

STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES



MARKET CONDUCT EXAMINATION

NUMBER 2013C-0034

October 18, 2013

TARGETED MARKET CONDUCT EXAMINATION REPORT

OF

TITAN INSURANCE COMPANY

TROY, MICHIGAN

NAIC COMPANY CODE 36269

For the Period January 1, 2011 through December 31, 2011

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I. EXECUTIVE SUMMARY

Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (DIFS) (Director).

Titan Insurance Company (the Company) is an authorized Michigan domiciled company. This examination was conducted by DIFS in conformance with the National Association of Insurance Commissioners (NAIC) *Market Regulation Handbook* (2012) (*Handbook*) and the Michigan Insurance Code, MCL 500.100 et. seq. (the Code). The purpose of the exam is to evaluate the compliance of the Company with applicable Michigan statutes, NAIC Guidelines and DIFS regulations. The scope of this market conduct examination includes the Company's activities related to the handling of: (1) Personal Auto Policy Underwriting (Rescissions), (2) Bodily Injury, Uninsured/Underinsured and (3) Personal Injury Protection claims and/or lawsuits. The examination covers the period January 1, 2011 through December 31, 2011.

This summary of this targeted market conduct examination of the Company is intended to provide an overview of the examination results. The body of the report provides details of the scope of the examination, findings, DIFS recommendations, and Company responses.

DIFS considers a substantive issue one in which a "finding" or violation of Code was found to have occurred, or one in which corrective action on the part of the Company is deemed advisable.

Findings:

There are no findings.

Recommendations:

There are no recommendations.

Company Response:

No Company response was received.

II. OBJECTIVES, SCOPE AND METHODOLOGY

This report is based on a targeted market conduct examination of Titan Insurance Company. The examination was conducted at DIFS offices located at 611 W. Ottawa Street, Lansing, MI 48909. The contact for this exam was Bill Yarbrough, Consultant, Market Conduct. DIFS conducted this examination in accordance with statutory authority of MCL 500.222 et. seq. All Michigan laws, regulations and bulletins cited in this report may be viewed on the DIFS website at www.michigan.gov/difs.

The purpose of the exam is to evaluate the compliance of the Company with applicable Michigan statutes, NAIC Guidelines and DIFS regulations.

The examination covers the period January 1, 2011 through December 31, 2011. This examination was conducted under the supervision of Regan Johnson, Manager of the Market Conduct Section, and Sherry J. Bass-Pohl, Manager of the Market Conduct Unit. The examination was conducted by David A. Haddad, CPCU, MCM, Examiner-in-Charge.

This examination includes reviews of, but not limited to, the areas of: (1) Personal Auto Rescissions, (2) Bodily Injury, Uninsured/Underinsured and (3) Personal Injury Protection Claims and Lawsuits. The examination covers the period January 1, 2011 through December 31, 2011.

The examination was called due to changes in the complaint index.

The examination team sampled Company records in the areas of (1) Personal Auto Rescissions (2) Bodily Injury, Uninsured/Underinsured and (3) Personal Injury Protection Claims and/or Lawsuits. The analysis and examination of these areas were conducted and measured according to the Standards and practices in the NAIC *Handbook*, the applicable statutes in the Code, and the Company's internal guidelines and procedures.

Three types of review may have been utilized for the above standards. Certain standards were examined with a single review, and others were examined using one or more type of review. The NAIC *Handbook* calls for a random sample of 100 files when the examination population is greater than 5,000. This statistical sample applies to the Company as follows:

- A. Generic Review: A standard test was applied using analysis of all files written by agents at the specific branch office for the time frame of the examination. The Company provided the general file information as a response to examiner questions.
- B. Sample Review: A "sample" review indicates that a standard was tested through direct review of a random sample of files using sampling methodology described in the NAIC *Handbook*, Chapter 14. The samples included all files within a specific subgroup. The sampling techniques used are based on a 95 percent (95%) confidence level, meaning there is 95 percent (95%) confidence that the error percentages shown in the various standards so tested are representative of the entire set of records from which it was drawn. An error rate in excess of the tolerance level in these sections of the report is indicative of a general business practice of engaging in that type of conduct. Note that the statistical error tolerance is not indicative of the actual tolerance of DIFS for deliberate or systematic error.

- C. Census Review: Marketing and Sales, as well as Complaint files, were not subject to the sampling procedure, as the number of relevant files did not warrant taking a sample. Therefore, every relevant marketing piece and complaint file for the examination period was reviewed by the examination team for compliance with applicable statutes, regulations and internal company guidelines.

This examination report is a report by test. The report contains a summary of pertinent information about the lines of business examined. This includes each NAIC *Handbook* source and Standard, Code citation, any examination findings detailing the non-compliant or problematic activities that were discovered during the course of the exam, the Company response proposing methods for correcting the deficiencies, and recommendation for any further action by DIFS.

III. COMPANY PROFILE

Titan Insurance Company began operations in 1988, as a Michigan-domiciled company. It is a stock company. Titan was acquired by the Nationwide Group in 2003. Titan was formed because of the need to provide affordable coverage to individuals and businesses that cannot find auto insurance in the standard market. It is currently licensed to market its products in Michigan, Arizona and Florida. The Company markets and sells its products through independent agents. Approximately 300 producers are appointed in Michigan. The Company's top lines of business are Personal and Commercial Auto. Its size category is XV, and the Company is rated A+ by the A.M. Best Company. Its outlook was revised in March 2013, to stable from negative, as were all companies affiliated with the Nationwide Group. The Company plans to maintain its extensive market presence, multiple distribution channels and decentralized operational structure, which is designed to provide superior service to its agents and policyholders.

IV. FINDINGS AND RECOMMENDATIONS

A. UNDERWRITING

Standard 9: Rescissions are not made for non-material misrepresentation. NAIC *Handbook*, Chapter 16.

The examiner requested the population of rescinded personal auto policies written in the State of Michigan for the period under review.

| File Data | Population Size | Maximum Number of Failures Permitted in Sample | Stage 1 Sample Size | Date Sample Pulled | Errors Found |
|---------------------------------------|-----------------|--|---------------------|--------------------|--------------|
| Rescinded Personal Auto Policies-2011 | 17 | 2 | 17 | 4/26/13 | 0 |

Findings:

There are no findings.

Recommendations:

There are no recommendations.

Company Response:

No Company response was received.

B. CLAIM HANDLING

Standard 1: The initial contact by the regulated entity with the claimant is within the required time frame. NAIC *Handbook*, Chapter 16.

Standard 4: The regulated entity responds to claims in a timely manner. NAIC *Handbook*, Chapter 16.

Standard 5: Claim files are adequately documented. NAIC *Handbook*, Chapter 16.

Standard 6: Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations. NAIC *Handbook*, Chapter 16.

Standard 9: Denied and closed without payment claims are handled in accordance with policy provisions and state law. NAIC *Handbook*, Chapter 16.

MCL 500.3142:

- (1) Personal protection insurance benefits are payable as loss accrues.
- (2) Personal protection insurance benefits are overdue if not paid within 30 days after an insurer receives reasonable proof of the fact and of the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Any part of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. For the purpose of calculating the extent to which benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.
- (3) An overdue payment bears simple interest at the rate of 12% per annum.

MCL 500.2026:

(1) Unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, other than isolated incidents, are a course of conduct indicating a persistent tendency to engage in that type of conduct and include:

* * *

- (b) Failing to acknowledge promptly or to act reasonably and promptly upon communications with respect to claims arising under insurance policies.
- (c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (d) Refusing to pay claims without conducting a reasonable investigation based upon the available information.
- (e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

* * *

- (g) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts due the insureds.
- (h) Attempting to settle a claim for less than the amount to which a reasonable person would believe the claimant was entitled, by reference to written or printed advertising material accompanying or made part of an application.

* * *

(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

1. Claims Paid – Private Passenger Automobile Uninsured/Underinsured Motorist

The examiners requested the population of Michigan Claims Closed With Payment – Personal Auto Uninsured/Underinsured Motorist.

| File Data | Population Size | Maximum Number of Failures Permitted in Sample | Stage 1 Sample Size | Date Sample Pulled | Errors Found |
|--|------------------------|---|----------------------------|---------------------------|---------------------|
| Claims Closed With Payment - Personal Auto Uninsured/Underinsured Motorist | 16 | 2 | 16 | 4/26/13 | 0 |

Findings:

There are no findings.

Recommendations:

There are no recommendations.

Company Response:

No Company response was received.

2. Private Passenger Automobile – Bodily Injury Lawsuits

The examiner requested the population of Michigan Bodily Injury Lawsuits Closed.

| File Data | Population Size | Maximum Number of Failures Permitted in Sample | Stage 1 Sample Size | Date Sample Pulled | Errors Found |
|---------------------------------|-----------------|--|---------------------|--------------------|--------------|
| Lawsuits Closed – Bodily Injury | 59 | 2 | 42 | 4/26/13 | 0 |

Findings:

There are no findings.

Recommendations:

There are no recommendations.

Company Response:

No Company response was received.

3. Private Passenger Automobile – Personal Injury Protection Lawsuits

The examiner requested the population of Michigan Personal Injury Protection Lawsuits Closed.

| File Data | Population Size | Maximum Number of Failures Permitted in Sample | Stage 1 Sample Size | Date Sample Pulled | Errors Found |
|--|-----------------|--|---------------------|--------------------|--------------|
| Lawsuits Closed – Personal Injury Protection | 115 | 2 | 67 | 4/26/13 | 0 |

Findings:

There are no findings.

Recommendations:

There are no recommendations.

V. ACKNOWLEDGEMENT

This examination report of Titan Insurance Company is respectfully submitted to the Director of the Department of Insurance and Financial Services, State of Michigan.

The courteous cooperation and assistance of the officers and employees of the Company extended to the examiners during the course of the examination is hereby acknowledged.

In addition to the undersigned, Zach Dillinger, Market Conduct Examiner, participated in the examination.

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Examiner-in-Charge
Department of Insurance and Financial Services
Market Conduct Section
October 18, 2013