

REPORT ON
MARKET CONDUCT EXAMINATION

of the

NATIONWIDE MUTUAL INSURANCE COMPANY
NATIONWIDE PROPERTY AND CASUALTY INSURANCE COMPANY
NATIONWIDE AFFINITY INSURANCE COMPANY OF AMERICA
NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

Columbus, Ohio

BY REPRESENTATIVES OF THE
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

March 20, 2013

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Raleigh, North Carolina
March 20, 2013

Honorable Wayne Goodwin
Commissioner of Insurance
Department of Insurance
State of North Carolina
Dobbs Building
430 N. Salisbury Street
Raleigh, North Carolina 27603

Honorable Mary Taylor
Director of Insurance
Ohio Department of Insurance
50 West Town Street
Third Floor, Suite 300
Columbus, Ohio 43215

Honorable Commissioner and Honorable Director:

Pursuant to your instructions and in accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a target examination has been made of the North Carolina private passenger automobile business of

NATIONWIDE MUTUAL INSURANCE COMPANY (NAIC #23787)
NATIONWIDE PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #37877)
NATIONWIDE AFFINITY INSURANCE COMPANY OF AMERICA (NAIC #26093)
NATIONWIDE MUTUAL FIRE INSURANCE COMPANY (NAIC #23779)
NAIC Exam Tracking System Exam Number: NC299-M15
Columbus, Ohio

hereinafter generally referred to as the Company, at the North Carolina Department of Insurance (Department) office located at 11 South Boylan Avenue, Raleigh, North Carolina. A report thereon is respectfully submitted.

FOREWARD

This examination reflects the North Carolina insurance activities of Nationwide Mutual Insurance Company, Nationwide Property and Casualty Insurance Company, Nationwide Affinity Insurance Company of America, and Nationwide Mutual Fire Insurance Company. The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that manifested no improprieties were omitted.

SCOPE OF EXAMINATION

This examination commenced on July 30, 2012 and covered the period of January 1, 2009 through October 31, 2009 with analyses of certain refund procedures of the Company being conducted through March 20, 2013. All comments made in this report reflect conditions observed during the period of the examination.

This examination was arranged and conducted by the Department. It was made in accordance with Market Conduct standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC) and accordingly included tests of the Company's refund procedures associated with the 2008 Private Passenger Automobile Rate Filing Case (2008 Rate Filing Case).

EXECUTIVE SUMMARY

This market conduct examination revealed concerns with Company procedures and practices in the following area:

Private Passenger Automobile – miscalculation of refunds due to programming error.

Specific violations related to each area of concern are noted in the appropriate section of this report. All North Carolina General Statutes cited in this report may be viewed on the North Carolina Department of Insurance Web Site www.ncdoi.com by clicking "INSURANCE DIVISIONS" then "Legislative Services".

This examination identified various non-compliant practices, some of which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business in North Carolina according to its insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

All unacceptable or non-compliant practices may not have been discovered or noted in this report. Failure to identify or criticize improper or non-compliant business practices in North Carolina or in other jurisdictions does not constitute acceptance of such practices. Examination report findings that do not reference specific insurance laws, regulations, or bulletins are presented to improve the Company's practices and ensure consumer protection.

EXAMINATION OVERVIEW

Purpose of Examination

This examination was undertaken to verify the Company's refund procedures associated with the 2008 Rate Filing Case. The procedures for the 2008 Rate Filing Case were the result of a settlement reached between the Commissioner of Insurance, State of North Carolina, and the North Carolina Rate Bureau (Bureau).

Policies and Coverages Subject to the Refund Procedures

Policies and coverages to which these procedures apply are non-fleet private passenger automobile (including motorcycle liability) policies and coverages subject to the jurisdiction of the Bureau and non-fleet private passenger automobile (including motorcycle liability) policies and coverages ceded to the North Carolina Reinsurance Facility (Facility) that are "clean risks" as defined in the provisions of NCGS 58-37-35(l) effective beginning January 1, 2009 through October 31, 2009 for new and renewal policies.

Policies and Coverages Not Subject to the Refund Procedures

For the 2008 Rate Filing Case, these procedures do not apply to “consent to rate” policies or coverages issued or renewed pursuant to the provisions of NCGS 58-36-30(b) (“consent to rate”) or to “other than clean risk” policies or coverages, as defined in the provisions of NCGS 58-37-35(l), ceded to the Facility.

Premium to be Refunded

The 2008 Settlement Agreement and Consent Order called for the following, “...the premium to be refunded on each policy shall be the difference between the total premium per policy collected on each policy (after consideration of all deviations applicable to each policy and all unpaid premium specifically applicable to each policy) and the total premium per policy that would have been collected on each policy using the rates by coverage resulting from the Settlement Agreement and Consent Order with respect to the 2008 Rate Filing Case.” The term “premium” shall not include interest, installment payment charges, or recoupment/allocation surcharges (including loss and clean risk surcharges). Neither dividends nor unpaid premium attributable to policies other than private passenger automobile were to be used to offset the refund amount.

Time Frame for Refund Payment

No refunds were to have been delivered or mailed to policyholders prior to May 1, 2010. For companies that wrote only six month policies, refunds were to have been made during the period beginning May 1, 2010 and ending July 31, 2010. For companies that wrote both six month policies and twelve month policies, refunds on policies that expired prior to May 1, 2010 could have been made during the period beginning May 1, 2010 and ending July 31, 2010. Refunds on all policies not refunded during the period beginning May 1, 2010 and ending July 31, 2010 were to have been made during the period beginning November 1, 2010 and ending

January 31, 2011. All refunds were to have been delivered or mailed to policyholders on or before January 31, 2011.

Escrow Account

All monies for the refunds were to be taken from an escrow account established prior to the settlement in accordance with the provisions of NCGS 58-36-25. The Company escrowed all funds associated with the 2008 Rate Filing Case by establishing a separate bank account.

Amount of Refund

The amount of refund on a policy was to be the portion of premium as determined above, plus simple interest at the rates described below on such premium from the effective date of each policy through April 30, 2010 on policies refunded during the May 1, 2010 through July 31, 2010 refund period and through October 31, 2010 on policies refunded during the period November 1, 2010 through January 31, 2011 refund period. Interest was to accrue at the annual rate of 6.25 percent prior to July 16, 2009 (the period that premium was escrowed pending judicial review pursuant to G.S. 58-36-25(b)) and at the annual rate of 3.25 percent on and after July 16, 2009 (the period that the premium was to be escrowed pursuant to agreement of the parties under the Settlement Agreement and Consent Order).

In making the calculations required under these procedures, each company was allowed to apply the premium rounding rule it applies in the ordinary course of its business.

If a policyholder had multiple policies for which refunds were to be calculated, each policy was to be treated separately in determining if any refund is due on such policy. Refund amounts of \$5.00 or less (including interest) were not required by statute to be refunded to the policyholder.

Method of Payment

Refunds were to be paid by check(s) or draft(s) payable to the policyholder or policyholders. For policyholders whose premiums were paid by a premium finance company, the refund checks or drafts were to be mailed to the premium finance company.

Each company had the option to accumulate all refunds due an individual policyholder into one check or draft or to issue separate checks or drafts for each policy on which a refund is due. All refund checks were issued under the name of each individual company.

Delivery to Policyholders

Refunds were to be mailed or delivered to the named policyholder or policyholders at the address shown on the policy record for which a refund was made or at such other address the company, in good faith, determined and believed to be more current.

The Company indicated that in addition to the above, it utilized the following procedures for returned checks:

- If the agent of record was an exclusive agent, a copy of the check was faxed to the agent of record and stamped with a request for an updated address. A return fax number was provided.
- If the agent provided a new address, the check was mailed in a new envelope with the updated address.
- If the agent was unable to provide a new address within 90 days, then the standard escheatment process was followed by shredding the check, and storing the check information for 5 years. After 5 years, the information is sent to the North Carolina Treasury Department as unclaimed funds.
- If the agent provided a new address after 90 days had passed, a stop pay was placed on the original check, and a new check was issued for the original amount and mailed to the appropriate address.
- If the agent of record was a direct sales agent, the policyholder and check information was logged, and the check held for 90 days. If a call was received with an updated address, the check was re-sent to the new address.

Returned checks not falling into one of the categories listed above were considered undeliverable.

Unclaimed Refunds

The Company must maintain unclaimed funds and escheat those funds to the North Carolina Treasury Department as stipulated under the provisions of NCGS 4-116B.

REFUND ANALYSES

The Department implemented procedures to test Company data for compliance with the 2008 Settlement Agreement and Consent Order. Areas tested included premium refund calculations using Company methodologies and timeliness of refund.

Records were submitted in a specified layout. Tests were then conducted utilizing a software tool, Audit Command Language (ACL). The examiners summarized these records to verify the totals against the Company checks issued.

The following tables indicate information reported by the Company and the examiners.

Refund Data Reported by Company

Company Name	NAIC Company Number	Refund Procedures Implementation Date	Refund Completion Date	Total Number of Policies Subject to Refund (d)(e)	Total Refund Dollars Excluding Interest	Total Refund Interest Dollars	Total Refund Dollars	Uncollected Premium	Grand Total Refund Dollars (e)
NMIC	23787	7/19/2010	7/19/2010	165,591	\$5,979,440.40	\$215,075.79	\$6,194,516.19	(a)	\$6,194,516.19
NPCIC	37877	7/19/2010	7/19/2010	92,192	\$2,004,458.30	\$70,259.35	\$2,074,717.65	(a)	\$2,074,717.65
NAICA	26093	7/19/2010	7/19/2010	83,064	\$1,597,878.30	\$56,278.12	\$1,654,156.42	(a)	\$1,654,156.42
NMFIC	23779	7/19/2010	7/19/2010	46,782	\$1,027,165.10	\$36,787.62	\$1,063,952.72	(a)	\$1,063,952.72
TOTAL				387,629	\$10,608,942.10	\$378,400.88	\$10,987,342.98	(a)	\$10,987,342.98

Population Data Testing Criteria

Testing Using ACL or Sampling	Records Used in Testing	Population of Transactions Provided by Companies	Policies After Combining Transactions	Policies Reviewed Using Company Methodology
ACL	100%	7,974,840	1,181,243	1,181,243

Examination Findings

Company Name	NAIC Company Number	Refund Completion Date	Actual Number of Refunds Made (b)(e)	Actual Dollar Amount of Refunds Made (e)	Number of Returned Checks Subject to Escheat	Actual Dollar Amount of Returned Checks Subject to Escheat	Number of Policy Records in Error (c)	Additional Refund Due Excluding Penalty Interest	Penalty Interest	Grand Total Refund Dollars
NMIC	23787	7/19/2010	165,692	\$6,202,301.40	13,839	\$337,143.67	212	\$1,076.95	\$86.16	\$6,203,464.51
NPCIC	37877	7/19/2010	92,197	\$2,075,065.20	22,012	\$347,547.94	112	\$1,188.98	\$94.91	\$2,076,349.09
NAICA	26093	7/19/2010	83,064	\$1,654,186.48	10,728	\$199,389.41	47	\$418.53	\$33.48	\$1,654,638.49
NMFIC	23779	7/19/2010	46,792	\$1,064,549.39	15,691	\$271,361.78	32	\$134.31	\$10.74	\$1,064,694.44
TOTAL			387,745	\$10,996,102.47	62,270	\$1,155,442.80	403	\$2,818.77	\$225.29	\$10,999,146.53

NMIC – Nationwide Mutual Insurance Company

NPCIC – Nationwide Property and Casualty Insurance Company

NAICA – Nationwide Affinity Insurance Company of America

NMFIC – Nationwide Mutual Fire Insurance Company

- (a) The Company did not include uncollected premium in its refund calculations.
(b) Represents the total number of records (all policy terms) for which checks were issued.
(c) Inclusive of all policy terms.
(d) The Company reported policies, inclusive of all policy terms, that received a refund.
(e) Difference due to data error discovered and corrected by the Company during the refund process.

AREAS OF CONCERN

The review of the Company's private passenger automobile policies subject to the 2008 Rate Filing Case revealed the following relative to its refund procedures:

The Company miscalculated refunds for 403 policy records due to a programming error that matched policy data to incorrect files, resulting in understatement of refunds in the amount of \$2,818.77.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-25(b) and the provisions stipulated in the Settlement Agreement and Consent Order for the 2008 Rate Filing Case.

The Company was given the opportunity to refund the monies. The examiners informed the Company that penalty interest must be calculated at an annual interest rate of 8.0 percent. The Company refunded \$3,044.06 (including penalty interest) to all affected policyholders by February 11, 2013.

TABLE OF STATUTES AND RULES

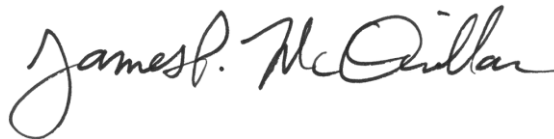
<u>Statute/Rule</u>	<u>Title</u>
NCGS 4-116B	North Carolina Unclaimed Property Act.
NCGS 58-2-131	Examinations to be made; authority, scope, scheduling, and conduct of examinations.
NCGS 58-2-132	Examination reports.
NCGS 58-2-133	Conflict of interest; cost of examinations; immunity from liability.
NCGS 58-2-134	Cost of certain examinations.
NCGS 58-36-25	Appeal of Commissioner's order.
NCGS 58-36-30	Deviations.
NCGS 58-37-35	The Facility; functions; administration.

CONCLUSION

An examination has been conducted on the refund procedures utilized by Nationwide Mutual Insurance Company, Nationwide Property and Casualty Insurance Company, Nationwide Affinity Insurance Company of America, and Nationwide Mutual Fire Insurance Company relative to the 2008 Private Passenger Automobile Rate Filing Case. This examination referenced the period January 1, 2009 through October 31, 2009 with analyses referencing certain refund procedures through March 20, 2013.

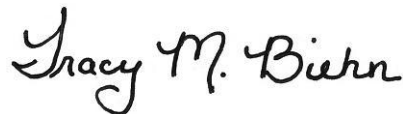
This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures.

Respectfully submitted,



James P. McQuillan, CPCU, AIT
Examiner-In-Charge
Market Regulation Division
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.



Tracy M. Biehn, LPCS, MBA
Deputy Commissioner
Market Regulation Division
State of North Carolina