

DELAWARE DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT

Liberty Mutual Fire Insurance Company
NAIC 23035

Liberty Insurance Corporation
NAIC 42404

175 Berkeley Street
Boston, MA, USA 02116

As of

March 31, 2019

Trinidad Navarro
Commissioner



Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of March 31, 2019 on

**Liberty Mutual Fire Insurance Company
&
Liberty Insurance Corporation**

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

Attest By:

Handwritten signature in blue ink, appearing to read "Robert K. David".



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 7th day of May, 2020.

Handwritten signature in blue ink, appearing to read "Trinidad Navarro".

Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION

OF THE

**Liberty Mutual Fire Insurance Company
&
Liberty Insurance Corporation**

AS OF

March 31, 2019

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.



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 7th day of May, 2020.

Handwritten signature of Trinidad Navarro in blue ink.

Trinidad Navarro
Insurance Commissioner

Table of Contents

EXECUTIVE SUMMARY	2
SCOPE OF EXAMINATION.....	4
METHODOLOGY	4
COMPANY HISTORY AND PROFILE.....	5
COMPLAINT HANDLING.....	6
UNDERWRITING AND RATING.....	6
CLAIMS HANDLING.....	10
CONCLUSION	13

Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
1351 West North Street, Suite 101,
Dover, DE 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Examination Authority Numbers 23035-19-HO-701 and 42404-19-HO-702 and pursuant to statutory provisions including 18 *Del. C.* §§318-322, a Market Conduct Examination has been conducted of the affairs and practices of:

Liberty Mutual Fire Insurance Company – NAIC 23035
Liberty Insurance Corporation – NAIC 42404

The examination was performed as of March 31, 2019.

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

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

The examination of Liberty Mutual Fire Insurance Company and Liberty Insurance Corporation hereinafter referred to as LMFIC and LIC and collectively as the Companies focused on activities related to their Personal Lines Property line of business in the following areas of operation: Complaint Handling, Underwriting and Rating, and Claims Handling. The examination period was January 1, 2017 through March 31, 2019.

Special emphasis was placed on reviewing the steps involved in determining the Dwelling Coverage amount selected by the customer and the use of any Inflation Protection coverage provisions. This is discussed in the Underwriting and Rating section of this report.

The following exceptions were noted during the review of Underwriting and Rating and Claims Handling.

2 Exceptions

18 Del. C. § 2517 Adherence to filings.

No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with § 2505 (exemption from filing) or § 2509 (excess rates) of this title. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

The Companies failed to issue policies in accordance with their filed and approved rate manuals. The Companies provided the examiners rate manuals used during the examination period that were inaccurate.

2 Exceptions

18 Del. C. § 4122(a) Notification and reasons for declination or termination.

(a) Upon declining to insure any real or personal property subject to this subchapter, the insurer, agent or broker making such declination shall either provide the insurance applicant with a written explanation of the specific reasons for the declination or an explanation will be provided within 21 days of the timely receipt of the applicant's written request for such an explanation. An applicant's written request shall be timely under this subsection if received within 90 days of the date of notice of the declination. In the event of a declination by an insurer of a risk submitted by an agent or broker on behalf of the applicant, the insurer shall provide that agent or broker with a written explanation of the reasons for the declination. In the event the agent or broker is unable to effect insurance for the applicant through an admitted insurer other than a residual market mechanism, the agent or broker shall submit an explanation in writing to the applicant of all insurer declinations. No agent, broker or insurer not represented by an agent or broker shall decline to provide an insurance application form or other means of making a written request for insurance to a prospective applicant who requests insurance coverage from the agent, broker or insurer.

LIC did not provide a written explanation of the specific reasons for the declination or advise an explanation would be provided within 21 days of the timely receipt of the applicant's written request for such an explanation.

1 Exception

18 Del. C. § 4124 Discriminatory practices prohibited.

The declination or termination of a policy of property insurance subject to this subchapter by an insurer, agent or broker is prohibited if the declination or termination is:

- (1) Based upon the race, religion, nationality, ethnic group, age, sex or marital status of the applicant or named insured;*
- (2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer, agent or broker which limits its market to 1 lawful occupation or profession or to several related lawful occupations or professions;*
- (3) Based upon the age or location of the residence of the applicant or named insured unless such decision is for a business purpose which is not a mere pretext for unfair discrimination;*
- (4) Based upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was named insured;*
- (5) Based upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.*

LIC indicated that age is used as a factor in determining whether or not it would be willing to issue or give a rate quote to an applicant, the declination may not be based on the age of the insured.

2 Exceptions

18 Del. C. § 2104 Written Notice by Insurers of Payment of Third-Party Claims.

4.1 Upon payment in excess of \$5,000.00 in settlement of or upon judgment on any third party liability or casualty claim and where the claimant is a natural person, the insurer or its representative shall mail to the third party claimant written notice of payment at the same time such payment is made to the third party's attorney, accountant, agent or other representative application form or other means of making a written request for insurance to a prospective applicant who requests insurance coverage from the agent, broker or insurer.

LIC failed to provide notice of payment to the third-party liability claimants.

7 Exceptions

18 Del. Admin. C. § 902 Prohibited Unfair Claim Settlement Practices

1.2.1.1 Misrepresenting pertinent facts or insurance policy provisions relating to coverage at issue.

LIC misrepresented the payment of the loss by failing to comply with the deductible

provisions, exclusions and/or policy coverage provisions of the policy.

8 Exceptions

18 Del. Admin. C. § 902 Prohibited Unfair Claim Settlement Practices

1.2.1.3 Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of the loss by the insurer.

LIC failed to promptly investigate claims within 10 working days of notice of the loss.

2 Exceptions

18 Del. Admin. C. § 902 Prohibited Unfair Claim Settlement Practices

1.2.1.13 Failing, when requested, to promptly provide an explanation of the basis in the insurance policy in relation to facts or applicable law for the denial of a claim or for the offer of a compromise settlement.

LIC failed to provide an explanation of the basis in the insurance policy for the denial of a claim or compromise settlement when additional damage or loss was evident.

1 Exception

18 Del. Admin. C. § 902 Prohibited Unfair Claim Settlement Practices

1.2.1.4 Refusing to pay claims without conducting an investigation based upon all available information when the notice of loss received by the insurer indicates that such an investigation is necessary to properly determine such a denial of payment.

LIC failed to investigate the cause of the loss by failing to inspect the damage.

1 Exception

18 Del. Admin. C. § 902 Prohibited Unfair Claim Settlement Practices

1.2.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.

LIC failed to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies. Company's acknowledgement took 55 days.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §§318 - 322 and covered the experience period of January 1, 2017 through March 31, 2019. The purpose of the examination was to determine compliance by the Company with applicable Delaware laws and regulations.

The examination was a targeted market conduct examination of the Company's homeowner's insurance business in the following areas of operation: Complaint

Handling, Underwriting and Rating, 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 examiner's report on the errors found in individual files, the examination also focuses on general business practices of the Liberty Mutual Companies.

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 the 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 and/or claim numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. Written summaries were provided to the Company on the exceptions found. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and to review written summaries provided on the exceptions found.

COMPANY HISTORY AND PROFILE

In business since 1912, and headquartered in Boston, Mass., today Liberty Mutual, the parent company, is a diversified insurer with operations in 28 countries and economies around the world. The company is the fifth largest property and casualty insurer in the U.S. based on 2018 gross written premium as reported by the National Association of Insurance Commissioners. Liberty Mutual is ranked 75th on the Fortune 100 list of largest corporations in the U.S. based on 2018 revenue. As of December 31, 2018, the company had \$126 billion in consolidated assets, \$105.2 billion in consolidated liabilities, and \$41.6 billion in annual consolidated revenue. Liberty employs more than 50,000 people in approximately 30 countries throughout the world, and we offer a wide

range of insurance products and services, including personal automobile, homeowners, accident & health, commercial automobile, general liability, property, surety, workers compensation, group disability, group life, specialty lines, reinsurance, individual life and annuity products. The business of Liberty Mutual is headquartered in Boston, Massachusetts.

According to its 2018 Annual Statement filed with the Department, LIC reported Homeowner written premium of \$20,047,697. LMFIC reported Homeowner written premium of \$10,984,825.

COMPLAINT HANDLING

The Company was asked to provide a listing of all property complaints received during the examination period. The Company provided a universe of 65 complaints received and closed during the examination period of January 1, 2017 through March 31, 2019. The Company requested a reduced sample stating that Company resources were limited. However, prior to approving the reduced sample size, the company was alerted to the fact that if exceptions were noted during the review, the sample size would be increased. A reduced sample of 29 complaints was subsequently selected from the initial universe of 65 complaints. All 29 complaints were received and reviewed for compliance with Delaware statutes and regulations and the NAIC Market Regulation Handbook standards in Chapters 16 & 17.

No exceptions were found.

UNDERWRITING AND RATING

The examination of Underwriting and Rating was conducted and performed in accordance with the laws and regulations of the state of Delaware and the Delaware Department of Insurance. The Company provided a copy of its Personal Lines Property Underwriting and Rating Manuals, along with notices issued to insureds that pertain to credit information, deductibles, and disclosures used for the examination period. These were reviewed and no exceptions were noted.

New Business Policies

The examiners were provided a total universe of 13,577 personal property policies (homeowners, condominium unit owners, and tenants) written as new business in LIC. A random sampling of 116 policies reviewed was selected according to the NAIC Market Coordinators Handbook guidelines. Random sampling was used through ACL programming. Examination of the underwriting and rating files was performed to verify the Company's compliance with NAIC guidelines and Delaware Insurance Department bulletins and regulations.

The rate testing consisted of manual rating to ensure the amount of premium being generated by the LIC's computer system was in accordance with the LIC's filed and approved rates. This process involved the use of rating worksheets with algorithms matching the rating manuals. Due to the time-consuming nature of manually rating, the selections for personal property were reduced to 10 randomly selected policies to be tested for rating accuracy.

LIC provided inconsistent rating manuals for rating new business policies written. The initial manuals provided by LIC were missing many pages that were necessary to complete the rating process. When this was brought to LIC's attention, LIC provided revised manuals that also contained the missing pages. However, the revised manuals also contained, duplicate pages, and highlighted sections that had been eliminated from rate filings but are still programmed and in use.

The examiners were able to reconcile the premiums charged by using a combination of all the manuals provided.

The following exception was noted:

1 Exception: 18 *Del Admin. C. § 2517 Adherence to filings.*

LIC failed to issue policies in accordance with their filed and approved rate manuals. LIC provided the examiners rate manuals used during the examination period that were inaccurate.

Recommendation: It is recommended that the LIC maintain current and up to date rating manuals. In addition, LIC should periodically test the rating systems against the content of the current manuals.

Renewal Policies

The examiners were provided a total universe of 35,564 personal property policies (homeowners, condominium unit owners, and tenants) written as renewal business for the Companies. A random sampling of 116 policies reviewed was selected according to the NAIC Market Coordinators Handbook guidelines. Random sampling was used through ACL programming. Examination of the underwriting and rating files was performed to verify the Company's compliance with NAIC guidelines and Delaware Insurance Department bulletins and regulations.

The rate testing consisted of manual rating to ensure the amount of premium being generated by the Company's computer system was in accordance with the Company's filed and approved rates. This process involved the use of rating worksheets with algorithms matching the rating manuals. Due to the time-consuming nature of manually rating, the selections for personal property were reduced to 10 randomly selected policies to be tested for rating accuracy.

The Companies provided inconsistent rating manuals used during the examination period. The initial manuals for LMFIC contained base rates that were not in use. A request was made for current rating manual however the manual provided by the Company did not contain a rating factor for Roof Aging. In addition, the Company removed Roof Aging from the manual's Table of Contents. An additional request was made asking for the page where the Roof Aging factor could be found. A copy of a portion of a previous page was provided. However, no actual page was referenced. A third request resulted in duplicate pages with different effective dates and different formats. LMFIC advised that the Roof Aging factor had been inadvertently removed from a rate filing dated September 2015. LMFIC stated that the Roof Age factor rates remained in place with no filing intended to remove this to date. However, the LMFIC's current manual does not contain these rating factors.

LIC provided inconsistent rating manuals for rating renewal policies written. The initial manuals provided by the LIC were missing many pages that were necessary to complete the rating process. When this was brought to LIC's attention, LIC provided revised manuals that also contained the missing pages. However, the revised manuals also contained duplicate pages, and highlighted sections that had been eliminated from rate filings but are still programmed and in use.

The examiners were able to reconcile the premiums charged by using a combination of all the manuals provided.

The following exception was noted:

1 Exception: 18 *Del Admin. C. § 2517 Adherence to filings.*

The Companies failed to issue policies in accordance with its filed and approved rate manuals. The Companies provided the examiners rate manuals used during the examination period that were inaccurate.

Recommendation: It is recommended that the Companies maintain current and up to date rating manuals. In addition, the Companies should periodically test the rating systems against the content of the current manuals.

Terminated Policies

The examiners were provided a total universe of 6,663 personal property policies that were terminated during the examination period of January 1, 2017 through March 31, 2019. The terminations included mid-term cancellations, non-renewals and declinations. A random sampling of 115 policies terminated was selected according to the NAIC Market Coordinators Handbook guidelines. Examination of the underwriting files was performed to verify the Company's compliance with NAIC guidelines and Delaware Insurance Department bulletins and regulations.

The following exceptions were noted:

2 Exceptions: 18 Del. C. § 4122(a) Notification and reasons for declination or termination

LIC failed to provide a written notice of the specific reason for declination.

Recommendation: It is recommended that the LIC provide additional training to ensure Declination letter compliance with 18 Del. Admin. C. § 4122(a).

1 Exception: 18 Del. C. § 4124 Discriminatory practices prohibited.

LIC indicated that age is used as a factor in determining whether or not it would be willing to issue or give a rate quote to an applicant, the declination may not be based on the age of the insured.

Recommendation: It is recommended that LIC provide additional training to ensure that applications are not declined due to prohibited reason in compliance with 18 Del. C. § 4124.

Inflation Protection

Special emphasis was placed on reviewing the steps involved in determining the Dwelling Coverage amount selected by the customer and the use of any Inflation Protection coverage provisions. The examiners were provided with the steps followed by the Company and our synopsis follows:

To assist customers in determining replacement cost, Liberty Mutual uses an external evaluation tool called Marshall & Swift, Boeckh *Residential Component Technology* (RCT) evaluator. They ask the customer to enter features of their home into the evaluation tool. While they recommend that the customer insure to replacement cost, the customer is ultimately responsible for selecting the amount of the dwelling coverage.

The Dwelling coverage amount shown on the declaration page may be able to be reconciled with the RTC evaluator or application depending on when the policy was first written. The application should show how the coverage amount was determined. If the evaluation was done recently, we would be able to access it. This would also be true for Condominium policies.

Inflation protection is an optional coverage that the insured would need to select. The Company uses MSB's (now CoreLogic) RCT Index (residential Index) to determine any potential increases in coverage for Homeowners policies. Similarly, inflation protection applies to Condominium policies and they use the CPI-household furnishing index to determine any potential increase in coverage. Inflation Protection Coverage is not applied to Tenants policies.

CLAIMS HANDLING

The examination of claims was conducted and performed in accordance with the laws and regulations of the state of Delaware and the Delaware Department of Insurance. The Companies provided the requested documents and access to their claims system that allowed the examiners access to their procedures and reference materials related to the handling of claims used for the examination period. These were reviewed and found to be appropriate. The Company provided a list of 4,416 claims and the examiners segmented their review by Paid, Closed without Payment and Denied Claims. All claims in the sample were reviewed for compliance with Delaware statutes and regulations and the NAIC Market Regulation Handbook standards in Chapters 16 & 17.

Paid Claims

For the examination period, there were 2,241 Paid Claims, resulting in a random sample of 107. Of the 107 sample claims, 106 were reviewed. One claim was outside of the examination period and not reviewed.

The following exceptions were noted:

2 Exceptions: 18 Del. C. § 2104 4.1 Written Notice by Insurers of Payment of Third-Party Claim

LIC failed to provide notice of payment to the third-party liability claimant.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 Del. C. § 2104 4.1.

4 Exceptions: 18 Del. Admin. C. § 902 1.2.1.1 Prohibited Unfair Claim Settlement Practices

LIC misrepresented the payment of loss by failing to comply with the policy provisions, exclusions, and/or deductible provision of the policy by overpaying 1 claim, underpaying two claims and on one claim failed to accurately advise the insured of Additional Living Expense policy limits.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 Del. Admin. C. § 902 1.2.1.1.

7 Exceptions: 18 Del. Admin. C. § 902 1.2.1.3 Prohibited Unfair Claim Settlement Practices

LIC failed to investigate subrogation from the responsible party or conduct a full investigation into the loss or damage on a claim.

Recommendation: It is recommended that LIC provide additional training to ensure

compliance with 18 *Del. Admin. C.* § 902 1.2.1.3.

1 Exception: 18 *Del. Admin. C.* § 902 1.2.1.13 Prohibited Unfair Claim Settlement Practices

LIC failed to provide an explanation of the basis in the insurance policy for the denial of a claim or a compromise settlement when addition damage or loss was evident.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902 1.2.1.13.

Closed without Payment Claims

For the examination period, there were 1,451 Closed without Payment Claims, resulting in a random sample of 105.

The following exception wase noted:

1 Exception: 18 *Del. Admin. C.* § 902 1.2.1.4 Prohibited Unfair Claim Settlement Practices

LIC failed to investigate the cause of loss by failing to inspect the damage.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902 1.2.1.4.

Denied Claims

For the examination period, there were 544 Denied Claims, resulting in a random sample of 83.

The following exceptions were noted during review:

1 Exception: 18 *Del. Admin. C.* § 902 1.2.1.2 Prohibited Unfair Claim Settlement Practices

LIC failed to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies. LIC's acknowledgement took 55 days.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902 1.2.1.2.

1 Exception: 18 *Del. Admin. C.* § 902 1.2.1.3 Prohibited Unfair Claim Settlement Practices

LIC failed to promptly investigate claims within 10 working days of notice of loss. The Company began its investigation 55 days after date claim received.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902 1.2.1.3.

1 Exception: 18 *Del. Admin. C.* § 902 1.2.1.13 Prohibited Unfair Claim Settlement Practices

LIC failed to provide an explanation of the basis in the insurance policy for the denial of a claim or a compromise settlement.

Recommendation: It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902 1.2.1.13.

CONCLUSION

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

1. It is recommended that the Companies maintain current and up to date rating manuals. In addition, the Company should periodically test the rating systems against the content of the current manuals. (Underwriting and Rating)
2. It is recommended that LIC provide additional training to ensure Declination letter compliance with 18 *Del. Admin. C.* § 4122(a). (Underwriting and Rating)
3. It is recommended that LIC provide additional training to ensure that applications are not declined due to prohibited reason in compliance with 18 *Del. C.* § 4124. (Underwriting & Rating)
4. It is recommended that the LIC provide additional training to ensure compliance with 18 *Del. C.* §2104 4.1. (Claims Handling)
5. It is recommended that the LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* §902 1.2.1.1. (Claims Handling)
6. It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* §902 1.2.1.3. (Claims Handling)
7. It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* §902 1.2.1.13. (Claims Handling)
8. It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* §902 1.2.1.4. (Claims Handling)
9. It is recommended that LIC provide additional training to ensure compliance with 18 *Del. Admin. C.* §902 1.2.1.2. (Claims Handling)

Delaware Market Conduct Examination Report
The Liberty Mutual Companies

The examination conducted by Joseph Krug, Jim Myers, and Karen Gerber is respectfully submitted.

James R Myers

James R Myers, AMCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance

I, Joseph Krug, hereby verify and attest, under penalty of perjury, that the above is a true and correct copy of the examination report and findings submitted to the Delaware Department of Insurance pursuant to examination authorities 23035-19-HO-701 and 42404-19-HO-702.

Joseph S Krug

Joseph S. Krug, CPA, AFE, MCM