

# OFFICE OF INSURANCE REGULATION

## PROPERTY AND CASUALTY INSURERS FINANCIAL ANALYSES PROCESS AND INFORMATION TECHNOLOGY CONTROLS

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### Operational Audit



## COMMISSIONER OF THE OFFICE OF INSURANCE REGULATION

The Office of Insurance Regulation is created by Section 20.121(3)(a)1., Florida Statutes. The Office is administratively housed within the Department of Financial Services, but operates under the direction of the Financial Services Commission which is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. The head of the Office is the Director, who may also be known as the Commissioner, appointed by the Financial Services Commission. During the period of our audit Kevin M. McCarty served as Commissioner.

The audit team leader was David Ulewicz and the audit was supervised by Janet K. Bentley, CPA. Please address inquiries regarding this report to Sherrill F. Norman, CPA, Audit Manager, by e-mail at [sherrillnorman@aud.state.fl.us](mailto:sherrillnorman@aud.state.fl.us) or by telephone at (850) 487-9316.

This report and other reports prepared by the Auditor General can be obtained on our Web site at [www.myflorida.com/audgen](http://www.myflorida.com/audgen); by telephone at (850) 487-9175; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

## OFFICE OF INSURANCE REGULATION

### Property and Casualty Insurers Financial Analyses Process and Information Technology Access Controls

#### SUMMARY

This operational audit of the Office of Insurance Regulation (OIR) focused on the Property and Casualty (P&C) rate filings review process and certain processes used to monitor the financial condition and solvency of domestic and foreign P&C insurers. The audit also included a follow-up on the findings included in report Nos. 2007-086, 2009-032, and 2009-036. Our audit disclosed the following areas in which corrective actions are necessary.

#### P&C FINANCIAL ANALYSES AND REGULATORY ACTIVITIES

**Finding No. 1:** OIR had not sought an independent evaluation of, or requested an independent service auditor's report related to, the controls designed and established by the National Association of Insurance Commissioners (NAIC) for the database that maintains the insurer financial information used by OIR in its financial analyses processes.

**Finding No. 2:** OIR did not always finalize its review of "file and use" rate filings within 90 days.

**Finding No. 3:** OIR policies and procedures should be enhanced to require that the reasoning and judgments supporting rate filing decisions be sufficiently documented.

**Finding No. 4:** Contrary to OIR policy, OIR employees did not always sign annual Conflict of Interest forms.

#### INFORMATION TECHNOLOGY ACCESS CONTROLS

**Finding No. 5:** Certain Form and Rate Electronic Document Management System (FREDMS) access controls relating to the management of access privileges were deficient.

**Finding No. 6:** Although OIR staff had taken some action to correct the findings noted in report No. 2009-032 related to Financial Analysis and Monitoring Electronic Document Management System (FAME) access controls, certain access control deficiencies continue to exist.

**Finding No. 7:** As similarly noted in report No. 2009-036, OIR staff were unable to provide documentation to demonstrate that a periodic review of user access rights for the Applications Coordination Document Management System (AppCoord) had been conducted.

#### BACKGROUND

The Office of Insurance Regulation (OIR) has primary responsibility for enforcement of statutes relating to the business of insurance and the monitoring of industry markets. OIR's mission is to ensure that insurance companies licensed to do business in Florida are financially viable, operating within the laws and regulations governing the insurance industry, and offering insurance products at fair and adequate rates which do not unfairly discriminate against the buying public. OIR pursues its mission of public protection via regulatory oversight of insurance company solvency, policy forms and rates, market conduct performance, and monitoring new company entrants into the Florida market.

The OIR Property and Casualty (P&C) Product Review and Financial Oversight Units perform regulatory oversight and monitoring functions for P&C insurers. The P&C Product Review Unit is responsible for the review of contracts and rate filings submitted by insurers and other insurance-related entities. The P&C Product Review Unit is also responsible for approving rates for the Citizens Property Insurance Corporation (Citizens). Upon receipt, each filing is to be reviewed to determine compliance with the Florida Insurance Code and applicable actuarial standards and

administrative rules. The P&C Product Review Unit utilizes the Form and Rate Electronic Data Management System (FREDMS) to process, document, and track the progress of the review of contracts and rate filings.

The P&C Financial Oversight Unit is responsible for monitoring the financial condition of insurers through the conduct of financial examinations and ongoing financial analyses and for enforcing insurer compliance with statutory provisions and administrative rules as they relate to the review of insurer solvency. The P&C Financial Oversight Unit utilizes the Financial Analysis and Monitoring Electronic Document Management System (FAME) to process, document, and track the progress of financial analyses.

According to OIR records, there were 1,200 licensed P&C insurers (152 domestic and 1,048 foreign) as of October 2010.

## FINDINGS AND RECOMMENDATIONS

### P&C Financial Analyses and Regulatory Activities

#### **Finding No. 1: Evaluation of Controls Over Insurer Financial Information**

As part of its regulation and oversight responsibilities, OIR performs analyses of P&C insurer financial information. These analyses are used to monitor the financial condition of P&C insurers and to enforce the statutory provisions and applicable rules as they relate to the review of P&C insurer solvency.<sup>1</sup> To perform these analyses, OIR utilizes insurer financial information provided by the National Association of Insurance Commissioners (NAIC).<sup>2</sup> The NAIC administers the Financial Data Repository database (FDR) to, among other things, maintain insurer financial information and make it available to state insurance regulators. The information provided by the NAIC includes financial information that is required to be submitted to the NAIC both quarterly and annually by insurance companies. Some of the FDR information, such as insurance company risk-based-capital amounts and ratios, is considered confidential and, as such, is exempt from the State's public records laws.<sup>3</sup> Information from the NAIC is provided to OIR through an information-sharing agreement associated with OIR's NAIC membership.

As OIR routinely utilizes FDR information for the vital analyses of insurer financial conditions, OIR management must rely on the controls established by the NAIC to ensure the accuracy and completeness of the FDR information. In response to our audit inquiries regarding OIR actions to evaluate the sufficiency of NAIC controls over the FDR and related information, OIR provided copies of certain representations made by NAIC staff concerning the effectiveness of the FDR controls. For example, NAIC staff asserted that NAIC runs validations on the data submitted by insurers to ensure the accuracy and completeness of FDR information. However, OIR had never sought an independent evaluation of, or requested an independent service auditor's report<sup>4</sup> related to, the controls NAIC had designed and established for the FDR.

<sup>1</sup> Chapters 624 and 625, Florida Statutes, and Office of Insurance Regulation Rules, Chapter 69O-137, Florida Administrative Code.

<sup>2</sup> The NAIC is a nonprofit organization, composed of elected or appointed state government officials, that supports the state regulation of insurance.

<sup>3</sup> Section 624.40851, Florida Statutes.

<sup>4</sup> A service auditor's report, as described by the American Institute of Certified Public Accountants, Statement on Auditing Standards No. 70, *Service Organizations* (SAS 70), provides information and auditor conclusions related to a service organization's controls. Service organizations make service auditor's reports available to user organizations to provide assurances related to the effectiveness of the service organization's relevant internal controls. The SAS 70 guidance applicable to service auditors will be superseded for periods ending on or after June 15, 2011, by the Statement on Standards for Attestation Engagements No. 16, *Reporting on Controls at a Service Organization* (SSAE 16).

Subsequent to our audit inquiries, OIR contacted the NAIC requesting a service auditor’s report. NAIC staff represented to OIR that its first SAS 70 engagement for the FDR was scheduled to cover the period August 1, 2010, through January 31, 2011, and that the resulting service auditor’s report would be made available to OIR after the end of the first quarter of 2011.

Absent a service auditor’s report, or other independent evaluation of NAIC controls, OIR has limited assurance that the FDR information relied upon for the vital analyses of the financial condition and solvency of P&C insurers is accurate and complete.

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**Recommendation:** We recommend that OIR routinely obtain and review an independent service auditor’s report on the effectiveness of NAIC controls established for the FDR and related information. OIR should consider the conclusions presented in the reports when utilizing the information provided by NAIC.

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**Finding No. 2: Timeliness of Rate Filing Reviews**

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State law requires that, within 90 days of receipt of a “file and use” filing, OIR finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove.<sup>5</sup> Requests for supporting information or corrections or notification to the insurer of its preliminary findings by OIR is not to toll the 90-day period. Should OIR not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing, the rate is to be deemed approved.

We examined OIR review documentation for 38 P&C “file and use” rate filings and noted that OIR had timely issued a notice of disapproval for 6 of the 38 filings and a notice of approval for 28 of the filings. However, as shown in Table 1, for 4 of the 38 rate filings, OIR had issued a notice of its decision more than 90 days after receipt of the rate filing. In each of these 4 instances, OIR approved the rate filings.

**Table 1**  
**Comparison of Date Filing Received to Date of Notice of Intent**

No.	Date Filing Received by OIR	Date OIR Staff Entered Filing Decision Into Final Pages <sup>a</sup>	Number of Days Between Receipt of Filing and Final Pages Entry	Date of Approval Letter (Notice of Intent to Approve)	Number of Days Between Receipt of Filing and Approval Letter
1	05/05/2009	09/01/2009	119	10/23/2009	171
2	12/22/2008	03/26/2009	94	04/14/2009	113
3	03/31/2009	07/07/2009	98	07/17/2009	108
4	12/22/2008	03/26/2009	94	04/09/2009	108

<sup>a</sup> OIR entered a decision date in the final pages of the rate filing review file prior to issuing an approval letter or notice of intent to disapprove.

In response to our audit inquiry, OIR management indicated that the 90-day review period had been exceeded due to the need for additional information and that, for each of these 4 filings, the insurer had requested, in writing, an extension to the right to have the filing deemed approved. We noted that at least some of the insurer’s requests had been prompted by an OIR request for additional time to complete the rate filing review.

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<sup>5</sup> Section 627.062(2)(a)1., Florida Statutes. A “file and use” filing is a filing made at least 90 days before the proposed effective date that is not implemented during OIR’s review of the filing and any proceeding and judicial review.

Notwithstanding the insurers' request for the extensions, it is unclear that OIR had the statutory authority to exceed the 90-day review period established by law.

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**Recommendation:** We recommend that OIR take appropriate steps to ensure the completion of rate filing reviews within the 90-day period established by law.

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*In response to this finding, OIR indicated that its position with respect to extensions is consistent with a 1998 interpretation and application of case law by a predecessor agency and with an Attorney General's opinion addressing statutory license issuance deadlines. OIR also indicated that since OIR's protocol benefits both insurers and OIR, and improves processing time, OIR does not intend to alter its current procedure. Notwithstanding OIR's position that the Attorney General's opinion and case law can be applied to extend the 90-day rate filing review period prescribed in Section 627.062(2)(a)1., Florida Statutes, compliance with the review period limit established by statute would better serve the interests of the insurers, their customers, and OIR.*

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### **Finding No. 3: State Documentation for Rate Filing Decisions**

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Pursuant to State law,<sup>6</sup> OIR actuaries and analysts are to review insurer rate filings to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, OIR is to, in accordance with actuarial techniques, consider an insurer's past and prospective loss experience, past and prospective expenses, and the degree of competition among insurers for the risk insured.

Actuarial standards require that records and other appropriate documentation be created to identify the data, assumptions, and methods used. The documentation of the data, assumptions, and methods used is to be sufficiently clear to allow another actuary qualified in the same practice area to evaluate the reasonableness of the work. In addition, NAIC guidance indicates that a rate reviewer should be able to explain specific actions taken on a rate filing and the impact of a rate change on business.<sup>7</sup>

Our evaluation of the process used by OIR staff to review rate filings disclosed that, while OIR staff documented responses to objective criteria when evaluating the reasonableness of a rate filing, OIR policies and procedures did not require that OIR staff document the reasoning, judgments, and calculations supporting those responses or the rate filing decisions made. For example, for one of the rate filings reviewed, explanations and computations supporting the approval of a percentage for prospective expenses that was lower than that submitted by the insurer was not documented. In response to our audit inquiry, OIR management indicated that decisions were made by experienced and knowledgeable staff and were discussed among OIR staff at regularly scheduled meetings, although minutes or other similar records were not produced or maintained.

An established policy or procedure requiring OIR staff to document, at the time of the rate filing review, the underlying reasoning and judgments affecting the decision would enhance OIR's ability to later explain specific actions taken regarding the rate filing and to support the reasonableness of the rate filing decisions made.

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**Recommendation:** We recommend that OIR enhance its policies and procedures to require OIR staff to sufficiently document the basis for the reasoning and judgments made in support of rate filing decisions.

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<sup>6</sup> Section 627.062(2)(b), Florida Statutes.

<sup>7</sup> NAIC *Product Filing Review Handbook*.

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**Finding No. 4: Conflict of Interest Forms**


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In accordance with State law,<sup>8</sup> the OIR Code of Ethics requires all employees to annually sign Conflict of Interest forms affirming that they have no conflicts of interest related to insurers regulated by and entities doing business with OIR.<sup>9</sup> The Conflict of Interest form is to be signed by the employee at the time of the employee's annual performance evaluation.

Our test of OIR policies and records related to 23 OIR employees disclosed that, although OIR management revised the applicable *Administrative Policy and Procedure* based on a recommendation in report No. 2007-088, OIR management did not ensure that annual Conflict of Interest forms were signed by OIR employees. Specifically, a current signed Conflict of Interest form was not available in OIR records for 19 of the 23 employees. Subsequent to our audit inquiry, OIR obtained signed Conflict of Interest forms from 18 of the 19 employees. OIR did not obtain a signed Conflict of Interest form from the other employee as she had separated from OIR employment on March 12, 2010.

Obtaining employee affirmations that examinations, investigations, and other regulatory activities are conducted absent any conflicts of interest is critical to successful regulation as such affirmations provide OIR with assurances regarding the objectivity of regulatory personnel and activities. An undisclosed conflict of interest may bring into question the integrity of a particular investigation or examination, as well as, OIR's regulatory efforts as a whole.

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**Recommendation:** We recommend that OIR management ensure compliance with State law and the OIR Code of Ethics by annually obtaining signed Conflict of Interest forms from all OIR employees.

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<b>Information Technology Access Controls</b>
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**Finding No. 5: FREDMS Access Controls**


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Our audit procedures disclosed that certain FREDMS logical access controls relating to the management of access privileges were deficient. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising OIR data and information technology (IT) resources. However, appropriate OIR personnel have been notified of these issues.

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**Recommendation:** We recommend that OIR strengthen its IT security controls related to the management of FREDMS access privileges.

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**Finding No. 6: FAME Access Controls**


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As noted in report No. 2009-032, finding No. 2, certain FAME logical access controls relating to the management of access privileges needed improvement. Our follow-up procedures disclosed that, although OIR staff had taken some corrective action, deficiencies relating to certain FAME logical access controls continue to exist. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising OIR data and IT resources. However, appropriate OIR personnel have been notified of these issues.

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<sup>8</sup> Section 112.313(7), Florida Statutes.

<sup>9</sup> *Administrative Policy and Procedure OIR 1-2*, revised August 16, 2007.

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**Recommendation:** We again recommend that OIR strengthen its IT security controls related to the management of FAME access privileges.

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### Finding No. 7: AppCoord User Access Reviews

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Effective security administration procedures include the periodic review of user access rights to reduce the risk of unauthorized system access. As noted in report No. 2009-036, finding No. 3, OIR staff acknowledged the lack of documentation demonstrating the conduct of a periodic review of Applications Coordination Document Management System (AppCoord) user access rights. OIR staff utilize the AppCoord to manage, track, and approve company applications to sell insurance in the State.

DFS IT Security Policy<sup>10</sup> and an OIR Chief of Staff memorandum dated October 31, 2007, direct OIR staff to operate within DFS policy and procedures. The DFS IT Security Policy requires the periodic review and confirmation of user accounts, access controls, and privileges. The periodic review is to include, but is not limited to, a review of the user rights, restrictions, and password removals applicable to active employees and third parties.

In response to our audit inquiry, OIR management stated that, due to workload priorities during the 2009 calendar year, OIR staff again did not perform an AppCoord user access rights review. Subsequent to our audit inquiry, OIR staff did conduct a user access rights review.

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**Recommendation:** We again recommend that OIR strengthen its IT security controls related to the management of AppCoord access privileges and establish a documented process for the periodic review and confirmation of user accounts, access controls, and privileges. The periodic review should be performed at least annually, or more frequently upon identification of a specific risk.

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### PRIOR AUDIT FOLLOW-UP

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Except as discussed in the preceding paragraphs, OIR had taken corrective actions for the findings included in our report Nos. 2007-086, 2009-032, and 2009-036.

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### OBJECTIVES, SCOPE, AND METHODOLOGY

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The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March to October 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on the P&C rate filings review process and the financial analyses of domestic and foreign P&C insurers. The overall objectives of the audit were:

- To evaluate the effectiveness of established internal controls in achieving OIR management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the

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<sup>10</sup> DFS IT Security Policy No. 4-03, effective April 16, 2009.

economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.

- To evaluate OIR management's performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether OIR management had corrected, or was in the process of correcting, all deficiencies disclosed in our report Nos. 2007-086, 2009-032, and 2009-036.

In conducting our audit we:

- Interviewed selected P&C Product Review Unit and P&C Financial Oversight Unit personnel.
- Reviewed the OIR Code of Ethics and available Conflict of Interest forms for selected employees to ensure that employees engaged in examinations, investigations, and other regulatory activities had affirmed that those activities were performed absent any conflicts of interest.
- Obtained an understanding and tested the effectiveness of certain OIR IT controls. Specifically, we evaluated OIR change management, AppCoord batch processing, FAME scanning and indexing, Professional Liability Claims Reporting System data validation, and access controls for FREDMS, FAME, and AppCoord, as well as, OIR actions to correct the IT control deficiencies noted in prior audit report Nos. 2007-086, 2009-032, and 2009-036. Our tests included examinations of program change documents, including program change requests and approvals; IT policies and procedures; correspondence requesting data corrections; user access rights as compared to user job responsibilities.
- Obtained an understanding and tested the effectiveness of internal controls related to OIR's process for reviewing P&C rate filings to determine the extent to which those controls reasonably ensured OIR compliance with applicable laws, rules, and other guidelines.
- Evaluated OIR's process for documenting the criteria used and factors considered by P&C staff when determining, as required by State law,<sup>11</sup> whether a proposed rate was excessive. Specifically, we reviewed OIR's process for documenting consideration of each factor enumerated in law.
- Evaluated OIR's process for documenting the criteria used and factors considered by P&C staff when reviewing and issuing a final order establishing Citizens Property Insurance Corporation's (Citizens') rates including P&C staff actions to ensure that, effective January 1, 2010, Citizens' rate increases did not exceed 10 percent.<sup>12</sup>
- Evaluated the effectiveness of the methods used by P&C staff to account for and track P&C rate filings. Specifically, for 20 P&C "file and use" rate filings<sup>13</sup> received during the period July 2008 through February 2010, we reviewed FREDMS records and verified whether OIR had assigned a unique number to each rate filing and whether the status of the filing was recorded. We also verified whether, for 40 other P&C "file and use" rate filings processed during the period July 2008 through February 2010, the dates the filings were received were accurately recorded in FREDMS and whether FREDMS properly calculated the dates by which P&C staff were to issue a notice of intent to approve or a notice of intent to disapprove.

<sup>11</sup> Section 627.062(2)(b), Florida Statutes, requires that, upon receiving a rate filing, OIR shall review the rate filing to determine if a proposed rate is excessive, inadequate, or unfairly discriminatory.

<sup>12</sup> Section 627.351(6)(n)6., Florida Statutes.

<sup>13</sup> Section 627.062(2)(a)3., Florida Statutes, requires that, for all property insurance rate filings made or submitted after January 25, 2007, but before December 31, 2010, an insurer seeking a rate that is greater than the rate most recently approved by OIR shall make a "file and use" filing. Section 627.062(2)(a)1., Florida Statutes, describes a "file and use" filing as a filing made at least 90 days before the proposed effective date and that is not implemented during OIR's review of the filing and any proceeding and judicial review.

- Examined 40 P&C “file and use” rate filings processed during the period July 2008 through February 2010 to determine whether OIR complied with statutory time limits for the review of such filings.
- Obtained an understanding and tested the effectiveness of OIR internal controls related to the process for monitoring the financial condition of domestic and foreign P&C insurers and for responding to the economic downturn. Specifically, we reviewed the procedures designed and implemented by OIR and examined records documenting the analyses and monitoring of the financial condition of selected domestic and foreign insurers.
- Evaluated the sufficiency of the documentation supporting the application of the criteria used by OIR staff to demonstrate compliance with the Florida Insurance Code, Florida Administrative Code, OIR policies and procedures, and NAIC requirements when monitoring the financial condition of domestic and foreign P&C insurers. Specifically:
  - We examined the process employed by OIR to demonstrate compliance with the financial analyses and monitoring required by the Florida Insurance Code, Florida Administrative Code, and NAIC requirements.
  - For 5 domestic P&C insurers, we reviewed various documents including, but not limited to, scoring reports, complete profile reports, compliance spreadsheets, and applicable checklists and comments.
  - For 12 foreign P&C insurers, we reviewed various documents including, but not limited to, compliance spreadsheets, certificates of compliance, certificates of security deposits, and comments.
- Performed analytical procedures using a key financial indicator (the risk-based-capital ratio)<sup>14</sup> to evaluate OIR efforts to identify potential impaired or insolvent insurers providing homeowner multi-peril insurance. Using NAIC data, we identified the five insurers with the lowest risk-based-capital ratios and, for these five insurers, examined documentation of OIR regulatory actions.
- Based on the extent of OIR reliance on the data provided by the NAIC for the financial analyses of P&C insurer financial information, requested evidence of OIR actions to evaluate the sufficiency of NAIC controls over the related information.
- Performed various other auditing procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe those matters requiring corrective actions.

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<sup>14</sup> The NAIC risk-based-capital ratio formula generates the regulatory minimum amount of capital that an insurer is required to maintain to avoid regulatory action.

**AUTHORITY**

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a biennial basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT'S RESPONSE**

In a response letter dated April 18, 2011, the Office of Insurance Regulation's Chief of Staff provided a response to our audit findings and recommendations. The response is included as **EXHIBIT A**. Supportive documentation was referenced in the response that constitutes a public record of OIR and was not reproduced in this report.

**EXHIBIT A  
MANAGEMENT'S RESPONSE**



**OFFICE OF INSURANCE REGULATION**

**KEVIN M. MCCARTY**  
COMMISSIONER

April 18, 2011

David W. Martin, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Re: Response to 2010 Operational Audit of the Office of Insurance Regulation

Dear Mr. Martin:

The Office of Insurance Regulation (Office) is in receipt of the audit report that focused on the Property and Casualty (P&C) rate filings review process and certain processes used to monitor the financial condition and solvency of domestic and foreign P&C insurers. In addition, the audit included a follow-up on the findings included in report numbers 2007-086, 2009-032, and 2009-036. Senior Management has reviewed the findings, and appreciates the opportunity to respond at this time.

**Finding No. 1: OIR had not sought an independent evaluation of, or requested an independent service auditor's report related to, the controls designed and established by the National Association of Insurance Commissioners (NAIC) for the database that maintains the insurer financial information used by OIR in its financial analyses processes.**

**Office Response:** As noted in the report, the Office has requested and expects to receive a service auditor's report pursuant to SAS 70 from the NAIC to cover the six-month period ending January 31, 2011.

In addition, the Office would like to note that in an effort to ensure the National Association of Insurance Commissioners (NAIC) Financial Data Repository (FDR) database is accurate and complete, the Office receives audited financial statements prepared by independent certified public accountant firms in PDF format. Office examiners and analysts compare the audited financial statements to the electronic filings of the insurer's annual statements in the FDR database and have found no inaccuracies or incompleteness in the FDR data. Correspondingly, Office examiners perform periodic onsite field examinations of insurers and compare the general ledgers and accounts of the insurers to the electronic filings in the FDR database.

Office analysts are in constant communication with insurers regarding their data and the analytical process used to derive information in the FDR database. For example, it is common for analysts to follow-up with insurers on the risk based capital amounts, financial ratios, reserve development, asset and liability amounts for specific insurers. In fact, given the enormous detail of the data and review by our

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**EXHIBIT A**  
**MANAGEMENT'S RESPONSE (CONTINUED)**

examiners and analysts, we are confident our efforts are tantamount to a verification of the accuracy and completeness of the FDR data.

Ancillary to the above, the Office has run several reports from the FDR database and issued this information publicly, and have not encountered any insurers advising the Office of publishing incorrect data.

***Finding No. 2: OIR did not always finalize its review of "file and use" rate filings within 90 days.***

***Office Response:*** In *Gilman v. Butzloff*, 22 So.2d 263 (Fla. 1945), the Florida Supreme Court stated that "a party may waive any right to which he is legally entitled whether secured by contract, conferred by statute, or guaranteed by the Constitution." The Office (actually its predecessor – the Department of Insurance) issued Informational Bulletin 98-007 on October 28, 1998, a copy of which is enclosed, that outlines the position in regards to a waiver of deemer provisions.

In the four cases described in the findings in which a waiver of deemer was received, the insurer decided it was in its best interests to waive the deemer to allow for additional time for review of the filing. It should be noted that, in all circumstances, this was due to the fact that the initial filing did not contain all information needed to review the filing. Thus, it required additional efforts by an Office actuary to determine whether the proposed filing complied with all applicable statutes and rules. The waiver of deemer was submitted by the insurer to avoid a Notice of Intent to Disapprove being sent by the Office. This allowed the company to avoid resubmitting a complete filing to support the proposed changes, saving both time and effort. Since this protocol benefits both insurers and regulators, and improves processing time, the Office does not intend to alter its current procedure.

***Finding No. 3: OIR policies and procedures should be enhanced to require that the reasoning and judgments supporting rate filing decisions be sufficiently documented.***

***Office Response:*** The Office will review current policies and procedures in order to ensure all appropriate documentation is included in rate files.

***Finding No. 4: Contrary to OIR policy, annual Conflict of Interest forms were not always signed by OIR employees.***

***Office Response:*** Current policy requires that a new conflict of interest form be signed and submitted at the time of the annual employee performance evaluation, and at the time of initial hire. However, in an effort to assure that all conflict of interest forms are completed timely, the Chief of Staff has amended this policy to require all forms be submitted by a date certain (currently April 1 of every year); rather than tying the form submission date to annual performance evaluations. In addition, the Conflicts of Interest Form – Annual Certification of Adherence will be modified to reflect the new procedure. The Office believes this will resolve the issue.

**EXHIBIT A**  
**MANAGEMENT'S RESPONSE (CONTINUED)**

**Finding No. 5: Forms and Rate Electronic Document Management System (FREDMS) Access Controls**

Our audit procedures disclosed that certain FREDMS logical access controls relating to the management of access privileges were deficient. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising OIR data and information technology (IT) resources. However, appropriate OIR personnel have been notified of these issues.

**Office Response:** Effective January 19, 2011, the Office instituted a process called Active Directory. This enhanced security measure now identifies each user and authorized roles at the point of logging on to your computer (the network) each morning.

If the Auditor General's Office has any questions regarding this response please contact Rebecca McCarley, Deputy Chief of Staff, at (850) 413-5086.

**Finding No. 6: Financial Analysis and Monitoring Electronic Document Management System (FAME) Access Controls**

As noted in report No. 2009-032, finding No. 2, certain FAME logical access controls relating to the management of access privileges needed improvement. Our follow-up procedures disclosed that, although OIR staff had taken some corrective action, deficiencies relating to certain FAME logical access controls continue to exist. Specific details of these issues are not disclosed in this report to avoid the possibility of compromising OIR data and IT resources. However, appropriate OIR personnel have been notified of these issues.

**Office Response:** Effective January 19, 2011, the Office instituted a process called Active Directory. This enhanced security measure now identifies each user and authorized roles at the point of logging on to your computer (the network) each morning.

If the Auditor General's Office has any questions regarding this response please contact Rebecca McCarley, Deputy Chief of Staff, at (850) 413-5086.

**Finding No. 7: AppCoord User Access Reviews**

Effective security administration procedures include the periodic review of user access rights to reduce the risk of unauthorized system access. As noted in report No. 2009-036, finding No. 3, OIR staff acknowledged the lack of documentation demonstrating the conduct of a periodic review of Applications Coordination Document Management System (AppCoord) user access rights. OIR staff utilize the AppCoord to manage, track, and approve company applications to sell insurance in the State.

DFS IT Security Policy and an OIR Chief of Staff memorandum dated October 31, 2007, direct OIR staff to operate within DFS policy and procedures. The DFS IT Security Policy requires the periodic review and confirmation of user accounts, access controls, and privileges. The periodic review is to include, but is not limited to, a review of the user rights, restrictions, and password removals applicable to active employees and third parties.

**EXHIBIT A**  
**MANAGEMENT'S RESPONSE (CONTINUED)**

In response to our audit inquiry, OIR management stated that, due to workload priorities during the 2009 calendar year, OIR staff again did not perform an AppCoord user access rights review. Subsequent to our audit inquiry, OIR staff did conduct a user access rights review.

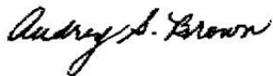
**Office Response:** Effective September 22, 2010, the Office instituted a process called Active Directory. This enhanced security measure now identifies each user and authorized roles at the point of logging on to your computer (the network) each morning. The Office has also instituted a user access review process.

If the Auditor General's Office has any questions regarding this response please contact Rebecca McCarley, Deputy Chief of Staff, at (850) 413-5086.

**Conclusion**

The Office appreciates the Auditor General's thorough review of the Office's processes and believes that the recommendations made by the Auditor General will assist us in strengthening internal procedures. The Office welcomes a follow-up review by the Auditor General to ensure the measures outlined in this response have been properly implemented.

Sincerely,



Audrey S. Brown  
Chief of Staff  
Office of Insurance Regulation

**Attachments**

cc: Kevin McCarty, Insurance Commissioner  
Bonnie Deering, Inspector General  
Belinda Miller, Acting General Counsel  
Al Willis, Acting Deputy Commissioner, Property & Casualty  
Rebecca McCarley, Deputy Chief of Staff  
Steve Szypula, Acting Director, Property & Casualty Financial Oversight  
Richard Koon, Director, Property & Casualty Product Review