

DELAWARE DEPARTMENT OF INSURANCE  
MARKET CONDUCT EXAMINATION REPORT

Liberty Mutual Fire Insurance Company

NAIC # 23035  
Examination Authority #23035-13.727  
175 Berkeley Street  
Boston, MA 02116

As of

December 31, 2012

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 December 31, 2012 on

**LIBERTY MUTUAL FIRE INSURANCE COMPANY**

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

Attest By: *Janet M. Morris*



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

*Karen Weldin Stewart*  
Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

Karen Weldin Stewart, CIR-ML  
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
**LIBERTY MUTUAL FIRE INSURANCE COMPANY**  
AS OF  
December 31, 2012

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.



Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

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April 15, 2014

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 23035-13.727, and pursuant to statutory provisions including 18 Del. CODE §318-322, a market conduct examination has been conducted of the affairs and practices of:

**Liberty Mutual Fire Insurance Company**

The examination was performed as of December 31, 2012. Liberty Mutual Fire Insurance Company, hereinafter referred to as the "Company" or as "LMFIC", is incorporated under the laws of Wisconsin. 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 Company location:

1011 Centre Rd  
Suite 400  
Wilmington, DE 19805

The off-site examination phase 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**

Liberty Mutual Fire Insurance Company is domiciled in Wisconsin and is licensed in all 50 states and the District of Columbia. The Company's main administrative offices are located in Boston, Massachusetts.

On their 2012 annual statement filed with the Department, the Liberty Mutual Fire Insurance Company reported total premiums written for all states of \$5,719,336,581 of which \$66,532,055 was written in Delaware.

The examination focused on the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling and Claims. This examination was part of a series of examinations to review the use of independent medical examiners, peer review organizations, arbitration and surcharges after an at-fault accident.

The following exception was noted in the areas of operation reviewed:

- Claims (Surcharges): 1 Exception - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3.
  - One (1) file was identified as having an amount surcharged by the Company that exceeded the one year pro-rata surcharge amount based on the total claim amount paid.

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. CODE §318-322 and covered the experience period of January 1, 2011 through December 31, 2012. This examination was part of a series of examinations conducted to review the use of independent medical examiners, peer review organizations, arbitration and surcharges after an at-fault accident.

The examination was a target market conduct examination of the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling, and Claims.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiners' report on the errors found in individual files, the examination also focuses on general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes, random sampling was utilized to select the files reviewed during this examination.

Delaware Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and review written summaries provided on the exceptions found.

## **COMPANY HISTORY**

Liberty Mutual Fire Insurance Company was incorporated October 31, 1908 under the laws of Massachusetts as "United Druggists Mutual Fire Insurance Company." The word "Druggists" was deleted from its title in 1918. The present name was adopted on December 15, 1949. All contracts have been on a non-assessable basis since 1942. On March 19, 2002, the company reorganized from a mutual insurance company to a stock insurance company as part of a mutual holding company structure. In 2005, the company transferred its domicile from Massachusetts, becoming a Wisconsin stock insurance company.

Most lines of insurance, except title, are written by the company and its companion carriers, including Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, Employers Insurance Company of Wausau, Wausau Business Insurance Company, Wausau Underwriters Insurance Company and Liberty Life Assurance Company of Boston. More specifically, the company's direct premiums written in 2008 were primarily in fire and allied lines, homeowners, personal automobile, commercial automobile, general liability and workers compensation.

For personal lines policyholders, the company provides coverage through full-time employees on a direct-writer basis, direct response centers, appointed third-party producers and the internet. For commercial lines policyholders, distribution is through

independent agents and brokers. The company is licensed to write business in all states and the District of Columbia.

The company, Liberty Mutual Insurance Company, Liberty Insurance Corporation, LM Insurance Corporation, The First Liberty Insurance Corporation, Employers Insurance Company of Wausau, Wausau Business Insurance Company and Wausau Underwriters Insurance Company share in one another's business under an inter-company reinsurance arrangement. For 2009 Liberty Mutual Fire Insurance Company's participation is 12.9%.

## **COMPANY OPERATIONS AND MANAGEMENT**

### **Internal Audit**

The Company provided information and documentation related to internal audits and internal market regulation/conduct audit reviews. Included with the requests were regulatory actions and court actions taken against the Company and Market Conduct Examination Reports. All reports covered the three years prior to December 31, 2012. The requested information and supporting documentation was provided by the Company and reviewed during the course of the examination.

The examiners conducted a sample review of internal audit reports and internal market regulation/conduct audits under the examination scope. When reports identified deficiencies, corrective actions and remediation plans were included with the business units' response. Additionally, the information and documentation reviewed provided assurance that the internal controls methods and audit procedures in place complied with the Company's established policies and procedures.

There were no exceptions or concerns noted as a result of the review.

## **CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints made directly to the Company during the experience period. The Company identified 72 non DDOI consumer complaints received during the experience period. All 72 complaint files were received, and reviewed. The Company also provided complaint logs as requested.

An additional 22 DDOI complaints were requested from the Delaware Department of Insurance and were received and reviewed.

The complaint log was reviewed for compliance with 18 Del. C. §2304 (17). This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written

complaint files involving claims were also reviewed for compliance with 18 Del. Admin. Code 902 §1.2.1.2.

There were no exceptions noted during the review; however, the examiners noted the following trends in the complaints review:

- Eight complaints involved unresponsiveness or delays by the company;
- Five complaints involved misinformation given by the company representatives; and
- Two complaints were incomplete because the last documents provided did not resolve the complaint.

The examiners recommend the Company take steps to alleviate these trends to ensure the company is responsive to consumers, provides accurate information and fully resolves all complaints.

## **CLAIMS**

### **Independent Medical Examinations**

The Company provided all claims related procedures, reference materials, newsletters, and bulletins utilized during the scope of the examination. There are 121 procedures listed for each quarter of the examination period. There were no significant changes to the documents between each quarter. The Medical Investigation Management document relates company policy in regards to IME and Peer review. The Arbitration Forums document relates the procedures for handling arbitration.

The Company was provided a listing of IME claims. The Liberty Mutual Fire Insurance Company listing contained sixty (60) bodily injury claims where an IME was requested by the Company. There were a total of fifty (50) bodily injury claims involving IME's that were requested for review. The IME claims were reviewed for compliance with 18 Del. C. §2304 Unfair Practices in the Insurance Business.

No exceptions were noted.

### **Peer Review Organizations**

The Company was provided a listing of all claims that involved a Peer Review Organization. The Company provided a listing of two claims where a peer review was requested by the Company. The two policies were reviewed for compliance with applicable statutes and regulations.

No exceptions were noted.

### **Arbitration**

The Company provided a listing of four claims involving arbitration. The four claims were reviewed for compliance with applicable statutes and regulations.

No exceptions were noted.

### **Surcharges**

The Company provided copies of surcharge plans filed with the Delaware Department of Insurance in use during the examination period. The Company also provided copies of surcharge algorithms and a listing of policies for which surcharges were added after a claim, which were reviewed by the examination. The Company identified a universe of 1,763 policies where surcharges were added after an at fault claim of which a sample of 109 policies were selected for review.

The following exceptions were noted:

#### **1 Exception - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3**

*No surcharge may be imposed for the first at-fault accident during any three year period which exceeds pro rata over a three year period the amount of the claim paid or reserved by the insurer. The amount of the claim shall be net of any deductible amounts assumed by the insured. Each insurer shall file a surcharge plan with the Department which in all but exceptional cases will comply with this subparagraph. An insured may question the amount of the surcharge whereupon a decision by the Department of Insurance shall be rendered within fifteen (15) business days after receiving the inquiry. In rendering its decision, the Department shall consult with the insurer to confirm the amount of the claim and the amount of the surcharge related thereto. If, after such review, the Department finds that the insurer's surcharge exceeds the standard required by this subsection, the Department may order the insurer to adjust the surcharge amount consistent with this subsection.*

One file was identified as having a one year surcharge which exceeded the losses paid by the Company.

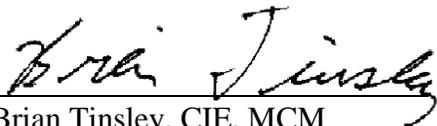
Recommendation: It is recommended that the Company ensure that all surcharges applied to insured's policies are applied as required by 18 Del. Admin 609 § 5.1.3.

## CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended that the Company ensure that all surcharges applied to insureds policies are applied in accordance with, as required by 18 Del. Admin 609 § 5.1.3. (Surcharges)

The examination conducted by Shelly Schuman, Brian Tinsley, Ron Poplos, Jason Nemes, and is respectfully submitted.



Brian Tinsley, CIE, MCM  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance