



## Market Conduct Agency Audit News

Office of Insurance Licensing and Market Conduct

### Introduction

The Market Conduct Agency Audit Unit (Audit Unit) within DIFS' Office of Insurance Licensing and Market Conduct is responsible for proactively performing audits of selected business entities to evaluate compliance with pertinent Code provisions governing an insurance producer's fiduciary responsibilities, marketing and sales practices, licensing and appointment requirements, and other areas deemed necessary. [MCL Section 500.249](#) of the Michigan Insurance Code (Code) gives DIFS the authority to examine the books and records of the licensed agencies and individuals to ascertain compliance with the applicable provisions in the Code.

Our goal is to guide licensed entities to create a violation-adverse business environment, and help licensees apply the insurance laws and statutes in a consistent manner. Above all, the audits are intended to be both educational and regulatory.

### Routine Audits

If an entity is selected for a routine audit, the assigned Market Conduct auditor will send you an audit notification letter along with an initial questionnaire. The questionnaire is designed for the purpose of obtaining basic background information for the auditor to make an appropriate assessment of future steps. The entity has two weeks to respond to the questionnaire with accurate and detailed information.

Upon review of the responses to the questionnaire, the auditor compiles a data request list of certain records to review. The list may include but is not limited to the following:

- Bank statements for all business accounts;
- Daily deposit records;
- Account current statements;
- Contractual agreements with insurers;
- Premium financed contracts;
- Financial statements (balance sheet and profit and loss statement);
- Chart of accounts;
- Accounts receivable subledger;
- Accounts payable subledger;
- Check register and cash disbursement records;
- Listing of sold policies;
- Listing of cancelled policies;
- Documents supporting receipt of unearned or overpaid premiums from insurers and refunds to customers;
- Surplus lines taxes collected;
- Surplus lines taxes reported to DIFS;
- Account ledger recording surplus lines taxes;
- Account reconciliations;
- Customer listing;

- Accounting procedures manual;
- Application forms;
- Policy declaration pages;
- Cancelled checks;
- Cancellation notices;
- Commission statements;
- Advertising materials;
- Business tax returns;
- Appointment information; and
- A list of affiliated producers.

The entity has the responsibility to supply the requested documentation in a timely manner. The auditors will examine the records either onsite or at an offsite location. Generally the offsite location will be our office, however, if the entity has records located off-site, the auditors may go to the entities place of record storage to review them.

### **Instant Audits**

Recently, the Audit Unit launched an “instant audit” program for the purpose of reaching out to more licensees within a short timeframe. Unlike those routine audits where the auditors allow the audited entities preparation time, instant audits are predominantly conducted on an unannounced basis.

Instant audits serve as supplementary audits to the routine audits and target specific areas of compliance. Specifically, they are designed to achieve the following overall objectives:

- To communicate DIFS’ mission and responsibilities and to establish a mutual working relationship with licensees;
- To educate licensed individuals and business entities with regards to keeping reasonable accounting records which are essential to fulfill their fiduciary responsibilities; and
- To identify red flags of possible non-compliance and potential outliers for further audits.

The auditors will focus on a portion of the business records by utilizing a small sample size.

The first instant audits were conducted with several funeral homes in Michigan. The audits detected licensing issues which constituted violations of [MCL Section 500.2080\(3\)](#) of the Code. This Code section restricts a funeral establishment, cemetery, or prepaid funeral arrangement seller from being licensed as an insurance producer other than in the line of limited life. In other words, a funeral home and its selling agents are only allowed to hold a limited life license in order to transact prepaid insurance policies. The restriction is intended to prohibit licensees from “using other employment in conjunction with their insurance occupation to coerce, intimidate, or unduly influence insurance consumers”, as addressed in DIFS website (refer to [“Conflicting Employment Prohibited”](#)).

### **Audit Reporting**

Upon completion of the audit programs, the auditor will send a draft audit report which may contain preliminary audit findings, i.e. potential violations of the Code and other statutes. The draft report does not represent any final determination by DIFS; rather it is a joint effort between the audited entity and

the auditors. The entity's response to the draft report will be considered and incorporated into the final audit report which does not become a public document.

### **Important Information Regarding Maintaining a Current Agency License**

Producers are required under MCL 500.1238(1) to update their mailing and electronic mailing address with DIFS within 30 days of any change. Individual producers may change their address electronically at [www.nipr.com](http://www.nipr.com). Agencies may change their address by using the [\*FIS 0262 Name or Address Change\*](#) form.

An agency must maintain a designated responsible licensed producer (DRLP) in order for the agency license to remain active. Utilize the [\*FIS 0200 Business Entity Affiliate Disclosure\*](#) form to update the agency DRLP (loss and addition) information.

Agencies functioning at more than one office location must register each branch office location using the [\*FIS 2268 Branch Office Registration\*](#) form.

When an agency ceases to do business, the agency must notify DIFS in writing and return the license to DIFS. This is the only way DIFS knows to update the licensing record.

More information about requirements for maintaining a current agency license may be viewed at the [Producer Agency Licensing webpage](#).

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Any questions regarding the newsletter, or any other situations that may arise, may be directed to the DIFS Market Conduct Section at (877) 999-6442 or [DIFS-MarketConduct@michigan.gov](mailto:DIFS-MarketConduct@michigan.gov).