

**OHIO DEPARTMENT OF INSURANCE**

**MARKET CONDUCT RE-EXAMINATION OF**

**THE OHIO FAIR PLAN UNDERWRITING ASSOCIATION**

**NAIC #32573**

**As Of**

**December 31, 2010**





Honorable Mary Taylor  
Lt. Governor/Director  
Ohio Department of Insurance  
50 West Town Street Suite 300  
Columbus, Ohio 43215

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a targeted market conduct re-examination was conducted on the Ohio business of the following:

The Ohio Fair Plan Underwriting Association  
NAIC# 32573

The examination and risk assessment was conducted at the Company's statutory home office at:

2500 Corporate Drive Suite 250  
Columbus, Ohio 43231

A report of the examination is enclosed.

Respectfully submitted,

May 17, 2011

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Lynette Baker  
Chief, Market Conduct Division

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Date

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## **FOREWORD**

This re-examination was conducted under authority provided under Ohio Revised Code (“R.C.”) 3901.011.

## **SCOPE OF EXAMINATION**

On November 15, 2010, the Market Conduct Division, Ohio Department of Insurance (“Department”), opened a re-examination into the business practices of The Ohio Fair Plan Underwriting Association (“Association”) by sending a call letter. The on-site portion of the re-examination began April 4, 2011, and concluded April 8, 2011. The re-examination reviewed the Association’s claim settlement practices, agent licensing, terminations, and inspection handling as addressed in the 2006 Consent Order. Records of claim transactions from January 1, 2010, through December 31, 2010, were reviewed.

The basic business areas included as part of the examination included:

- A. Agent Licensing
- B. Terminations
- C. Inspections
- D. Claims Settlements

Each business area has standards that were measured during the re-examination. Some of the standards have specific statutory guidance; others have specific company guidelines or contractual guidelines.

The focus of the examination was on the procedures and methods used by the Association to achieve compliance with applicable Ohio statutes and rules involving the handling of residential crime terminations, farm inspections, agent licensing and claim settlements.

This re-examination report is a report by test, rather than a report by exception, and all standards and tests are described and the findings indicated.

## **METHODOLOGY**

Only Ohio policyholders’ claim files were reviewed. A series of tests were designed and applied to these files to determine the Association’s level of compliance with Ohio’s insurance statutes and rules. These tests are described and the results noted in this report.

The examiners used the NAIC’s standard of 7% error ratio on claims files (93% compliance rate) to determine whether an apparent pattern or practice of non-compliance existed for any given test. The results of each test applied to a sample are reported separately. Each test is expressed as a “yes/no” question. A “yes” response indicates compliance and a “no” response indicates a failure to comply. A “no” response may be referred to in this report as an “exception.”

In any instance where errors were noted, the examiners described the apparent error and asked the Association for an explanation. The Association responded to the examiners and either:

- Concurred with the findings;
- Had additional information for the examiners to consider; and/or
- Proposed remedial action(s) to correct the apparent deficiency.

The examiners' recommendations are included in this report.

This re-examination is based on the standards and tests for a market conduct examination of a property insurer found in Chapter 17 of the NAIC Market Regulation Handbook and on applicable Ohio statutes and rules.

### **COMPANY OPERATIONS**

The Association was created by R.C. 3929.41 *et seq.*, to assure stability in the property insurance market and to assure availability of basic property insurance and homeowners insurance. Ohio Administrative Code ("OAC") 3901-1-18 encompasses the Association's Plan of Operations. Among other things, the plan specifies permissible risks, requirements for property inspections, and the structure of the Association's Board of Governors.

R.C. 3929.42(A) prohibits the Association from including manufacturing exposures or coverage for automobiles in basic property insurance. The Association provides a market for the following lines of property insurance: homeowners, dwelling fire, farm fire, commercial fire, residential crime, and commercial crime.

The Association is authorized to insure only properties located in the state of Ohio. All insurance companies licensed to transact property or homeowners insurance business in Ohio are members. Each company may be assessed in direct proportion to its Ohio premium volume to cover any deficit or projected deficit out of the operation of the Association.

As reported on its financial statement, the Association's direct written premiums and direct losses incurred for calendar year 2010 were as follows:

#### 2010 Premium and loss Considerations

<b>Line of Business</b>	<b>Direct Written Premiums</b>	<b>Direct Losses Incurred</b>
Fire	\$5,401,085	\$4,407,106
Allied Lines	1,774,781	1,670,937
Homeowner multiple peril	15,155,792	11,720,761
Other Liability	42,069	6,500
Burglary and Theft	8,956	5,068
<b>Total</b>	<b>\$22,382,683</b>	<b>\$17,810,372</b>

As of December 31, 2010, the officers of the Association were:

President and Treasurer:	Norman E. Beal
Executive Vice President and Secretary:	W. Shawn Brace
Vice President Claims	Tracy A. Brininger
Vice President Information Services	David H. Culler III

## **AGENT LICENSING**

The examiners reviewed the Association's procedures on licensing activity. The examiners found that the Association has adequate procedures in place to assure that only licensed and appointed agents are soliciting and procuring applications and receiving commissions.

## **TERMINATIONS**

### **Policy Terminations:**

Procedures to be reviewed: All residential and commercial crime procedure manuals, underwriting guidelines, and instructions to agents will be reviewed in order to determine that the Association has made the necessary procedure revisions to assure that policy terminations on residential and commercial crime policies contain the 'right to appeal' wording as required by OAC 3901-1-18 (H)(7)(c) and (I) and the Consent Order from the 2006 examination.

**Test:** Do procedures require that notice be sent to the insured as required by OAC 3901-1-18 (H)(7)(c) and (I), including appeal wording?

### **Examiner Findings:**

Residential and commercial crime procedure manuals were reviewed and examiners verified that manual pages have been revised to include the inclusion of the 'right to appeal' statement on non-payment cancellations. In addition, the Association supplied examples of several non-payment cancellation notices showing that the right to appeal" statement is included on the form as required per OAC 3901-1-18 (H)(7).

The Association also provided a copy of an internal audit that was completed in this area after the market conduct exam in 2005/2006 to assure that requirements were being followed.

## **INSPECTIONS**

### **Property Inspections:**

All farm procedure manuals, underwriting guidelines, and instructions to agents were reviewed to assure that the Association has made the necessary procedure revisions to assure handling completed farm inspection reports within ten calendar days as required by OAC 3901-1-18 (F)(5) and the Consent Order from the 2005/2006 examination.

**Test:** Do procedures require that a copy of completed farm inspection report be sent to the Association within ten days of completing the inspection as required by OAC 3901-1-18 (F)(5)?

### **Examiner Findings:**

The procedure manual was revised and includes directives to the inspection companies of the required days that need to be followed. The Association gets a monthly, computer-generated report that tracks the dates for every inspection completed. The Association will follow-up with the inspection company immediately to discuss any adjuster that is not completing the reports in the number of days required.

The Association also provided a copy of an internal audit that was completed in this area after the market conduct exam in 2005/2006 to assure that requirements were being followed.

### GENERAL CLAIM PRACTICES

The examiners reviewed the Association’s claim procedure manuals to determine whether the Association had procedures in place that could reasonably be expected to meet the requirements of OAC 3901-1-07 and 3901-1-54 and the 2006 Consent Order.

The examiners found that the Association’s procedures could reasonably be expected to establish compliance with Ohio statutes and rules. Procedure manuals were revised and updated in accordance with Ohio statute and rules, the previous examination findings, and the 2006 Consent Order.

### SPECIFIC CLAIM PRACTICES

**Methodology:** The Association supplied a report of all Commercial Structure and Contents, Dwelling Fire Structure and Contents, Farm Structure and Contents, Homeowner Contents, and Residential Crime claims with payments that were closed during the exam period between January 1, 2010 and December 31, 2010. The examiners selected to review either the entire population or a sample of claim files to test for compliance with the required Ohio statutes and rules.

- The examiners reviewed all procedure manuals as part of exam process.
- One file was removed from the Dwelling Fire Contents sample because it was paid under Coverage A-Structure after investigation completed.
- The claims files were reviewed to verify dates in the claim settlement process.
- The claims files were reviewed to verify that the Association’s claim settlement practices included settlements that were fair and reasonable and that the file contained adequate supporting documentation for depreciation amounts and any sales tax paid.
- A claim was considered an exception if the claim was not settled in compliance with and OAC 3901-1-07 and 3901-1-54.

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

**Test:** Did the Association calculate settlement amounts in a manner that conforms to OAC 3901-1-07 (C)(6) and (7) and 3901-1-54 (I)(2) and the Company’s policy provisions?

Findings:

Population Name	Population	Sample	Yes	No	Standard	Findings
Commercial Structure	15	15	15	0	93%	100%
Commercial Contents	1	1	1	0	93%	100%
Dwelling Fire Structure	530	50	50	0	93%	100%
Dwelling Fire Contents	40	39	39	0	93%	100%
Farm Structure	3	3	3	0	93%	100%
Farm Contents	4	4	3	1	93%	75%

Population Name	Population	Sample	Yes	No	Standard	Findings
Homeowner Contents	486	50	49	1	93%	98%
Residential Crime	1	1	1	0	93%	100%

The standard for compliance is 93%. The Association’s handling practices were below this standard in the Farm Contents category.

**Examiner Recommendation:**

Even though the population and sample size of farm claims is small, the Association should review the claim handling procedures and processes to assure that all file documentation requirements are met.

**Examiner Comments:**

Based on the recommendations included in the 2005/2006 market conduct examination and the Consent Order of the Department, the Association made several changes to improve claim handling practices. The major changes implemented include:

1. The hiring of an internal auditor for the specific purpose of auditing the specific claims areas that were deemed out of compliance on the market conduct examination. This person has now evolved into conducting audits on the entire operation.
2. The Association has established several “layers” of audits being completed. These layers include audits performed by the internal auditor, the Loss Committee, and random audits conducted by the Claims Vice President and supervisor, as well as, additional review by the Board of Governors and Audit Committee.
3. All claims are now computerized to make it easier to store work and the tasks of the adjusters. This system continues to be updated and many changes are planned for the coming months.
4. The development of a new ‘Statement of Loss’ form that enables a “snapshot” view of the claim status on a particular file.
5. The contracting with a third-party administrator to handle all contents claims. The selection of a third party administrator was conducted under the advisement of the Loss Committee and other member insurance companies. Included are detailed depreciation schedules that follow the Joint Military Guide used by the Internal Revenue Service. Companies hired to handle structure and contents claims are continuously under review based on quality and efficiency of work produced.
6. The establishment of extensive training programs, for internal and external staff, that introduced new policies and procedures for handling claims. The programs include face-to-face meetings with the individual independent adjusters as a review of these policies. The Association schedules monthly technical staff meetings for both internal and external staff members involved in handling claims, to assure everyone is following the policies and to evaluate if any procedure changes are needed. The Claims supervisor conducts field evaluations (e.g. “ride alongs”) of adjusters to assure adherence to established policies and practices. Periodically, independent adjusters will be trained via phone on any process changes being implemented, as well as, onsite training for any new independent adjusters being hired.
7. All procedure manuals have been revised and updated to reflect suggestions from the Department during the market conduct examination.

8. The examiners found that a “culture of compliance” had been implemented throughout the organization and that effective supervision and audits were in place to assure compliance with the 2006 Consent Order.

This concludes the report of the re-examination of the Ohio Fair Plan Underwriting Association. The examiners, Don Layson, Ben Hauck, Laura Price, Rob Stroup, and Angie Dingus would like to acknowledge the assistance and cooperation provided by the management and the employees of the Association.



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Don Layson  
Examiner in Charge

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May 17, 2011  
Date