

**MARKET CONDUCT REPORT ON EXAMINATION**

**OF**

**GREENWICH INSURANCE COMPANY**

**AS OF**

**JULY 14, 2006**

I, Matthew Denn, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON MARKET CONDUCT EXAMINATION, made as of JULY 14, 2006 of the

**GREENWICH INSURANCE COMPANY**

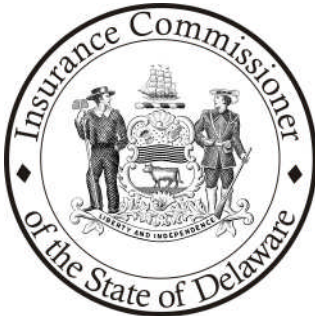
is a true and correct copy of the document filed with this Department.

ATTEST BY: \_\_\_\_\_

*Antoinette Handy*

DATE: 23 JULY 2007

*In Witness Whereof*, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 23RD DAY OF JULY 2007.



*Matthew Denn*

Insurance Commissioner

**REPORT ON MARKET CONDUCT EXAMINATION**  
OF THE  
**GREENWICH INSURANCE COMPANY**  
AS OF  
**JULY 14, 2006**

The above captioned Report was completed by examiners of the Delaware Insurance Department.

Consideration has duly been given to the comments, conclusions, and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted, and filed as an official record of this Department.

A handwritten signature in black ink, appearing to read "Matt Denn", written over a horizontal line.

MATTHEW DENN  
INSURANCE COMMISSIONER

DATED this 23RD day of JULY, 2007.

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## **SALUTATION**

July 24, 2006

Honorable Matthew Denn  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Denn:

In compliance with the instructions contained in Certificate of Examination Authority Number 05.738, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

### **Greenwich Insurance Company**

hereinafter referred to as the "Company" or as "Greenwich." Greenwich Insurance Company is incorporated under the laws of the State of Delaware. This examination reviewed the operations of Greenwich. The on-site phase of the examination was conducted at the following locations:

- 1201 North Market Street, Suite 501; Wilmington, DE 19801
- 520 Eagleview Blvd; Exton, Pennsylvania 19341
- 100 Constitution Plaza, 17<sup>th</sup> Floor; Hartford, CT 06103
- 13777 Ballantyne Corporate Place, Suite 430; Charlotte, NC 28277

The examination is as of July 14, 2006.

Examination work was also conducted off-site and at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or as "DDOI."

The report of examination thereon is respectfully submitted.

## **SCOPE OF EXAMINATION**

The basic business areas that are subject to a Delaware Market Conduct Examination vary depending on the type on insurer. For all insurers these areas include:

Company Operations/Management  
Complaint Handling  
Marketing and Sales  
Producer Licensing  
Policyholder Service  
Underwriting and Rating  
Claims

Additional areas may be included for an insurer writing property and casualty coverage. Each business area has standards that can be examined and measured, typically utilizing sampling methodologies.

This examination is a Delaware Baseline Market Conduct Examination. It is comprised of two components. The first is a review of the Company's countrywide complaint patterns. This is not a pass/fail test but rather is aimed at determining if there is a detectable pattern to the complaints the Company receives from all sources.

The second component is an analysis of the management of the various business areas subject to a market conduct examination through a review of the written procedures of the Company. This includes an analysis of how the Company communicates its instructions and intentions to its lower echelons, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of its measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis focus is then made on those areas where review indicators suggest that the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance.

All business areas noted above are addressed to some extent by one or more of the procedures reviewed thus providing a comprehensive view of the Company and its component operations.

This examination report is a report by test rather than a report by exception. This means that all areas tested are described and results indicated. Substantial departure from the norm may result in supplemental review focused on the area so noted.

## **HISTORY AND PROFILE**

Greenwich Insurance Company ("Greenwich" and/or the "Company"), formerly known as Harbor Insurance Company, is a Delaware domiciled insurer that writes property and casualty insurance on an admitted basis in all fifty (50) states, the District of Columbia, and Puerto Rico. Greenwich was originally incorporated under the laws of the State of California on February 18, 1946, and began business on May 4, 1946. The Company operated under the name Harbor Insurance Company until 1991, when the present title was adopted. Effective December 24, 2002, the Company was redomiciled from the State of California to the State of Delaware.

Effective December 13, 1990, all of the outstanding shares of Greenwich were purchased from The Continental Corporation by XL Reinsurance America Inc. (formerly known as NAC Reinsurance Corporation), a New York domiciled insurer ("XLRA"), thereby making Greenwich a wholly owned direct subsidiary of XLRA. XLRA is a wholly owned indirect subsidiary of X.L. America, Inc., a Delaware domiciled corporation ("X.L. America"), which, in turn, is an indirect wholly owned subsidiary of XL Capital Ltd., a Cayman Islands domiciled, New York Stock Exchange publicly traded company ("XL Capital"). X.L. America is the ultimate United

States parent of Greenwich and its insurer and non-insurer affiliates, all of which are members of the XL Capital Holding Company System.

Effective June 30, 2003, with the approval of the Companies' domiciles, the holding company structure of X.L. America was restructured. As a result of the realignment, XLRA contributed all of the issued and outstanding shares of XL Insurance America, Inc., a Delaware domiciled insurer ("XLIA"), to Greenwich, thereby making XLIA a wholly owned subsidiary of Greenwich, and an indirect wholly owned subsidiary of XLRA and X.L. America. As a result of the contribution of XLIA to Greenwich, XL Select Insurance Company, an Oklahoma domiciled insurer ("XL Select"), a wholly owned subsidiary of XLIA, became an indirect wholly owned subsidiary of Greenwich. Additionally, effective June 30, 2003, XLRA contributed all of the issued and outstanding shares of XL Insurance Company of New York, Inc., a New York domiciled insurer ("XLNY"), to XLIA, thereby making XLNY an indirect wholly owned subsidiary of Greenwich.

Greenwich primarily writes property, marine, general liability, professional liability, workers' compensation, automobile, surety and automobile warranty lines of business. The majority of the Company's business is currently produced by the following business units pursuant to a shared services agreement: XL Environmental (a division of XL Specialty Insurance Company), XL Programs (a division of XL Specialty Insurance Company), XLRA Programs (a division of XL Reinsurance America Inc.), XL Professional (a division of XL Specialty Insurance Company) and XL Select Professional (a division of XL Specialty Insurance Company).

Greenwich is a member of the XL Reinsurance America Inter-company Pooling Agreement. Under the terms of this Agreement, Greenwich and the other Inter-company member insurers cede one hundred percent (100%) of their premiums and liabilities to the pool leader, XLRA. XLRA cedes seventy-five percent (75%) of the pool business net of specific reinsurance to its affiliate XL Re Ltd. The remaining twenty-five percent (25%) of the business is redistributed among the pool members ratable to their surplus.

## **METHODOLOGY**

This examination is based on the Standards and Tests for a Market Conduct Examination of a Property and Casualty Insurer found in Chapter VIII of the Delaware Market Conduct Examiners' Handbook. This chapter is derived from applicable Delaware statutes, rules, and regulations as referenced herein and in the *NAIC's Market Conduct Examiners' Handbook*.

The types of review used in this examination fall into three general categories: generic, sample, and electronic.

A "Generic" review is conducted through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "Sample" review is conducted through the direct review of a random sample of files using the sampling methodology described in the Delaware Market Conduct Examiners' Handbook and



the *NAIC's Market Conduct Examiners' Handbook*. The sampling techniques used are based on a ninety-five percent (95%) confidence level. This means that there is a ninety-five percent (95%) confidence level that the error percentages shown in the various standards tested are representative of the entire set of records from which it was drawn.

An "Electronic" review is conducted by the use of a computer program or computer routine applied to a download of computer records of the examinee. This type of review typically reviews 100% of the records of a particular type.

The complaints pattern review is conducted using all three methodologies. The various procedures are reviewed using a "Generic" review methodology.

The Introduction to the Review of Procedures section describes the basis for the analysis methodology. Each procedure review is described and the result of the review is provided under the appropriate procedure. Each procedure is supported by 18 Del. C. §318(a) and 18 Del. C. §508(b). In some cases there is additional specific statutory support, however, these references have not been listed. The reference source for each procedure found in the *NAIC's Market Conduct Examiners' Handbook* (NAIC MCEH Reference) is noted.

Each procedure is accompanied by examiner "Observations." In some cases a "Recommendation" is made. Reference, Observations and Recommendations are reported with the appropriate Standard.

## **A. COMPANY OPERATIONS/MANAGEMENT**

This examination report is not designed to be a pass/fail report; however, there are two exceptions. Those exceptions are the standards that state:

- “The Company is licensed for the lines of business that are being written” and
- “The Company cooperates on a timely basis with examiners performing the examinations.”

### **Standard A 07**

*NAIC Market Conduct Examiners' Handbook - Chapter XV, §A, Standard 7 & Chapter XVII, §A, Standard 7*

**The Company is licensed for the lines of business that are being written.**

18 Del. C. §318(a), §505(b), §508(b)

The review for this standard is by “generic” methodology. This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company’s operations are in conformance with the Company’s Certificate of Authority.

**Results: Pass**

**Observations:** The Company is licensed for the lines of business being written.

*Recommendations:* None

**Standard A 09**

<i>NAIC Market Conduct Examiners' Handbook - Chapter VIII, §A, Standard 9</i>
<b>The Company cooperates on a timely basis with examiners performing the examinations.</b>
18 Del. C. §318(a), §320(c), §508(b), §520(b)3

Review for this standard is by “generic” methodology. This standard has a direct insurance statutory requirement. This standard is aimed at ensuring the Company is cooperating with the state in the completion of an open and cogent review of the Company’s operations. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing cost.

*Results:* **Pass**

*Observations:* During the course of the examination Greenwich was provided with sixty-one (61) Information Requests (IRs) and all responses were provided in a timely manner. The Company’s communication with the examiners was very responsive. The examiners did not experience any delays during the course of the examination.

*Recommendations:* None

**B. COMPLAINTS/GRIEVANCES**

Evaluation of the Standards in this business area is based on the Company’s response to various information requests (IR items) and complaint files at the Company. 18 Del. C. §2304(17) requires the Company to "...maintain a complete record of all complaints received." The statute also requires that "this record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." Delaware’s definition of a complaint is: "...any written communication primarily expressing a grievance."

The Company provided a database with one-hundred sixty (160) logged complaints for the period of examination. All complaints were reviewed for any patterns of problems relating to coverage. No patterns were noted and all complaints were resolved in a timely manner. The review of the complaint process is noted in Procedure 11.

**REVIEW OF PROCEDURES**

The management of well-run companies generally has some processes that are similar in structure. These processes generally take the form of written procedures. While these procedures vary in effectiveness from company to company, the absence of them or the

ineffective application of them is often reflected in the failure of the various Standards that follow this section. The processes usually include:

- A planning function where direction, policy, objectives and goals are formulated
- An execution or implementation of the planning function elements
- A measurement function that considers the results of the planning and execution; and a reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations

The absence of written procedures that provide direction for company staff in its various operational areas tends to produce inconsistent application of the intended process. The same is generally true of the absence of a means to measure the results of the application of procedures and a means to determine that the process is performing as intended.

The reviews in this section are not pass/fail measurements. Rather, they are intended to reflect those management strengths and weaknesses that have a bearing on regulatory compliance issues.

#### **Procedure 01 – Audit (Internal and External)**

*Observations:* The Company has a written audit procedure for internal audits. This procedure is dated January 20, 2003. No conflicts with Delaware’s statutes or regulations are noted.

The Internal Audit Department (IAD) has twenty-four (24) employees that are located worldwide. The Internal Audit Department performs, on average, ninety (90) to one hundred (100) audits per year, with each audit taking approximately six (6) to eight (8) weeks. Approximately seventy percent (70%) of audits are conducted in the field with the remaining thirty percent (30%) completed in the office. The Company does use some contractor auditors to fill resource gaps.

The Internal Audit Department develops an audit plan comprised of three phases, the planning phase, testing phase and the executive summary. The planning phase includes the audit process, control evaluation and risk assessment of key controls. In the testing phase, compliance and substantive tests are conducted and information is loaded in TeamMate©. The IAD looks specifically at detail issues that include condition, risk and recommendation. The executive summary phase is the finalization of the report. The report is then issued to Executive Management and the findings are inserted into a follow-up database.

The IAD reports to the Audit Committee of the Board of Directors. Management recommendations to improve the Company’s operations are submitted to the Audit Committee for consideration. IAD helps the Company accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management and internal control processes. IAD conducts an annual enterprise-wide risk assessment. These business risks include all strategic, financial, credit, operational, compliance and technology initiatives.

IAD identifies areas of significant risk at a business unit and process level and makes a preliminary assessment of the current effectiveness of management controls.

PricewaterhouseCoopers (PwC) handles the external audits for the Company. PwC audits the consolidated financial statements of the Company. Their audit focuses on the identification of the core business processes utilized by the Company that support or impact the reliability of financial reporting and the assessment of the risks associated with these core business processes.

The IAD and PwC communicate on audits to ensure the audit is performed correctly. The introductory e-mail that IAD sends to the auditees/stakeholders at the pre-planning stage of the audit is also sent to the external auditors. Each region has a designated liaison at PwC. At the time that the final audit report is issued, a copy is also sent to the PwC designate. When an internal audit of a smaller, remote location is conducted, IAD meets with PwC at the planning stage to determine what specific procedures IAD will perform.

The Company has quarterly meetings to indicate changes to the internal/external audit plans, review internal audits completed in the previous quarter and any key findings expected to relate to the external audit process, and review key findings from PwC's work. The Audit Committee meets six (6) times per year to discuss all of the audits and discuss any problems that have been identified or changes that need to occur in a specific business segment. In 2006, the Company will develop a peer review process that will involve hiring a firm to review the processes of the internal audit.

*Recommendations:* None

### **Procedure 02 – Assertions of Privilege**

*Observations:* The Company does not have a formal written assertion of privilege procedure. Privilege is asserted on a case-by-case basis. The Company maintains that a general assertion of privilege would be in conflict with the idea of attorney-client privilege. The Company requires each privilege to be requested. In addition, all privilege assertions must be discussed with the Division Lawyer.

*Recommendations:* None

### **Procedure 03 – Company Records, Central Recovery and Backup**

*Observations:* The Company has a written Company Records, Central Recovery and Backup Procedure. The procedure is dated September 1, 2005. No conflicts with Delaware's statutes or regulations are noted.

The Company schedules daily incremental backups to run Monday through Friday and full backups to run on Friday. Restores are made when the Company receives a request to restore data or when a quarterly restore test needs to be performed. The Data Center will accept restore

requests for a user's Home Directory or Shared Directory via a Help Desk ticket but they do require a Service Request for any other type of restore. When a ticket (Service Request or Help Desk) is received, the data is not restored over the top of existing data unless instructed to do by a supervisor. Then the Company employee is contacted to review the restore and confirm if the data is what was needed. Upon confirmation that the data is acceptable, the restore request is closed. On a quarterly basis, the operations manager verifies that restores have happened on both AS400 and Windows platforms. If they have not verified that the restores have occurred, the operations manager will initiate a request to complete the request.

The current retention policy for the Company states that all mail, file and application data will be kept off-site indefinitely unless data retention requirements call for destruction of the data.

*Recommendations:* None

#### **Procedure 04 – Computer Security**

*Observations:* The Company has a written Computer Security Procedure. The procedure is dated November 14, 2003. No conflicts with Delaware statutes or regulations are noted.

All Company employees are required to maintain the confidentiality of customer and Company Group information, ensure that customer and Company Group information is accurate and secure, adhere to all security, electronic communication, and confidentiality policies as mandated by the Company's Capital Compliance Program and Policy Statements located on the Company's website. Employees are to immediately report any violation of this policy or known security incident to the employees local IT Help Desk or IT Security Officer.

All Users authenticate their identity prior to initiating a computer session or electronically accessing Company Group information. The required means of identification for most systems and applications is a User ID and password. The Users are prohibited from loading unlicensed or unauthorized software onto any Company owned or leased PC, laptop, workstation, or other electronic device. Users may not allow Company Group owned or licensed software or other intellectual property to be copied by others and may not themselves make copies other than those provided for in the relevant licensing agreements. All hardware, software, and IT resources supplied by the Company are the property of the Company and as such may at any time, without prior notice, be subject to audit review.

Users should not connect to any third party (i.e. Internet, Extranet) while connected to Company networks except through Company authorized gateways and are prohibited from connecting personally owned computers, laptops, or other electronic devices to the Company's network without the approval of the IT Department.

Any software or data received from any external source is treated as suspect and not installed until it has been scanned for viruses using the Company's standard virus detection software. Any actual or suspected virus related problem is reported to the local Help Desk or IT department only. Lost, stolen or damaged Company equipment is reported to the local Help

Desk or IT Department. Any equipment other than the individual's laptop or PDA taken off-site must have management authorization for removal.

Confidential information is destroyed at the end of its useful life cycle. Paper media is disposed of using paper shredders or secure trash disposal providers. Electronic media is destroyed using secure delete, physical destruction or degaussing processes. The exam team did not review this process and no timeframe was given for when something is no longer "useful".

*Recommendations:* None

## **Procedure 05 – Anti-fraud**

*Observations:* The Company has a written Anti-fraud procedure. The procedure is dated June 2003. No conflicts with Delaware's statutes or regulations are noted.

For the prevention of external fraud, the Company has retained MJM Investigations Inc. (MJM) is a nationwide fraud and insurance investigations company that investigates and evaluates internal and external fraudulent insurance acts. MJM is staffed with a nationwide network of more than two hundred seventy five (275) investigators experienced and trained in the insurance claim operations process, fraud prevention process, and detection and investigative techniques. MJM also trains, motivates and assists personnel, in the prevention of insurance fraud as well as the detection of possible fraudulent actions.

The Company's prevention of internal fraud is accomplished by both internal and external audit functions and by alerting personnel and agents through instruction, education and public awareness that alleged acts of impropriety will be investigated and, if warranted, prosecuted. Through the use of these methods, employees are informed as to what to look for as indicators of internal fraud, encouraged to report acts of suspected impropriety, and instructed how to report any suspected improprieties.

The Special Investigation Unit, (SIU) and/or claims supervisor meets with the claims adjusters annually, and in periodic meetings to discuss emerging issues and topics regarding fraud detection, changes to state laws, procedures, and the Company performance in detecting and preventing fraud. These meetings are mandatory.

The investigative staff provides a variety of training services and materials for adjusters, underwriters and management annually, semi-annually or on an as needed basis. These services include Fraud Awareness Training which focuses on the magnitude of the fraud problem, the types of fraud one might expect to encounter, fraud indicators, the types of cost effective investigative activity that might be used, case studies illustrating successful investigations, and procedures for how referrals can be made.

The Company's SIU prepares and distributes a bi-weekly "e-business insurance fraud newsletter" to all personnel that provides current industry information on fraud legislation,

prosecutions, fraud schemes and detection methods, outside training opportunities and an educational article addressing an insurance fraud related topic.

*Recommendations:* None

### **Procedure 06 – Disaster Recovery**

*Observations:* The Company does not have a formal Disaster Recovery Procedure. They are currently in the process of developing such a procedure.

*Recommendations:* It is recommended the Company develop a formal Disaster Recovery Procedure that includes the Company's process in the event of a disaster, the recovery process and controls to ensure the procedure is affectively working and a process to ensure all employees adhere to the procedure.

### **Procedure 07 – Managing General Agent (MGA) Oversight and Control**

*Observations:* The Company uses MGU, Inc. as its sole MGA in their XL Programs. The agreement is detailed in a thirty-three (33) page contract that addresses oversight of the underwriting manager to solicit, underwrite, bind, issue and service policies and collect premiums for Greenwich. Except for the authority granted to MGU under the agreement, Greenwich retains absolute management authority and control over the underwriting and issuance of all policies issued under the terms of the Agreement. This includes any disciplinary actions. Greenwich reserves the right to audit any file, process or individual at such times and frequency as the Company deems it appropriate. MGU must maintain all licenses, registrations, and bonds required by law to write business as an underwriting manager. MGU annually provides Greenwich a list of agents and brokers soliciting the business on behalf of MGU. MGU is solely responsible for any fines or assessments levied by regulatory organization for actions or omissions of MGU, where MGU has the responsibility or authority to perform. Upon written notice to MGU, Greenwich may immediately suspend or amend any or all of MGU's authority under the agreement for such time as Greenwich may deem necessary.

*Recommendations:* None

### **Procedure 08 – Vendor Oversight and Control**

*Observations:* The Company has a written Vendor Oversight and Control Procedure. The procedure is dated January 28, 2004. No conflicts with Delaware's statutes or regulations are noted.

IT Agreement negotiation involves clarification and mutual agreement on the structure and requirements of the agreement prior to signing. Mutual obligations include responsibilities and authorities, technical and business management approaches, financing, and price. All IT Agreements are reviewed and approved by the appropriate Company Legal organization before

execution. The final IT Agreement includes all agreements reached by the specific Company's legal entity including key clauses and defines and communicates specific roles and responsibilities. Once a vendor has been selected and the IT Agreement signed, the process of managing the vendor relationship begins.

The Company's IT Agreement administration ensures that the vendor's performance meets contractual requirements. IT Agreement disputes are handled by the IT Manager who signed the agreement. Vendor performance is reviewed after each project completion. The vendors are held accountable for their service in accordance with the IT Agreement and can be excluded from future selection if their performance does not meet the required standards.

Vendors are evaluated on technological competence, systems capabilities, geographic coverage, volume capacity, financial viability, accuracy of product/service delivery, completeness of product/service delivery, quality of product/service delivery, timeliness of product/service including problem resolution and record of client satisfaction (both internal and external). The exam team did not review the Vendors evaluations.

TPA's are also used to handle claims and related issues. The above-described process for IT vendors also applies to TPA vendors

*Recommendations:* None

## **Procedure 09 – Customer and Consumer Privacy Protection**

*Observations:* The Company has a written Customer and Consumer Privacy Protection Procedure. The procedure is dated February 5, 2005.

The Company verifies and exchanges information regarding their customer's credit and financial status only for the purposes of underwriting, policy administration, or risk management and only with references and clearinghouse services. The Company does not collect nor use information about their customers and their business other than the amount of information necessary to properly administer the Company's business. The Company trains their employees to handle information about their customers and their business in a secure and confidential manner and only permit employees authorized to use such information to have access to such information. The Company does not disclose information about their customers or their business to any organization outside the Company or to third party service providers unless the Company first discloses to the customer their intent to do so or they are required to do so by law. The Company will not disclose medical information about their customer, the customer's employees, or any claimants under any policy of insurance, unless the customer provides them with written authorization to do so.

The Company attempts, with their customer's help, to keep the Company's records regarding the customer and their business complete and accurate, and will advise them on how and where to access their account information (unless prohibited by law), and will advise them how to correct errors or make changes to that information, and audits and assess the Company's operations,



personnel and third party service providers to assure that the customer's privacy is respected. If the Company becomes aware that an item of personal information may be materially inaccurate, it re-verifies the information and corrects any error(s). Any Company employee violating the Privacy Policy will be subject to discipline, up to and including, termination.

*Recommendations:* None

### **Procedure 10 – Insurance Information Management**

*Observations:* The Company has a written procedure manual for the management of Insurance Information. The manual is dated March 5, 2004. The Internal Audit Committee reviews and tests this procedure annually and the results are provided to both the Audit Committee and the Board of Directors. A review of the audit reports was not conducted during this examination.

The Company manual provides guidance to employees on which records to maintain, the length of time to maintain these records and under what circumstances these records may or may not be discarded or destroyed. The manual also addresses the proper method for destroying such documents. All records are maintained and discarded or destroyed in accordance with corporate procedures. Business units and service units have established Best Practices to implement the corporate policy.

*Recommendation:* None

### **Procedure 11 – Complaint Handling**

*Observations:* The Company has a formal written Complaint Handling Procedure. This procedure is clear, readable, organized and available to persons needing access to or affected by the procedure. The procedure is updated annually.

The Company maintains a Consumer Complaint Manual, which details the complaint handling process and all complaints are logged into the XL Consumer Complaints Database for tracking and analysis. The Company defines consumer complaints as written communications from policyholders or claimants, which primarily express a grievance. These communications may be forwarded to the Company by insurance departments or they may be submitted directly by consumers.

When the Company receives a complaint, the date is recorded and it is scanned into a PDF file. The complaint is logged into the complaint database, assigned a file number by the system, and a hard copy file is created. An Administrator forwards the complaint to the appropriate contact person for review. Depending on the process that is in place for the particular business unit or program, the contact person either drafts a response or provides the Administrator with information and supporting documentation with which to draft a response. After the response has been sent to the complainant and/or insurance department, an electronic copy of the response is attached to the complaint file record in the database and the file record is closed. The file record may be reopened if follow-up inquiries are received on the complaint matter. If the file

record is reopened, a Re-open document record is created by the system under the original file record.

The Company follows the response times that are mandated by each state and for those that do not set response times the Company has set a goal to respond to inquiries within fifteen working days. In a general electronic review no exceptions were noted.

*Recommendations:* None

### **Procedure 13 – Advertising, Sales and Marketing**

*Observations:* The Company has a written Advertising, Sales and Marketing procedure. The procedure was last revised in August 2005. No conflicts with Delaware’s statutes or regulations were noted.

The Company developed a process that includes eight (8) steps to ensure that the Company’s senior management is aware and appropriately involved in the development of marketing projects and programs, and that all appropriate legal and regulatory groups are included in the process. The eight (8) steps include project inception, marketing service center engagement, determination of complexity of project, project entry into the project database, project development, project review and approval, implementation of any necessary revisions and the distribution of any materials. The project is reviewed by a number of persons including Marketing management, the requesting client, the requesting client’s management, Legal counsel (US or International, depending on scope of project), Quality Control, Technical review if appropriate and Regulatory personnel if appropriate (policy forms, etc.).

All marketing projects are based on a plan and an approved line of budget. The Company assigns the appropriate marketing center based on expertise, logistics, available time and geography. There is a preliminary screening at this point to determine the scope and size of the project and time available to produce the project. For any project expected to require more than four (4) hours of time involvement by Creative or Marketing Coordination staff, an Analysis of Marketing Project form is completed. This form is sent to Marketing management for review and approval before any further work is started. The Senior Marketing management determines which marketing service center will undertake the project. Once the project is approved it is entered into the Marketing project database. The Company’s Creative Department develops marketing material based on client input and Company branding standards. The project is then reviewed and approved, revisions are made and copies are distributed.

*Recommendations:* None

#### **Procedure 14 – Agent Produced Advertising**

*Observations:* The Company does not have a written Agent Produced Advertising Procedure. The Company's marketing and legal personnel review all marketing and advertising material that includes the Company's name or logo.

*Recommendations:* The Company should develop a formal, written Agent Produced Advertising Procedure. The procedure should include a method for ensuring the company has proper control over agent produced advertisements and a method for measuring the procedure's effectiveness.

#### **Procedure 15 – Producer Training**

*Observations:* The Company does not have a formal written Producer Training Procedure. The Company does not write business on a direct basis. A number of their employees are licensed and appointed on behalf of their Company, but they do not place business with or solicit business on behalf of the company. Since there is no direct written business and they have no "active" employee agents a formal training procedure has not been developed. Greenwich distributes its insurance products and services through managing general agents, brokers and agents. Greenwich accepts business produced by major national brokerage firms, as well as regional and independent producers. The business units work directly with their appointed agents on the products that they write on the Company's behalf.

*Recommendations:* The Company should develop a formal written Producer Training Procedure to ensure producers writing business with the company are properly trained to solicit the company's products. The procedure should include a method for ensuring the company properly oversees the producer sales activities and a method for measuring the procedure's effectiveness.

#### **Procedure 20 – Producer Selection, Appointment and Termination**

*Observations:* The Company has a written Producer Selection, Appointment and Termination procedure. The procedure is clear and current. No conflicts with Delaware's statutes or regulations are noted.

The Company's Sales and Marketing (S&M) and the business units determine from whom they will accept business. Either S&M or the business unit will contact the Regulatory Services Group's Producer Administration Unit in order to determine whether the producer has an existing appointment with the Company or if an appointment should be made. The assigned Producer Analyst will contact the producer directly for any additional information needed in order to process the appointment (if required). All appointments are made with Kaplan Financial's Appointpak product; background checks are integrated within Appointpak (GIS is the Company's background check vendor). Every business unit, except the Company's Equine and Design Professional, treat their producers as brokers, so if the state permits brokering they will not make an appointment. However, the Companies' still require securing license information in order to verify that the agency and/or individual holds a valid broker license in the insured's and

producer's state of domicile. The Producer Analyst will advise S&M or the business unit (depending on who made the appointment request) that either the appointment has been made or that no appointment is required (states that permit brokering). The database is updated with the new producer information.

The Producer Administration Manager will secure a listing of all producers. Those who are flagged as not producing business within the past eighteen (18) months will be terminated after confirmation that neither S&M nor any business unit has any objections. The producer is notified of the termination, the state is notified of the termination (if required), and the database is updated.

*Recommendations:* None

### **Procedure 21 – Producer Defalcation**

*Observations:* The Company has a written Producer Defalcation Procedure. The procedure is dated July 2005.

Producers who are suspected of fraud or illegal conduct are referred to the Legal Department, Internal Audit, and Regulatory Services. The Legal Department/Regulatory Services handles all required communication with state insurance departments regarding the producer. The Internal Audit Department investigates the allegation of fraud.

Generally, a notice of fraudulent or illegal activity will be forwarded to the Producer Administration Unit from the Company's Legal Department, who receives notice from the state. The Company checks their database and the National Insurance Producer Registry's Producer Database (PDB) to see if there is an appointment for the producer with any of the Companies. If so, the Company will advise the Legal Department who will request that the producer's appointment be terminated and will cancel the producer's agreement. The Legal Department will advise all business units and Sales & Marketing as to the particulars of the action taken, taking into consideration privacy issues surrounding the circumstance of the defalcation. If there is no active appointment the Company must still provide evidence to the Legal Department that there are no active appointments with any of their Companies, via a screen print from the PDB, as well as show that the producer agreement was cancelled. During the course of this examination the examiners did not review the PDB system. However, no problems were noted in the materials provided for review or mentioned during any of the on-site interviews.

*Recommendations:* None

### **Procedure 22 – Prevention of the Use of Persons with a Felony Conviction**

*Observations:* The Company has a written prevention procedure addressing the Use of Persons with a Felony Conviction Procedure. The procedure is clear and readable and dated July 2005. No conflicts with Delaware's statutes or regulations are noted.

If an appointment is required, the background check is automatically sent to the Company's background check vendor (GIS) via Appointpak, which is the tool used to make all appointments. Background checks are performed in all states which require them. The Company uses Kaplan Financial's E-Pal product as their reference tool to determine which states require background checks. The background check criteria are listed below:

**Criminal History:** Any misdemeanor convictions found at the county level, any felony convictions found at the county level.

**Credit History:** Bankruptcies and tax liens within 1 year totaling \$5,000 or more, Bankruptcies and tax liens within 7 years totaling \$15,000 or more, Garnishment on earnings within the last 5 years.

*Recommendation:* A federal requirement (18 USC §1033) makes it illegal for an individual convicted of a crime involving dishonesty, breach of trust or a violation of the Act to work or continue to work in the business of insurance affecting interstate commerce without receiving written consent from an insurance regulatory official authorized to regulate the insurer. Until such time as consent is given, a person who has committed such a crime is considered a "prohibited person" in the insurance industry. Every prohibited person must be granted written consent to engage in the business of insurance before that person can engage in the business of insurance. The consent must be issued by the appropriate insurance regulatory official and must specify that it is granted for the purpose of 18 U. S.C. § 1033. A "prohibited person" includes but is not limited to, any insurance agency or insurance company employee, agent, solicitor, broker, consultant, third-party administrator, managing general agent, or subcontractor representing an agency or company who engages or participates in the business of insurance as it affects interstate commerce, who has been convicted of any criminal felony involving dishonesty, breach of trust, or a violation of the Act.

The Company responses indicate the Company considers the federal requirement for producers. The Company should develop written procedures to ensure they comply with the provisions of 18 USC §1033 for all Officers, Directors, and employees of the insurance company, agents, brokers, solicitors, managing general agents, claims adjusters, resident licensees, and other persons (e.g.; agents, third -party administrators, independent contractors) who perform substantial insurance-related activities for the Company. The procedures should include a process for the measurement of the effectiveness of the procedures and should also provide for revisions to the process as needed.

### **Procedure 23 – Policyholder Service**

*Observations:* The Company has a written procedure manual for Policyholder Services that is clear and readable. The procedure is accessible to persons subject to its provisions, and adequate training is provided to persons affected by the procedure. No conflicts with Delaware's statutes or regulations are noted.

Endorsements - with limited, significant exceptions (mid-term cancellation) USRM requires that endorsements be pended for processing until the end of the policy. Endorsements will be handled at the time of premium audit.

Audits - all policies are subject to audit. USRM is utilizing a nationally recognized premium audit company to conduct on-site audits of client books and records. USRM is just completing its first audit/renewal season. As such, specific procedures are still in development.

Renewals - the renewal process begins approximately one hundred, twenty (120) days prior to expiration. The TDA prepares a conditional notice of renewal (from Oden) and sends it to the Insured. The underwriter and broker open discussions regarding a renewal strategy.

All three types of transactions are and will be reviewed/underwritten/invoiced (if appropriate) in a manner similar to new business transactions.

USRM requires that endorsements be pended for processing until the end of the policy. Endorsements will be handled at the time of premium audit. USRM is utilizing a nationally recognized premium audit company to conduct on-site audits of client books and records. USRM is just completing its first audit/renewal season. As such, specific procedures are still in development. The renewal process begins approximately one hundred, twenty (120) days prior to expiration. The underwriter and broker open discussions regarding a renewal strategy.

USRM holds management meetings approximately twice per month. These are informal in structure and nature, and allow for interactive, roundtable discussions. The focus of the meeting is more strategic/overview (rather than tactical or agenda-driven discussions). The Company uses it as an opportunity to promote awareness and level understanding among all groups within USRM, and to discuss problems and issues that may be impacting the Company.

*Recommendations:* None

## **Procedure 24 – Premium Billing**

*Observations:* The Company has a written Premium Billing Procedure. Each business unit (XL U. S. Risk Management, XL Environmental and XL Programs) has its own procedure. No conflicts with Delaware's statutes or regulations are noted.

At XL U. S. Risk Management invoices are issued shortly after binding a policy with copies forwarded to Accounting in Exton, PA at the same time they are sent to the broker and Insured. An invoice copy is sent to credit control. The file is forwarded to the Policy/Deal Administrator (PAM). PAM inputs the policy(ies) into the Company's computer processing system, Wheatley Insurance System (WINS), completes the financial and statistical coding steps, and produces a draft policy for the Technical Deal Administrator (TDA) to review. TDA's are further described in Procedure 26. Accounting shows the policy as bound in WINS once the financial and statistical coding is complete. The underwriter compares the booked premiums to the proposal premiums and initials them to show agreement.

XL Environmental's Underwriter Support Group (USG) receives policies from the Underwriter who orders that the policy be bound. USG refers to a rating sheet in order to determine how premium is to be allocated. USG binds and codes the money into the computer program. Once the policy is posted, USG sends information to accounting. The next day the invoice is placed in the user's mailbox. The user takes the invoice, copies it, sends the original to the broker along with the binding letter and retains a copy for the file.

XL Programs' Managing General Underwriter (MGU) provides any and all financial information and reports, and any other transaction information necessary to enable the Company to comply with its compliance, financial and statutory accounting obligations, as required by the Company, within five (5) days after the end of each calendar month. The MGU is responsible for ensuring that any and all financial information required by the Company is accurately coded, entered, and balanced. The MGU aids the Company in identifying and correcting any reconciliation issues which may emerge upon review by the Company of the claims and financial reports prepared by MGU. The current version date of this procedure is March 10, 2005.

*Recommendations:* None

#### **Procedure 25 – Correspondence Routing**

*Observations:* The Company's has a formal written Correspondence Routing Procedure dated July 2005.

XL Programs and XL U. S. Risk Management correspondence is received in their offices and is directed to the appropriate individual by the mailroom. Unidentifiable mail is researched and forwarded to the appropriate individual once that person/department has been identified.

*Recommendations:* None

#### **Procedure 26 – Policy Issuance**

*Observations:* The Company has a written Policy Issuance Procedure. The review of this procedure was conducted on materials provided during the examination and during an interview with an Underwriting Supervisor. No conflicts with Delaware's statutes or regulations are noted.

The Company's XL U. S. Risk Management Technical Deal Administrator (TDA) reviews draft policies comparing coverages and endorsements to the coverages. The draft is forwarded to Underwriters (UW) for final review. The TDA initials the control sheet to confirm their review. The underwriter reviews the policy compared to the proposals, binders and/or broker's annotated coverage specifications. The UW initials the control sheet as evidence of their review and then returns the draft policy to Policy/Deal Administrators (PAMs) for release. PAM generates the final policy from Wheatley Insurance System (WINS) and forwards it to the TDA. The TDA performs the final review using the corrected draft policy. The TDA provides material to PAM that creates a policy file, labels, etc. PAM sends the policy file(s) to the file room.

For XL Environmental, on the 15<sup>th</sup> of each month a report is generated based on the prior months binding/ mailing activity for all policies. The monthly data is merged with the prior month's data to provide a progress report. All policies not mailed within fifty-five (55) days from the effective date are provided to the unit managers to provide a description of the progress/delay. The responses by the unit managers are combined and submitted to the President for review/response.

XL Programs itself does not issue policies directly. All of the policies issued from the XL Program unit are issued by Managing General Agents (MGA) and Managing General Underwriters (MGU). Those businesses are responsible for the issuance and maintenance of the policy; XL Program is responsible for the administration of the programs.

*Recommendations:* None

### **Procedure 27 – Reinstatement**

*Observations:* The Company has a written Reinstatement Procedure. The procedure was adopted in June 16, 2004 and several business units rely upon this procedure.

A review of the Company's ODEN Policy Terminator Manual, Reinstatement Chapter, and a tour of the computer system was conducted. This process is taught to each Underwriter that deals with reinstatement.

Reinstatement is processed in the ODEN System. Dates are auto entered, for example, the effective date is the date the policy was cancelled and the mail date defaults to the date the policy is being processed. Three (3) copies of the reinstatement notice are mailed out, one (1) to the insured, one (1) to the producer and one (1) to the branch office. Other copies can be printed if requested or needed. All copies automatically print the following statement: "This notice is to advise that the policy is being reinstated without lapse in coverage." The ODEN System auto saves all notices. Below is additional information for each unit that relies on the reinstatement process.

XL Programs reinstatement procedures are referenced in customized Underwriting Guidelines by Program. The method used to measure the operation and effectiveness of written documents is the responsibility of and reported by the Finance, Compliance and Underwriting Departments.

XL Fine Arts and Species unit utilizes ODEN Policy Terminator for state-approved cancellation notices. In the event that the notice would be rescinded and the policy reinstated, an endorsement would be issued and a official letter would rescind the Notice of Cancellation.

XL Design Professional finance companies or agencies send reinstatement requests directly to the regional underwriting office. The Underwriter receives the notification, approves it and gives it to the Underwriting Assistant for reinstatement processing. Underwriting Assistants then reinstate the policy in Phoenix, Arizona and a notice of reinstatement is automatically sent out to the client.



XL U. S. Risk Management and XL Marine and Off-Shore Energy does have a process on how it reinstates policies. XL U. S. Risk Management uses ODEN Terminator and ODEN Online Cancellation, Non-renewal and Conditional Renewal Manuals to terminate policies and reinstate when that information is available.

XL Aerospace does not provide policy reinstatement.

The procedure does not appear to conflict with Delaware's statutes or regulations.

*Recommendations:* None

### **Procedure 28 – Insured or Member Requested Claim History**

*Observations:* The Company has a written Insured or Member Requested Claim History Procedure. This procedure is readable, organized and available to persons needing access to or affected by the procedure. The procedure was adopted in March 10, 2005 and several business units rely upon this procedure.

The XL Environmental unit's procedure is as follows:

- Loss runs are requested through the Underwriting Selection Guidelines (USG) in writing.
- USG verifies whether the requester is considered the broker.
- If the requestor is not confirmed the employee accesses a Company software, reviews a copy of the report to be sent to the requester via email or they will print a copy
- If not confirmed in AS400, the employee confers with the underwriter, who will confirm whether or not the requester is valid. If the requestor is not the broker of record, the underwriter can request that the insured sign-off on a request before the Company releases the information.

XL's Program claim history reports for insureds are the responsibility of the Third Party Administrators (TPA). The company measures the operation and effectiveness of written procedures by following up with the TPAs to make certain they have completed requests that have been submitted directly to XL.

XL U. S. Risk Management does not have a formal written procedure on claims history and loss runs. XL U. S. Risk Management receives these requests in the underwriting unit. The underwriter forwards this request to the XL U. S. Risk Management Claims Representative, the loss run is produced and forwarded to the requestor via facsimile or U. S. Mail.

The procedure does not appear to conflict with Delaware statutes or regulations.

*Recommendations:* None

### **Procedure 30 – Premium Determination and Quotation**

*Observations:* The Company has a written Premium Determination and Quotation Procedure. The procedure was adopted in May 2005.

XL U. S. Risk Management (USRM) operation provides primary casualty risk retention programs on an unbundled basis for the United States exposures of large companies and institutions. XL's objectives include serving customers who are actively involved in the handling of their claims and who wish to retain a meaningful portion of their insurance risk, based their own financial and operational tolerance for risk.

XL Environmental business unit's rate and quote letter process is performed as outlined in the Process Mapping document Standard Quote letter template and is maintained and used on all quotations.

XL Programs' additional premium determination and quotation procedures are contained in the customized Underwriting Guidelines developed by XL Programs. The method used to measure the operation and effectiveness of this tool is handled by Compliance and Underwriting audits.

The procedure does not appear to conflict with Delaware statutes or regulations.

*Recommendations:* None

### **Procedure 31 – Policyholder Disclosures**

*Observations:* The Company has a written Policyholder Disclosure Procedure. The procedure was adopted in May 2005 and several business units rely upon this procedure.

XL Insurance General Practice unit has developed an online resource to assist the business unit with producing a policy using the appropriate rates, rules and forms. The Statutory Policyholder Notice Section provides the underwriter and/or policy production team the tools to select the appropriate policyholder, and issue notices for the state of the policyholder to satisfy the statutory requirements.

As part of U. S. Risk Management policy issuance process, a list of mandatory policyholder disclosure notices is used as a checklist to confirm that all required documents are made part of the final policy.

XL Environmental attaches a Company form to the policyholder's folder and forwards everything to the Underwriting Selection Guidelines (USG) department. USG will review the above noted sites on the XL Specialty Portal/RRC and print out each document, by state, that outlines the mandatory policyholder disclosures that must be attached to the policy.

XL Programs uses the Regulatory Resource Center for this procedure. The method used to measure the operation and effectiveness of this procedure is handled by Compliance and Underwriting audits. The exam team did not look at or review these audits.

*Recommendations:* None

### **Procedure 32 – Underwriting and Selection**

*Observations:* The Company has a written Underwriting and Selection Procedure. The procedure was adopted in October 23, 2003 and several business units rely upon this procedure.

XL US Risk Management (USRM) operation primarily provides casualty risk retention programs based on the United States exposures of large companies and institutions. USRM serves customers who are actively involved in the handling of their claims and who wish to retain a meaningful portion of their insurance risk, based their own financial and operational tolerance for risk.

USRM's minimum targeted account size is an insured with primary casualty expected losses of \$1.5 million or greater for all lines. Minimum customer retention levels are employed and stated by the Underwriter guidelines, whether coverage is offered via deductible, Self Insured Retention (SIR), retrospective loss limit or captive retention program. The minimum retention requirement does not apply if USRM chooses to offer a guaranteed cost option.

XL Environmental business unit's Formal Underwriting Rules and Guidelines exist for each product line offered by the underwriting unit and are made available to underwriting staff via access to the XL Specialty Portal. Adherence to the established underwriting guidelines is controlled through the maintenance of formal underwriting authority statements in place for each underwriter and compliance is verified through a formal audit procedure. The logic supporting the underwriting and selection procedure is evidenced in a formal Customer Acquisition Document that is completed on every bound account and can be found in the underwriting file.

XL Programs additional underwriting and selection procedures are contained in the customized Underwriting Guidelines developed by XL Programs. The method used to measure the operation and effectiveness of this tool includes Underwriting audits, and the review of large loss files referred to the Claim Department.

The procedure does not appear to conflict with Delaware statutes or regulations. The procedure is provided to all employees as necessary and the Internal Audit Committee reviews the process and submits the results to the Audit Committee and the Board of Directors on a quarterly and annual basis

*Recommendations:* None

### **Procedure 33 – Rate and Form Filing**

*Observations:* The Company has a written Rate and Form Filing Procedure. This procedure is organized and available to persons needing access to or affected by the procedure. The procedure was adopted in July 2005.

The Company provided the Examiners with a State Filings and Compliance Procedure Manual. XL processes submissions, using the Company guidelines, to obtain prompt approval of rate, rule and form filings for the Operating Business Units and Program Managers. The Company accomplishes this by pursuing education in the areas of state filing, contract analysis, insurance regulations and insurance operations. The Company stated that their guidelines for time required to prepare and submit filings is a maximum of three (3) days for a single state filing, a maximum of fifteen (15) days for a multi-state filing and a maximum of twenty (20) days for a countrywide filing.

*Recommendations:* None

### **Procedure 34 – Termination**

*Observations:* The Company has a written Termination procedure. This procedure is available to persons needing access to or affected by the procedure. The procedure was adopted in November 1, 2005 and several business units that rely upon this procedure. No conflicts with Delaware's statutes or regulations are noted.

It is the general practice of XL Insurance businesses to use the ODEN Policy Terminator to terminate policies. In addition, the Company businesses use the ODEN On-line product to determine the guidelines for each state. The ODEN On-line products are available to the business units through the Regulatory Resource Center (RRC).

XL U. S. Risk Management uses its standard underwriting guidelines to select, reject and decline accounts. XL U. S. Risk Management uses ODEN Terminator and ODEN Online Cancellation, Non-renewal and Conditional Renewal Manuals to terminate policies and reinstate when that information is available, e.g., Workers' Compensation Proof of Coverage.

For XL Programs, the method used to measure the operation and effectiveness of this tool is underwriting and Compliance audits. In an interview with the Director of Internal Audit he provided the last three audit reports which contained a section on their findings of the termination process. None of the reports revealed any concerns or made recommendations on the termination process.

*Recommendations:* None

### **Procedure 35 – Underwriting File Documentation**

*Observations:* The Company has a written Underwriting File Documentation Procedure. The procedure was adopted in October 23, 2003 and several business units rely upon this procedure.

XL General Business Practice uses the Regulatory Resource Center (RRC) to obtain the necessary file documentation and processes.

XL Programs' additional file documentation procedures are contained in the customized Underwriting Guidelines developed by the XL Program. The Company states the method used to measure the operation and effectiveness of this procedure is Compliance and Underwriting audits.

XL Environmental has a formal policy set-up procedure that provides guidance regarding Underwriting File Documentation, which is required for each product line. The logic supporting the underwriting and selection procedure is provided in a formal Customer Acquisition Document that is completed on every bound account and can be found in the underwriting file.

The procedure does not appear to conflict with Delaware statutes or regulations.

*Recommendations:* None

### **Procedure 36 – Underwriter Training**

*Observations:* The Company does not have a written Underwriter Training Procedure. XL Environmental has each Underwriter undergo training when hired. The training process is a collaborative effort involving the line of business the Underwriter is assigned, Human Resources, IT, and Corporate Underwriting.

XL General Business Practice and XL Programs provide on-site training for new employees. XL Insurance offers a tuition reimbursement program, which encourages employees to advance their careers with job related courses. The Company also provides management training via XL HR developed management training programs such as, Global Development Program, Performance Development Program and Leadership Development Program. Training is part of every manager's goals and objectives. Further, development is rated at all performance reviews, all employees, and all levels.

*Recommendations:* It is recommended that the Company formulate, adopt and implement a written Underwriting Training procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted
- Adequate training for persons affected by the procedure
- Management exercise of oversight and control of the process addressed by the written procedure
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended
- Utilization of the measurement structures to revise the procedure when indicated

## **Procedure 40 – Staff Training**

*Observations:* The Company does not have a Staff Training Procedure. XL Insurance provides on-site training for their new employees. XL Insurance offers a tuition reimbursement program which encourages employees to advance their careers with job related courses. XL Insurance also provides management training via XL Human Resource developed management training programs, such as, Global Development Program, Performance Development Program, and Leadership Development Program.

Each of the above business units have hired underwriting, claims and marketing personnel who have expertise with the products and lines of insurance being provided. Regardless of the area of specialty, the individuals underwriting on behalf of Greenwich are experienced underwriters. Many of the underwriters have come from the actual industries they are now evaluating as underwriters. These underwriters are instructed to adhere to a core philosophy to only underwrite business which meets the Company's underwriting criteria and that can be obtained at adequate rate levels so as to yield a reasonable profit for Greenwich.

Similar to the underwriting staff, claims personnel have experience in handling and settling losses and claims in all of the areas engaged. They are knowledgeable, experienced, and well trained to handle all claims related services tailored to the niche business units they serve. In some areas, due to the extremely specialized skills required, Greenwich may not have the appropriate internal resource to handle the potential losses of a certain class of business. In those cases, claims specialists are acquired through a Third Party Claims Administration (TPA) agreement.

*Recommendations:* It is recommended that the Company formulate, adopt and implement a written Staff Training procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted.
- Adequate training for persons affected by the procedure.
- Management exercise of oversight and control of the process addressed by the written procedure.
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended.
- Utilization of the measurement structures to revise the procedure when indicated.

## **Procedure 42 – Adjuster/Claims Adjudicator Training**

*Observations:* XL Insurance does not have a formal written procedure regarding Adjuster Training. XL Insurance provides internal training for the newly hired adjusters. It is the Company's general practice to hire seasoned adjusters who have a background adjusting claims similar to those experienced by the Company. XL supports and promotes continued education and on-going training. Claim staff attends various insurance seminars and classes offered around the country. XL Insurance is currently developing a written procedure.

*Recommendations:* It is recommended that the Company formulate, adopt and implement a written Adjuster/Claims Adjudicator procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted
- Adequate training for persons affected by the procedure
- Management exercise of oversight and control of the process addressed by the written procedure
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended
- Utilization of the measurement structures to revise the procedure when indicated

### **Procedure 43 – Claim Handling**

*Observations:* The Company has a written Claim Handling Procedure. The procedure is clear and has been in place for ten (10) years. The Company appoints a Process Improvement Committee annually to review and revise the procedure, which includes changing any area that might be affected by any recent legal changes. No conflicts with Delaware's statutes or regulations are noted.

All Company claims are handled at the Company's Exton, PA office. The Company receives approximately 4,000 claims per year; 2,600 of those are open or pending. Of the open claims seventy percent (70%) are automobile liability, twenty-five percent (25%) are general liability and the remaining five percent (5%) are divided among Property, Inland Marine and Marine. The Company has eleven (11) in-house adjusters that handle claims, including independent adjusters across the United States. The Company receives the majority of claims via facsimile, with the other claims received through mail, telephone and email.

Upon receipt of a claim the supervisor reviews it, assigns the claim an approximate reserve and an adjuster. The claim is given to the claim transfer center to be logged into WINS, the Company's system used to process a claim, a file folder is created and a claim number assigned. The file is given to the adjuster to be worked. This process occurs within two hours.

The supervisor uses his/her discretion as to which adjuster will work each claim depending on the adjuster's experience. The Company's environmental consultants are involved with the remediation of all claims involving hazardous materials, spills, etc.

Once the adjuster receives the claim they must contact the insured within twenty-four (24) hours and begin the investigation process. Each adjuster is assigned a maximum reserve and before any claim is paid a supervisor reviews the claim. A ledger is produced each day including all payments sent to the Accounting Department. All clean claims are paid within one day, and can be mailed out that same day depending on the urgency. A paper copy of the check is usually given back to the adjuster for their records.

To ensure claims are handled effectively, each quarter the Company randomly selects and reviews five (5) claims per adjuster. The Company's Global Audit Company also conducts an

annual review by selecting claims at random to review in detail. No results from the audit were requested or provided by the Company for review.

*Recommendations:* None

#### **Procedure 44 – Internal Claim Audit**

*Observations:* The Company has a written Internal Claim Audit Procedure. The procedure is updated annually or as needed. No conflicts with Delaware’s statutes or regulations are noted.

Each quarter, the Company selects five (5) claims per adjuster to review. The Company’s Global Audit Company also conducts an annual review by selecting claims at random to review in detail. Each claim unit is audited on a two-year cycle to measure compliance with claims standards and requirements. Any claim units receiving a Needs Improvement rating will have a follow-up review within one year to ensure it meets minimum compliance standards. An annual review of the risk factors impacting the business is considered and if management deems it necessary, a unit may be reviewed again in less than two years.

The techniques used during an audit include: reviewing a sample of claims against standards (complaint compliance, internal and external), interviews of claims and non-claims personnel, process analysis and a review of management reporting and customer service requirements.

An annual reconciliation is performed across the entire claims network to verify and make corrections between the claim files and the key data fields in the claim systems.

The areas audited include: claim office operations, TPA/Vendor’s qualifications and performance, and other claim functions reporting to the Global Claims Executive (GCE).

*Recommendations:* None

#### **Procedure 45 – Claim File Documentation**

*Observations:* The Company has a written Claim File Documentation Procedure. The procedure has been in place for ten (10) years. The Company appoints a Process Improvement Committee annually to review and revise the procedure, which includes changing any area that might be affected by any recent legal changes. Please refer to the observations in Procedure 43, Claim Handling, for more information on claim file documentation. No conflicts with Delaware’s statutes or regulations are noted.

*Recommendations:* None



### **Procedure 46 – Subrogation and Deductible Reimbursement**

*Observations:* The Company does not have a written Subrogation and Deductible Reimbursement Procedure. However, the Company uses the Special Distribution Channel Movements Report, which identifies all proceedings (reserve amendments, payments reducing reserves). The Claims Manager reviews the report on a weekly basis and action plans are also followed-up. The Claims Manager keeps a binder containing all the reports and written evidence of each review.

*Recommendations:* It is recommended that the Company formalize, adopt and implement a written procedure for the Subrogation and Deductible Reimbursement Process. It is also recommended that the Company adopt measurement structures to test all aspects of this procedure.

### **Procedure 47 – Reserve Establishment**

*Observations:* The Company does not have a written Reserve Establishment Procedure, however, they do have a process in place.

The Company reserves subsequent amendments, which are automatically posted by GENIUS/WINS (system used) into the individual case reserves account (unpaid losses), which is reduced when the actual payments have been executed. Each payment in GENIUS/WINS generates a posting in both the claims bucket account and the respective claims expenses account. GENIUS/WINS shows whether the payment is a regular claims settlement or a loss adjustment expense. Once an appropriate level of Senior Claims Management and claim payments approves reserves are authorized in GENIUS/WINS, these process steps are supervised by the Central and Local Finance Department.

*Recommendations:* It is recommended that the Company develop a formal written Reserve Establishment Procedure. Included in this procedure should be measurement structures to test its effectiveness on a regular basis.

## **SUMMARY**

**Greenwich Insurance Company (Greenwich)** is a Property and Casualty Company domiciled in Delaware.

The examination was a limited scope market conduct examination of the following business areas: Company Operations/Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Service, Underwriting and Rating, and Claims.

Significant issues arising during the course of the examination include:

- Need to formalize a written procedures for Disaster Recovery (P-6)

- Need to formalize a written procedure for Agent Produced Advertising (P-14)
- Need to formalize a written procedure for Producer Training (P-15)
- Need to formalize a written procedure for Prevention of the Use of Persons with a Felony Conviction (P-22)
- Need to formalize a written procedure for Underwriter Training (P-36)
- Need to formalize a written procedure for Staff Training (P-40)
- Need to formalize a written procedure for Adjuster Training (P-42)
- Need to formalize a written procedure for Subrogation and Deductible Reimbursement (P-46)
- Need to formalize a written procedure for Reserve Establishment (P-47)

Recommendations have been made to address the areas of concern noted during the examination. These are summarized below.

## **LIST OF RECOMMENDATIONS**

### **Recommendation P-06, Disaster Recovery Procedure**

It is recommended the Company develop a formal Disaster Recovery Procedure that includes the Company's processes in the event of a disaster, the recovery process and the controls to ensure the procedure is affectively working and that all employees adhere to the procedure.

### **Recommendation P-14, Agent Produced Advertising Procedure**

The Company should develop a formal written Agent Produced Advertising Procedure.

### **Recommendation P-15, Producer Training Procedure**

The Company should develop a formal written Producer Training Procedure.

### **Recommendation P-22, Prevention of the Use of Persons with a Felony Conviction**

A federal requirement (18 USC §1033) makes it illegal for an individual convicted of a crime involving dishonesty, breach of trust or a violation of the Act to work or continue to work in the business of insurance affecting interstate commerce without receiving written consent from an insurance regulatory official authorized to regulate the insurer. Until such time as consent is given, a person who has committed such a crime is considered a "prohibited person" in the insurance industry. Every prohibited person must be granted written consent to engage in the business of insurance before that person can engage in the business of insurance. The consent must be issued by the appropriate insurance regulatory official and must specify that it is granted for the purpose of 18 U. S.C. § 1033. A "prohibited person" includes but is not limited to, any insurance agency or insurance company employee, agent, solicitor, broker, consultant, third-party administrator, managing general agent, or subcontractor representing an agency or company who engages or participates in the business of insurance as it affects interstate commerce, who has been convicted of any criminal felony involving dishonesty, breach of trust, or a violation of the Act.

The Company responses indicate the Company considers the federal requirement for producers. The Company should develop written procedures to ensure they comply with the provisions of

18 USC §1033 for all Officers, Directors, and employees of the insurance company, agents, brokers, solicitors, managing general agents, claims adjusters, resident licensees, and other persons (e.g.; agents, third -party administrators, independent contractors) who perform substantial insurance-related activities for the Company. The procedures should include a process for the measurement of the effectiveness of the procedures and should also provide for revisions to the process as needed.

**Recommendation P-36, Underwriter Training Procedure**

It is recommended that the Company formulate, adopt and implement a written Underwriter Training procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted
- Adequate training for persons affected by the procedure
- Management exercise of oversight and control of the process addressed by the written procedure
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended
- Utilization of the measurement structures to revise the procedure when indicated

**Recommendation P-40, Staff Training Procedure**

It is recommended that the Company formulate, adopt and implement a written Staff Training procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted
- Adequate training for persons affected by the procedure
- Management exercise of oversight and control of the process addressed by the written procedure
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended
- Utilization of the measurement structures to revise the procedure when indicated

**Recommendation P-42, Adjuster Training Procedure**

It is recommended that the Company formulate, adopt and implement a written Adjuster Training procedure. It is also recommended that the procedure address:

- Revision and audit history of the process adopted
- Adequate training for persons affected by the procedure
- Management exercise of oversight and control of the process addressed by the written procedure
- Formulation and use of measurement structures to assure the Company that the procedure is working as intended
- Utilization of the measurement structures to revise the procedure when indicated

**Recommendation P-46, Subrogation and Deductible Reimbursement Procedure**

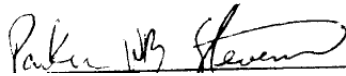
It is recommended that the Company formalize and adopt a complete procedure for the Subrogation and Deductible Reimbursement Process. It is also recommended that the Company adopt measurement structures to test all aspects of this procedure.

**Recommendation P-47, Reserve Establishment Procedure**

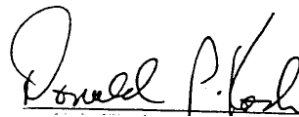
It is recommended that the Company develop a formal written Reserve Establishment Procedure. Included in this procedure should be measurement structures to test its effectiveness on a regular basis.

**CONCLUSION**

The examination was conducted by Donald P. Koch, Parker W. B. Stevens, Susanna Stevens, and Candace Reese and is respectfully submitted,



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