT

DATE REPORT ADOPTED:

April 27, 2004

TABLE of CONTENTS

	Page Number
I. INTRODUCTION	1
A. SCOPE AND PURPOSE OF THE EXAMINATION	1
B. ERROR RATIOS	1
II. UNDERWRITING REVIEW	3
A. INTRODUCTION	3
B. ERROR RATIOS	3
C. EXAMINERS' FINDINGS	3
III. POLICY TERMINATIONS	9
A. INTRODUCTION	9
B. ERROR RATIOS	9
C. EXAMINERS' FINDINGS	9
IV. RECOMMENDATIONS	10
V. APPENDIX A	11
VERIFICATION PAGE	Last Page

I. INTRODUCTION

A. SCOPE AND PURPOSE OF THE EXAMINATION

This is a report of the Market Conduct activities of the American International Insurance Company of Delaware (hereinafter referred to as AIIC DE or the Company). AIIC DE is a member of the American International Insurance Group. In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions, and recommendations as a result of their examination. The Market Conduct Examiners were Examiner-in-Charge Robert Greenfield, examiners Richard Segin, Anthony Cecere, John Sivon, and Janice Flynn.

The scope of the examination included private passenger automobile insurance sold by the Company in New Jersey. The examiners conducted a limited evaluation of AIIC DE's compliance with the FAIR ACT and the regulations and statutes pertaining to automobile underwriting and terminations. The review period for the examination was January 1, 2002 to March 31, 2003. The examiners conducted their fieldwork at the Company's Wilmington, Delaware office between March 31, 2003 and April 11, 2003. On various dates following the fieldwork, the examiners completed additional review work and the writing of the report.

AIIC DE began writing new private passenger auto business on January 1, 2002 pursuant to Order CO118, which suspended the withdrawal proceedings of American International Insurance Company of New Jersey (AIICNJ). This order permitted AIIC NJ to restructure its business and authorized AIIC DE to write private passenger automobile insurance in New Jersey.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Conduct Handbook. In addition, the examiners used the NAIC Handbook, Chapter VI - Conducting the Property and Casualty Examination as a guide to examine the Company and write this report. Specifically, the examiners utilized a standard or step-interval methodology to randomly select files for review.

B. ERROR RATIOS

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains

multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

Whenever the examiners find that the Company commits a type of error with sufficient frequency, they will cite the errors as an improper general business practice. If an error constitutes an improper general business practice, the examiners have stated this in the report that follows.

The examiners sometimes find improper general business practices of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such a practice would not be in compliance with applicable law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report that follows whenever they did not count any particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. This provided AIIC DE the opportunity to respond to the examiners' findings and to provide exception to the statutory and/or regulatory errors or mishandling of files reported herein. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all of its comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries.

II. UNDERWRITING REVIEW

A. INTRODUCTION

During the period of January 1, 2002 - December 31, 2002, AIIC DE issued 33,981 quotes and 5,502 new business policies. In addition, the Company has an in force population of 101,885 vehicles. The examiners checked for compliance with applicable statutes and regulations including N.J.S.A. 17:29A-6, 15, 36, and 38 (filed and approved rating methods), N.J.A.C. 11:3-34 et seq. (eligible persons qualifications) and N.J.A.C. 11:3-44 et seq. (rules for effecting coverage for automobile insurance). The examiners randomly selected files and calculated error ratios in accordance with the procedures outlined in Section I of this report. The examiners' findings are presented in the sections that follow.

B. ERROR RATIOS

<u>Review Sample</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
New Business Applications	101	0	0

C. EXAMINERS' FINDINGS

1. Failure to Quote, Rate and Underwrite New Business Applicants in a Timely Manner

AIIC DE is a direct writer that processes and services all new and existing business, without the use of agents. Requests for automobile insurance quotes are received and processed via mail for solicited (employees of the company or others affiliated with a mass marketing group) and unsolicited customers (those applicants who are not affiliated with a mass marketing group), or by telephone for solicited members. On unsolicited business, the Company mails the application/Referral Quote Kit within 72 hours from the applicant's request. On solicited business, the Company may provide a quote over the phone. If not, it mails an application kit to applicants within 72 hours from the request. Solicited consumers may receive a quote either over the phone or through the mail because the Company has already confirmed the applicant's address, residency status and other pertinent variables through the solicitation process. Quotes are not available through AIIC DE's web site for New Jersey and Delaware; they are, however, available for other states where the Company is licensed to sell automobile insurance.

The examiners analyzed the Company's underwriting methodology and constructed a time line that itemizes all phases required in order to process a request for coverage. Assuming a reasonable applicant response time, the total time from an initial request for a quote to binding the policy is 19 business days, with policy issuance at the 21st day. The following time line itemizes this process, and assumes that day one starts on a Monday:

Time Line - New Business Applications

Day 1 - Company receives contact from a consumer for automobile insurance. If consumer is a member of a solicited group (employee of a pre-screened and pre-approved AIIC DE Company or other mass marketing group), the applicant may receive a quote over the phone. A quote package with an application is generated and sent the next day. If consumer is considered an unsolicited customer (no affiliation with AIIC DE or other mass marketing plan, or part of the general public), a Quote Kit (but not an application kit) is mailed within 72 hours.

Day 2 - Clerical unit prepares a Quote Kit that includes an undated cover letter, Request for Quote (RFQ) form with a Policy Processing Form (PPF) and is sent out to the applicant within 72 hours.

Day 4 - Consumer receives packet from AIIC DE.

Day 5 - Consumer completes the RFQ form and mails it back to AIIC DE.

Day 7 - AIIC DE receives completed RFQ form. This document is reviewed within 48 hours from receipt.

Day 9 - Upon receipt of the completed RFQ, the Company sends a system generated quote with application within 72 hours. If incomplete, the RFQ is returned to the consumer within 48 hours with cover letter highlighting the missing information.

Day 12 - Seventy-two hours after receipt of the completed RFQ, a new quote is created within the DRC (Decision Research Corporation) system which generates a quote/application package and other forms that are issued to the applicant. This package consists of the following:

- Cover letter to the consumer. AIIC DE does not date this letter.
- Auto Insurance Rate Quotation that contains premium rates, a rate expiration date, and a quotation number.
- A pre-printed form entitled Understanding Your Rate Quotation.
- Policy Processing Form (PPF) that is a computer-generated application which includes information that the applicant previously furnished to AIIC DE in handwritten format on Day 9.
- A Coverage Selection Form.

- New Jersey Auto Insurance Buyer's Guide.
- A pre-addressed postage paid return envelope.

Day 14 - Consumer receives quote/application package and other required documents from AIIC DE.

Day 15 - Consumer reviews quote/application package and other documents, completes and mails completed forms and required premium payment to Company.

Day 17 - Company receives the completed documentation from the applicant along with required premium payment. If the application package is complete, premium payment is deposited, quote is converted to policy within DRC and policy is system generated. It is reviewed within 48 hours and the system automatically orders the MVR/CLUE reports for the applicant. AIIC DE receives these reports within 3-5 days and processes them the same or next day. If these reports reveal undisclosed operators or accidents, the policy is produced with a premium adjustment to reflect the increased risk. Notwithstanding these procedures, the Company will bind a policy even prior to the receipt of these reports. Policy is issued effective the date requested or the day after postmark, whichever is later. Policy materials are sent out within 48 hours. If the application package is incomplete, the Company returns all documents, including the premium deposit, to the consumer with a letter that notifies the applicant that he/she has 15 days to cure the deficiency. Consumer receives policy materials on day 19.

As the above time line reveals, AIIC DE's quote and application processing methodology results in a minimum of 19 business days to actually issue a policy to an insured. The examiners noted that several of the component procedures in the above time line are redundant, unnecessary or processed in a protracted and inefficient manner. Specifically, days 2 through day 12 impose a 10-business day process before providing an applicant with a quote. To eliminate this delay, AIIC DE could provide quotes to individual applicants upon first contact, as is the case with mass marketing or solicited applicants. Additionally, the MVR and CLUE reports are not requested until at least the 17th day. Notwithstanding these procedures, the Company will bind a policy even prior to the receipt of these reports. In the event these two reports reveal an undisclosed driver and/or accident, the company adds the adjusted premium amount to the original quote. If there are additional eligibility points the company refers the application to underwriting to either decline if still within the 60-day rejection window or, if outside this rejection window, the company will nonrenew at the next renewal date.

It should be noted that **N.J.A.C. 11:3-44.1(a)** "...implements the provisions of **N.J.S.A. 17:33B-15** and **18** which prohibits insurers, both individually and through their agents, from attempting to channel away eligible persons, with the effect of avoiding an insurer's obligation to provide ...

coverage to eligible persons." The protracted application process outlined above may have the effect of discouraging applicants from continuing with the application process. This process also defeats the intent of **N.J.S.A. 17:33B-15** and **N.J.A.C. 11:3-34** (eligible person qualifications and duty to provide coverage to eligible persons), as well as **N.J.A.C. 11:3-44.3(a)** and **(b)** (duty to provide coverage within 5 business days of receipt of a completed written application).

2. Failure to Follow 72-Hour Quoting Procedure

The examiners conducted a time study on 87 randomly selected quotes to measure the time taken to issue a quote from the date the company received a completed quote application. The purpose of this time study was to test the Company's assertion that quotes are issued within 72 hours from receipt of a completed quote request. The examiners used the date stamp that appears on the front of the application to designate receipt date, and a handwritten date on the back of the application. According to the Company, the latter date designates the date that quote information is entered into the quote generating system. This date is not recorded in the automated quoting system, thus necessitating reliance on the handwritten date. In measuring the quote time frame, the examiners excluded the first 72-hour processing period, as well as an additional 48 hours to account for weekends and holidays. Of the 87 quote requests reviewed, the examiners found that the Company exceeded its stated 72-hour turn around time in 45 instances, or 52% of the time. The following chart summarizes the examiners' findings.

<u>Quote Requests Reviewed</u>	<u>Quote Requests Exceeding 5 Days</u>	<u>Percentage of Quotes Exceeding Five Days</u>
87	45	52%

SEE APPENDIX A FOR QUOTE REQUESTS IN EXCESS OF 5 DAYS

The high error ratio of 52% indicates that the Company is not in compliance with its internal procedures designed to assure a 72 hour quoting period. It is significant to note that the average delay beyond 5 days is 13 days. Also, the 52% error ratio, in conjunction with the average 13 day response period, interferes with the company's obligation to provide timely coverage to eligible persons pursuant to **N.J.A.C. 11:3-34.1 et seq.** and may also have the effect of discouraging applicants who have more immediate coverage needs from utilizing AIIC DE's application procedures.

3. Requiring Information Extraneous to the Regulatory Definition of Minimum Required Information

N.J.A.C. 11:3-44.3(a)1 through **10** specifies minimum information necessary to rate and underwrite an application for insurance. The Company prepares a Quote Kit that includes a Request for Quote (RFQ) form with a Policy Processing Form (PPF) as part of its underwriting and rating process. These forms are almost identical except that the PPF does not have a section for the applicant to select what coverage he/she may want. The applicant is required to sign and date both of these forms and return them to AIIC DE. Further, if one or both of these forms are determined to be incomplete by AIIC DE, they are systematically returned to the applicant within 48 hours with a cover letter highlighting the missing information (see Day 9, above). The examiners determined that some of these check box fields contained requests for information that is not included in the definition of a completed written application. As part of the application process, return of quote requests for failure to supply information extraneous to the definition of a completed written application results in processing delays contrary to **N.J.A.C. 11:3-44.1 et seq.**, **N.J.S.A. 17:33B**, **N.J.S.A. 17:33B-18(a)(2)** and **N.J.A.C. 11:3-44.3**. From the random sample of 101 files, the examiners cited the following 13 quote requests (13% error ratio) by quote number and error code(s).

<u>Quote Request Number</u>	<u>Error Codes</u>
6506981	5, 6, 7
7994129	1, 2,
7921079	9
7955368	1, 2, 9
7912505	5, 6, 7
7787775	9
7875357	1, 2
7912464	5, 7
7840872	5, 7, 8
7954905	8
7829132	3, 5, 7, 8
7762510	7
7954404	8

Codes Reason Quoted

- 1 Name of your present insurance Company.
- 2 Social security number.

Codes Reason Quoted

- 3 List all household members over age 14 not included above.
- 5 Has any vehicle been modified to improve performance or to provide special controls or lifts for the physically challenged?
- 6 Cost of special equipment.
- 7 Does any vehicle have existing damage?
- 8 Vehicle number under Lienholders/Leaseholders?
- 9 Lienholder/Leaseholder Company name.

III. POLICY TERMINATIONS

A. INTRODUCTION

During the period January 1, 2002 to December 31, 2002, the Company reported that it nonrenewed 317 policies and cancelled 12 private passenger automobile applications within the first 60-days. The examiners checked for compliance with applicable statutes and regulations, including N.J.S.A. 17:33B-15 and 16 ("Take all comers"), N.J.A.C. 11:3-8 (nonrenewals of automobile policies) and N.J.A.C. 11:3-34 (eligible persons).

B. ERROR RATIOS

The examiners reviewed all 12 cancellations and 79 randomly selected nonrenewals. The following chart itemizes the review sample, the number of errors, and the error ratio by type of termination.

Type of Termination	Files Reviewed	Files in Error	Error Ratio
Cancellations	12	0	0
Nonrenewals	79	0	0

C. EXAMINERS' FINDINGS

The examiners conducted a limited review to verify that the Company complied with N.J.S.A. 17:33B-15(b) (coverage for eligible persons), N.J.S.A. 17:33B-16 (declination of insurance and explanation therefore), N.J.A.C. 11:3-34.4(a) (eligible persons qualifications), and N.J.A.C. 11:3-8.6(c)2 (limitations on nonrenewals). The examiners reviewed each file to determine if the Company properly cancelled/nonrenewed as allowed by each subsection of the aforementioned statutes and regulations. The examiners found no errors.

IV. RECOMMENDATIONS

AIIC DE should inform all personnel and third party entities that handle the files and records cited as errors in this report of the remedial measures which follow in the report sections indicated. The examiners' also recommend that the Company establish procedures to monitor compliance with these measures.

Whenever the examiners cited a single error, the report includes a "reminder" recommendation. If a single error is found, more errors may have occurred.

For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have included all recommendations below.

A. GENERAL INSTRUCTIONS

Documentation of compliance with each of the recommendations below including copies of written instructions, bulletins, procedures, reminders, etc., should be sent to the attention of Clifton J. Day, Manager, Market Conduct and Anti-Fraud Compliance, Consumer Protection Services, 20 West State Street, P.O. Box 329, Trenton, NJ 08625, within 30 days of the date of the adopted report.

1. AIIC DE should issue written instructions to all applicable personnel, stating that **N.J.A.C. 11:3-44.2** and **N.J.A.C. 11:3-44.3(a)** outline the minimum information necessary to rate and underwrite a policy. These instructions should also state that an insurer may not refuse to provide coverage or refuse to continue processing an application for insurance for failure of the applicant to provide information that exceeds the minimum standards in **N.J.A.C. 11:3-44.2** and **N.J.A.C. 11:3-44.3(a)**.
2. Pursuant to **N.J.A.C. 11:3-44** et seq. and **N.J.S.A. 17:33B-15** and **18**, AIIC DE should issue written instructions to all personnel stating that:
 - a. The practice of requiring an applicant to fill out both the RFQ and PPF forms should be discontinued. Since both forms are almost identical, the information that is lacking in the PPF (notably, the coverage selection options) can be added to the PPF form. A copy of the revised form should be provided to the Commissioner prior to use.
 - b. The Company should remind all appropriate personnel that requests for rate quotes are to be made within the Company-stated policy of 72 hours.

V. APPENDIX A

Quote Requests Exceeding Five Days to Process

<u>Quote Number</u>	<u>Date Entered into System</u>	<u>Date Deemed Complete by Company</u>	<u>Days ≥ 5</u>
6045645	04/30/02	04/24/02	6
5567437	01/10/02	01/04/02	6
6072064	05/06/02	04/29/02	7
7040630	12/02/02	11/25/02	7
6422743	07/01/02	06/23/02	8
5568561	01/16/02	01/08/02	8
5578977	01/18/02	01/09/02	9
5600766	01/23/02	01/14/02	9
5600994	01/23/02	01/14/02	9
5610815	01/23/02	01/14/02	9
5581000	01/18/02	01/09/02	9
5613732	01/26/02	01/15/02	11
5588865	01/21/02	01/10/02	11
5588138	01/21/02	01/10/02	11
5588401	01/21/02	01/10/02	11
5613979	01/26/03	01/15/03	11
5614092	01/26/02	01/15/02	11
5614193	01/26/02	01/15/02	11
5555070	01/14/02	01/02/02	12
5554613	01/14/02	01/02/02	12
5600375	01/23/02	01/11/02	12
5600495	01/23/02	01/11/02	12
5591485	01/22/02	01/10/02	12
5591250	01/22/02	01/10/02	12
5567114	01/16/02	01/04/02	12
5555795	01/14/03	01/02/03	12
5567742	01/16/02	01/04/02	12
5567407	01/16/02	01/04/02	12
5567089	01/16/02	01/04/02	12
5600753	01/23/02	01/11/02	12
5600594	01/23/02	01/11/02	12
5603275	01/24/02	01/11/02	13

<u>Quote Number</u>	<u>Date Entered into System</u>	<u>Date Deemed Complete</u>	<u>Days ≥ 5</u>
5563987	01/15/03	01/02/03	13
5560606	01/15/02	01/02/02	13
5515315	01/04/02	12/20/01	15
5505905	01/02/02	12/18/01	15
5510762	01/03/02	12/19/01	15
5510813	01/03/02	12/19/01	15
5510881	01/03/02	12/19/01	15
5510560	01/03/03	12/19/02	15
5506597	01/02/02	12/18/01	15
5506746	01/02/02	12/18/01	15
5512200	01/03/02	12/18/01	16
5511360	01/05/03	12/19/02	17
5563420	01/15/03	12/27/02	19
Average length of delay = 13 days			

VERIFICATION PAGE

1. I, Robert Greenfield, am the Examiner-in-Charge of the Market Conduct Examination of American International Insurance Group conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.
2. The findings, conclusions and recommendations contained in the foregoing report represents, to the best of my knowledge, a full and true statement of the Market Conduct examination of American International Insurance Group as of July 7, 2003.
3. I certify that foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

Date

Robert Greenfield
Examiner-in-Charge
New Jersey Department of
Banking and Insurance