

**REPORT OF MARKET REGULATION EXAMINATION**



**Norfolk & Dedham Mutual Fire Insurance Company**

NAIC Code 23965

222 Ames Street  
Dedham, MA 02026-1850

**NAIC Examination Tracking System ID # ME025-M2**

**Examination Period:  
September 1, 2008 through September 30, 2010**

Pursuant to Title 24-A M.R.S.A. § 221, I have caused a Targeted Market Conduct Examination to be conducted of Norfolk & Dedham Mutual Fire Insurance Company. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

---

Eric A. Cioppa  
Superintendent of Insurance  
Maine Bureau of Insurance

---

Date

## TABLE OF CONTENTS

<b>SALUTATION</b> .....	<b>4</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>5</b>
<b>BACKGROUND</b> .....	<b>5</b>
<b>HISTORY OF ENGAGEMENT</b> .....	<b>6</b>
<b>SCOPE OF EXAMINATION</b> .....	<b>6</b>
<b>METHODOLOGY</b> .....	<b>7</b>
<b>FINDINGS</b> .....	<b>7</b>
<b>ACKNOWLEDGMENT</b> .....	<b>13</b>

October 19, 2011

The Honorable Eric A. Cioppa  
Superintendent of Insurance  
Bureau of Insurance  
34 State House Station  
Augusta, ME 04333-0034

Dear Sir:

Pursuant to Title 24-A M.R.S.A. §§ 211 and 221 and in accordance with your instructions, a targeted examination has been made of:

Norfolk & Dedham Mutual Fire Insurance Company

(hereinafter referred to as the "Company").

This examination consisted of reviewing the Company's personal and commercial lines non-governmental complaints for years 2008, 2009, and the first six months in 2010, fees and charges from March 15, 2010, to September 30, 2010, and claims that were open during the period from September 1, 2008, through September 30, 2010. While on-site and as a result of findings, the scope was enlarged to include mail room practices. The Maine Bureau of Insurance ("Bureau") staff ("Examiners") conducted the on-site phase of the examination from November 15 to November 19, 2010, at the Company's offices located at:

222 Ames Street  
Dedham, MA 02026-1850

The examination work was also performed at the offices of the Bureau. The desk examination reviewed Company Operations / Management Standards, Claims Standards, and Underwriting and Rating Standards as of September 30, 2010.

The following report is respectfully submitted.

## **EXECUTIVE SUMMARY**

The Bureau conducted a targeted Market Conduct Examination of the Company examining the following functional areas: Company Operations and Management, Underwriting Rates and Forms, Claims, and Complaint Handling to determine compliance with Maine statutes and the Company's procedures. The Bureau's primary objective in conducting the examination was to evaluate whether the Company was charging approved rates and fees, whether claims were paid timely and consistent with policy provisions, and whether complaints were handled in compliance with Maine law.

The Bureau relied primarily on the review and testing of records and information maintained by the Company and information available on the internet concerning certain of its operations included within the scope of the examination. Interviews with key Company personnel were also conducted. As questions arose during the examination, the Bureau addressed specific inquiries to the Company for response. The Company provided timely and complete responses. As is more fully detailed in the body of this report, the Examiners found: the Company was compliant in all areas examined in Company Operations and Management; that unapproved rates and fees were being advertised and charged to consumers at variance with Maine law; that claims were being handled timely, but there were instances in which language more restrictive than the policy provided was being communicated to insureds at variance with Maine law.

The details for each of the above referenced findings along with additional findings are in the body of this report.

## **BACKGROUND**

The Company, along with Dorchester Mutual and Fitchburg Mutual, are members of a pooling alliance. The Norfolk & Dedham Group is under the common management of the Newbury Corporation and is headquartered in Dedham, Massachusetts. The Company has no direct employees. Employees of the Newbury Group Corporation service all of the companies in the group<sup>1</sup>. In September 2009, Rockingham Mutual Insurance Company formed an alliance with the group. The companies found that they were not compatible and unwound their alliance in September 2010. The

---

<sup>1</sup> Source: NAIC, *Internet-State Interface Technology Enhancement*

dissolution was to be finalized as of December 31, 2010. The Company writes homeowners, private passenger automobile, business owners package policies, workers' compensation, and commercial automobile coverage in the Northeast. Direct business is written through more than 230 independent agents located throughout its operating territories<sup>2</sup> and the Company relies on independent adjusters to service their insureds' claims in the state of Maine.

### **HISTORY OF ENGAGEMENT**

This examination was called following the review of a consumer complaint that had been submitted to the Bureau. While reviewing the complaint, Bureau staff noticed that the complainant's premium bill included a \$20 late fee and a \$4 installment charge, for which the Bureau had no record of filings. Further investigation revealed that, since 2003, the company had also been charging unapproved fees as follows:

<b>Fee Description</b>	<b>Fee Amount per Transaction</b>
Electronic Funds Transfer	\$1.00
Installment Payment of Premium	\$4.00 or \$5.00 on personal lines accounts
Installment Payment of Premium	\$6.00 on commercial lines accounts
Late Payment of Premium	\$10.00 or \$20.00 between 2003 and 2004
Late Payment of Premium	\$20.00 between 2005 and 2010
Non-Sufficient Funds	\$25.00

On February 2, 2010, the company made a filing with the Bureau for \$4 and \$6 installment fees, \$10 late fees and \$10 non-sufficient fees, which Bureau staff approved that day. The company failed to implement the lower, approved fees for non-sufficient and late fees until March 15, 2010. The reason given by the Company for the continued assessment of the unapproved fees was that the billing program which implemented the approved fees did not go into production until March 15, 2010.

### **SCOPE OF EXAMINATION**

This examination is a Maine targeted market conduct examination. The purpose of this targeted examination was to review general business practices of company operations/management,

---

<sup>2</sup> Source: A. M. Best Company, Inc.

underwriting and rating, complaints, and claims practices. Transactional testing was used to determine compliance with or deficiencies in adherence to applicable claim handling statutes, 24-A M.R.S.A § 2164-D (unfair claims practices), and 24-A M.R.S.A § 2412 (use of approved forms).

Some unacceptable or non-compliant practices may not have been discovered in the course of this examination. Failure to identify or comment on specific practices does not constitute acceptance of such practices by the Maine Bureau of Insurance.

This report is by test rather than by exception. This means that each test applied is stated, and the results are reported.

## **METHODOLOGY**

The selected claims were drawn from the Company's authorized lines of business that were open during the period from September 1, 2008, through September 30, 2010.

The Audit Command Language ("ACL") audit software was utilized for this examination to attain a sample of 60 claim files out of a total population of 670 and 60 new business files out of a total population of 9,663. The sample selected has a 95% confidence factor.

## **FINDINGS**

### **1. COMPANY OPERATION / MANAGEMENT STANDARDS**

The regulated entity has an up-to-date, valid internal or external audit program.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 1*

Transactional Testing Procedure: Examiners reviewed selected internal audit procedures and findings related to: adjuster licensing, date of claim to policy effective date, initial contact by independent adjuster, fraudulent check payments, proper denial, and corporate complaint record keeping.

Findings: No non-compliant procedures were detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.

The regulated entity has appropriate controls, safeguards and procedures for protecting the integrity of computer information.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 2*

Transactional Testing Procedure: Examiners discussed with management then reviewed and tested selected internal procedures related to computer access, security, and protocols.

Findings: No non-compliant procedures were detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.

Contracts between the regulated entity and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to, managing general agents (“MGAs”), general agents (“GAs”), third-party administrators (“TPAs”) and management agreements, must comply with applicable licensing requirements, statutes, rules and regulations.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 5*

Transactional Testing Procedure: Examiners reviewed selected contracts and verified license information for selected individuals assuming a business function or acting on behalf of the Company.

Findings: No non-compliant activity was detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.



The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 6*

Transactional Testing Procedure: Examiners reviewed contracts between the Company and independent adjusters and a contract between the Company and an outside vendor that had been engaged to facilitate credit card payments made by customers.

Findings: No non-compliant activity was detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 7*

Transactional testing Procedure: Examiners reviewed underwriting, claims, and complaint files.

Findings: No non-compliant activity was detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.

The regulated entity cooperates on a timely basis with examiners performing the examinations.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 9*

Findings: No non-compliant activity was detected.

The Company and its personnel cooperated and provided the materials requested in a well-organized fashion on a timely basis.

Each licensee shall implement a comprehensive written information security program for the protection of nonpublic customer information.

*NAIC Market Regulation Handbook - Chapter XVI, Section A, Standard 17*

Transactional Testing Procedure: Examiners reviewed the Company's policies and procedures and the employee handbook on security.

Findings: No non-compliant activity was detected.

The examination revealed documentation adequate to demonstrate compliance with statutes and/or regulations.

## **2. COMPLAINT HANDLING STANDARDS**

All complaints are recorded in the required format on the regulated entity's complaint register.

*NAIC Market Regulation Handbook - Chapter XVI, Section B, Standard 1*

Transactional Testing Procedure: Examiners discussed with management and reviewed the Company's complaint register.

Findings: No non-compliant activity was detected.

The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

*NAIC Market Regulation Handbook - Chapter XVI, Section B, Standard 4*

Transactional Testing Procedure: Examiners discussed with management and reviewed the Company's complaint register.

Findings: No non-compliant activity was detected.

## UNDERWRITING AND RATING STANDARDS

The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan.

*NAIC Market Regulation Handbook - Chapter XVI, Section F, Standard 1*

Transactional Testing Procedure: Examiners discussed with management and examined underwriting files, bills and internet postings.

Findings: The examination revealed documentation reflecting a "convenience fee" charged to customers who elected to make an "instant payment," as advertised on the Company's website. Customers who elected to make an instant payment by credit card or savings account were charged a fee amounting to \$3.95 for a payment up to \$600, or \$7.90 for a payment between \$601 and \$1000. The examination revealed that for the time period from July 15, 2010, to November 12, 2010, fifty-four (54) Maine customers made instant payments and were charged an associated convenience fee. The Company did not file the convenience fee with the Superintendent for approval under 24-A M.R.S. § 2304-A. The convenience fee is an expense as defined in 24-A M.R.S. § 2302-A(3), and should therefore have been filed for approval. Assessment of the unapproved convenience fee violates of 24-A M.R.S.A. §§ 2174 and 2304-A.

A review of the Company's website revealed an Electronic Funds Transfer form indicating that a \$25 charge would be assessed if the customer had insufficient funds to cover an EFT withdrawal. An insufficient funds fee in the amount of \$10 had been approved in Maine. The examination revealed that although the website listed a \$25 insufficient funds fee, the Company had been correctly charging the approved \$10 fee.

## 4. CLAIMS STANDARDS

Investigations and settlement of claims are timely.

*NAIC Market Regulation Handbook - Chapter XVI, Section G, Standard 2*

Transactional Testing Procedure: Examiners discussed with management and reviewed claim files and payment ledgers.

Findings: The Company was found compliant with this standard. In accordance with 24-A M.R.S.A. § 2436(1), a claim that is neither disputed nor paid within 30 days is overdue. The examination revealed one (1) file out of the sixty (60) files examined failed to have documentation to explain the delay in resolution. The insured's deductible went unpaid for 44 days after the Company's receipt of damages from the tortfeasor's carrier.

Claims are properly handled in accordance with the policy provisions and applicable statutes, rules and regulations.

*NAIC Market Regulation Handbook - Chapter XVI, Section G, Standard 6*

Transactional Testing Procedure: Examiners discussed with management and reviewed claim files.

Findings: The Company was found 89% compliant with this standard. In accordance with § 2164-D(3)(A), knowingly misrepresenting policy provisions related to coverage at issue may constitute an unfair claims practice. The examination revealed that a total of seven (7) out of the sixty (60) files examined were not properly handled in accordance with policy provisions and applicable statutes. The seven (7) files failed to evidence documentation of a holdback letter<sup>3</sup> to the insured explaining the reason for the reduced amount of the payment and how the insured could recover the amount held back. Of the seven files identified as having insufficient holdback letter documentation, three (3) files did not evidence a holdback letter when a holdback was applied to the payment made to the insured, and four (4) files had holdback letters with wording more restrictive than that in the policy. The HO 00 03 10 00 policy language states on page 14 of 22, "C. Loss Settlement 2.e. C. Loss settlement, provided you notify us of your intent to do so within 180 days after the date of loss." The referenced files stated the policy holder had 180 days to: make repairs; to repair or replace; to complete repairs; to repair. This language is more restrictive in that it states the work has to be done within 180 days, while the policy language only requires the insured to notify the Company of the "intent" to do the repair work. These files did not evidence the payment of the holdback amount.

---

<sup>3</sup> A holdback is a contractual condition in which money is withheld until a specified event occurs.

## **ACKNOWLEDGMENT**

The courtesy, hospitality and cooperation extended by the officers and employees of the Company during the course of the examination are gratefully acknowledged. The examination was conducted and is respectfully submitted by the undersigned.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Allan C. Armstrong, CWCLA, MCM, Examiner in Charge, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Eric A. Cioppa, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made an examination on the condition and affairs of the

**Norfolk & Dedham Mutual Fire Insurance Company**

as of September 30, 2010, and that the foregoing report of examination, subscribed to by him, is true to the best of his knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Meredith Paige Turney, MCM  
Mary T. Masi , MCM

---

Allan C. Armstrong, CWCLA, MCM  
Market Regulation Division Manager

Subscribed and sworn to before me

This 19th day of October, 2011

---

Notary Public

My commission expires: