

**DELAWARE DEPARTMENT OF INSURANCE**  
**MARKET CONDUCT EXAMINATION REPORT**

**Progressive Direct Insurance Company**  
**Authority # 16322-19-755**

**6300 Wilson Mills Road**  
**Mayfield Village, OH 44143**

**As of**

**June 30, 2020**

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
**Progressive Direct Insurance Company**  
AS OF  
June 30, 2020

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

Consideration has been duly 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.



In Witness Whereof, I have hereunto set my hand  
and affixed the official seal of this Department at the  
City of Dover, this 22 day of April, 2021.

  
Trinidad Navarro  
Insurance Commissioner

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

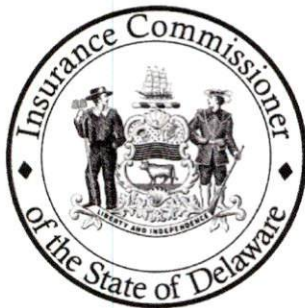
I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of June 30, 2020 on

**Progressive Direct Insurance Company**

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

Attest By:

A handwritten signature in blue ink, appearing to read "Robert J. Davis", written over a horizontal line.



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 20 day of April, 2021.

A handwritten signature in blue ink, appearing to read "Trinidad Navarro", written over a horizontal line.

Trinidad Navarro  
Insurance Commissioner

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Honorable Trinidad Navarro  
Insurance Commissioner  
State of Delaware  
1351 West North Street  
Suite 101  
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Examination Authority Numbers 16322-19-755 and pursuant to statutory provisions including 18 *Del. C.* §§ 318-322, a Market Conduct Examination has been conducted of the affairs and practices of:

**Progressive Direct Insurance Company – NAIC #16322**

The examination was performed as of June 30, 2020.

The examination was conducted off-site, performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the Department, or other suitable locations.

The report of examination herein is respectfully submitted.

## EXECUTIVE SUMMARY

Progressive Direct Insurance Company (“PDRT” or “the Company”) is an Ohio domiciled property and casualty insurance company, which is a wholly owned subsidiary of Progressive Direct Holdings, Inc. whose ultimate parent is The Progressive Corporation.

The examination was a targeted review of the Company’s personal automobile book of business in the following areas of operation: Company Operations and Management, Consumer Complaint Handling, Underwriting and Rating, and Claims. The examination period was January 1, 2018 through June 30, 2020.

The following exceptions were noted during the review of Underwriting and Rating, and Claims.

### 1 Exception

#### **18 Del. C. § 3915 Cash refund on cancellation of policy.**

*No insurer shall honor a request for a cash refund on cancellation of a policy by the insured until such time as the insured has provided sufficient evidence to the insurer that one of the following has occurred:*

- (1) The insured has other insurance in effect which provides at least such minimum insurance coverage as is set forth in § 2118 of Title 21.*
- (2) The insured vehicle is no longer owned by the insured.*
- (3) The vehicle is no longer operable or capable of being repaired so as to become operable.*
- (4) The insured becomes self-insured under the provisions of § 2904 of Title 21.*

The Company failed to honor the insured’s request to cancel his policy.

### 2 Exceptions

#### **18 Del. Admin. C. § 902-1.2.1.3 Prohibited Unfair Claim Settlement Practices.**

*1.2.1.3 Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of the loss by the insurer.*

The Company failed to implement the prompt follow-up investigation of damages, available coverage and liability.

### 1 Exception

#### **18 Del. Admin. C. § 902-1.2.1.5 Prohibited Unfair Claim Settlement Practices**

*1.2.1.5 Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for the inability to do so, within 30 days after proof of loss statements have been received by the insurer.*

The Company failed to send the insured a letter advising of the possible excess exposure beyond her policy limits.

#### **4 Exceptions**

##### **18 Del. Admin. C. § 902-1.2.1.6 Prohibited Unfair Claim Settlement Practices.**

*1.2.1.6 Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become clear.*

The Company failed to effectuate a prompt, fair and equitable settlement of claims.

#### **5 Exceptions**

##### **18 Del. C. § 2104 4.1 Written Notice by Insurers of Payment of Third-Party Claims.**

*4.1 Upon payment in excess of \$5,000.00 in settlement of or upon judgment on any third-party liability or casualty claim and where the claimant is a natural person, the insurer or its representative shall mail to the third-party claimant written notice of payment at the same time such payment is made to the third party's attorney, accountant, agent or other representative.*

The Company failed to either to notify a claimant of settlement or failed to provide the required information regarding the settlement.

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §§ 318 - 322 and covered the experience period of January 1, 2018 through June 30, 2020. The purpose of the examination was to determine compliance by the Company with applicable Delaware laws and regulations.

The examination was a targeted review of Progressive Direct Insurance Company's activities related to its personal lines automobile book of business in the following areas of operation: Company Operations and Management, Consumer Complaint Handling, Underwriting and Rating, and Claims.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiner's report on the errors found in individual files, the examination also focuses on general business practices of the Progressive Direct Insurance Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes, random sampling was utilized to select the files reviewed during this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables company management to review these areas of concern in order to determine the potential impact upon company operations or future compliance.

Throughout the course of the examination, company officials were provided status memoranda, which referenced specific complaint, policy and/or claim numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. Written summaries were provided to the Company on the exceptions found. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and to review written summaries provided on the exceptions found.

## **COMPANY HISTORY AND PROFILE**

Progressive Direct Insurance Company (“PDRT” or “the Company”) is a wholly owned subsidiary of Progressive Direct Holdings, Inc. whose ultimate parent is The Progressive Corporation. PDRT is a property and casualty insurer and is part of The Progressive Insurance Group that consists of 59 companies, of which 36 are insurance companies. PDRT was formerly known as Progressive Halcyon Insurance Company.

PDRT was incorporated in the State of Ohio in September of 1986 for the purpose of transacting insurance business, except life insurance, in various classes of insurance as set forth in the insurance laws. PDRT received its license to conduct business in Delaware on December 28, 1999.

PDRT is licensed in all states except Texas and is currently transacting the following lines of business: Inland Marine, Other Liability, Other Private Passenger Auto Liability, Private Passenger Auto No-Fault and Private Passenger Auto Physical Damage. PDRT is rated “A+” by A.M. Best.

PDRT’s total Private Passenger Automobile direct written premium in Delaware for 2017 was \$48,816,658, for 2018 \$62,548,833 and for 2019 \$70,534,429.



## **COMPANY OPERATIONS AND MANAGEMENT**

The Company was asked to provide the following:

A written overview of the Company's operations including management structure, type of carrier, states where the Company is licensed and the major lines of business the Company writes, a description of all fines, penalties, and recommendations from any state for the last five (5) years. Copies of all Financial and Market Conduct Examination reports conducted during the last five (5) years were to be made available for reference as well.

Copies of the annual statements for the prior three years and any property and casualty related schedules or statements.

A list of all internal audits conducted within the last three (3) years. Internal audits include those audits completed by an internal audit function within the Company or conducted via a contracted vendor on behalf of the company.

A copy of the Company's Anti-Fraud Procedures and annual reports.

A copy of its process overview for Anti-Fraud tracking, reporting and oversight.

Identification of the individual(s) accountable for the Company's Special Investigative Unit (SIU) or comparable area and include an organizational chart showing the staff of the SIU or comparable area.

A list of all Fraud reported to a regulatory agency during the examination period.

A list of all data reported to the National Insurance Crime Bureau (NICB) or other similar database.

Board of Director agendas, minutes and attachments for all meetings held during the examination period.

Responses were provided, except for the Board of Director agendas, minutes and attachments for all meetings held during the examination period. The examiners were told they would have to go to their Cleveland office to view those, and due to the COVID environment, this review was not performed during this examination.

No exceptions or issues were noted in what we were provided. However, the examiners observed that there were no Internal Audits performed during the examination period on non-Claims operating departments and administrative departments, other than those performed on Underwriting forms, notices and endorsements.

## CONSUMER COMPLAINTS

The Company was requested to provide a listing of all complaints pertaining to personal automobile filed with them during the examination period of January 1, 2018 through June 30, 2020. The list was to include complaints received from the Delaware Department of Insurance as well as complaints made directly to the Company on behalf of Delaware consumers. The Company provided a list of seventy (70) complaints that were filed with the Company during the examination period.

The complaint files were reviewed for compliance with the Delaware statutes and regulations including, but not limited to 18 *Del. C.* § 2304(17), Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapter 16. Complaint files involving claims were reviewed for compliance with 18 *Del. C.* § 2304(26) and 18 *Del. Admin. C.* § 902-1.2.1.2.

There were no exceptions.

The Company also provided their Complaint Handling guidelines and procedures. These were reviewed and found sufficient.

## UNDERWRITING AND RATING

The examination of underwriting and rating was conducted and performed to verify the Company's compliance with Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 and 17. The Company was asked to provide a listing of all new, renewal, declined and terminated personal automobile policies issued during the experience period, along with relevant copies of all personal automobile underwriting and rating manuals and personal auto forms and disclosures in use. The Company uses a six-month policy term. The Company allowed remote access to their underwriting and rating system by sending the examiners configured laptops.

Copies of policies and procedures regarding the use of credit information, including any specific efforts or reports to ensure compliance with 18 *Del. C.* § 8301 – 8303, were also requested.

A sample termination notification and any supplemental documentation provided at the time of termination was also requested and provided.

### New Business Policies

The examiners were provided a total universe of 38,493 Private Passenger Automobile policies written as new business during the examination period January 1, 2018 through June 30, 2020. A random sampling of 116 policies was selected in accordance with the NAIC Market Coordinators Handbook guidelines. Random sampling was used through

ACL programming. Examination of the underwriting and rating files was performed to verify the Company's compliance with Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards Chapter 16 & 17.

The rate testing consisted of manual rating to ensure premiums generated by the Company's computer system is in accordance with the Company's filed and approved rates. This process involved the use of rating worksheets with algorithms matching the rating manuals. Due to the time-consuming nature of manually rating, the selections were reduced to 10 randomly selected Private Passenger Automobile policies that encompassed the exam period to be tested for rating accuracy. The Company agreed that should there be any inconsistencies noted, additional policies would be requested for testing. The examiners were able to test and verify the rating of the policies in accordance with the Company's filed and approved rates.

No exceptions were noted during our review.

#### Renewal Policies

The examiners were provided a total universe of 109,674 Private Passenger Automobile renewal policies during the examination period January 1, 2018 through June 30, 2020. A random sampling of 116 policies was selected in accordance with the NAIC Market Coordinators Handbook guidelines. Random sampling was used through ACL programming. Examination of the underwriting and rating files was performed to verify the Company's compliance with Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards Chapter 16 & 17.

The rate testing consisted of manual rating to ensure the premiums being generated by the Company's computer system was in accordance with the Company's filed and approved rates. This process involved the use of rating worksheets with algorithms matching the rating manuals. Due to the time-consuming nature of manually rating, the selections were reduced to 10 randomly selected Private Passenger policies that encompassed the exam period to be tested for rating accuracy. The Company agreed that should there be any inconsistencies noted, additional policies would be requested for testing. The examiners were able to test and verify the rating of the policies in accordance with the Company's filed and approved rates.

No exceptions were noted.

#### Declinations

The examiners were provided a total universe of 1,235 Private Passenger Automobile requests for a policy that were declined by the Company during the examination period January 1, 2018 through June 30, 2020. A random sample of 116 declined requests were selected in accordance with the NAIC Market Regulation Handbook guidelines. Random sampling was used through ACL programming.

No exceptions were noted.

### Credit Information

Copies of policies and procedures regarding the use of credit information, including any specific efforts or reports to ensure compliance with 18 Del. C. §8301 – 8303, were also requested, provided and reviewed.

The Company does not use credit scoring as a means to reject an applicant. The Company uses credit scoring for rating. A credit score is ordered on the primary named Insured. Using the credit score, the Company assigns a Financial Responsibility tier, and each has its own factor for Coverages. These factors can be revised in future filings. “No-Hits” and “Thin Files” are assigned Financial Responsibility tiers and also have their own factors for each coverage. The Financial Responsibility tier determined at this point is used for subsequent renewal terms unless a re-order is requested by the primary named insured. If the new score is better, the named insured will be placed in a better Financial Responsibility tier. If the new score is worse, the named insured’s Financial Responsibility tier will not change.

No exceptions were noted.

### Terminated Policies

The examiners were provided a total universe of 1,975 Private Passenger Automobile policies that were terminated at the request of the Company during the examination period. A sample of 115 terminated policies were selected and reviewed. The sample of 115 was comprised of 18 non-renewals and 97 underwriting cancellations. Examination of the underwriting and rating files was performed to verify the Company’s compliance with applicable Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17.

There was one exception noted as follows:

#### **1 Exception: 18 Del. C. § 3915 Cash refund on cancellation of policy.**

The Company failed to honor the insured’s request to cancel his policy. The insured requested cancellation of his policy was not for any of the reasons listed in 18 Del. C. § 3915 and he was not therefore required to provide evidence of these reasons. The Company erroneously required the insured to present this evidence resulting in the policy remaining in effect from his request to cancel on 5/22/2020. Upon examiner involvement, the Company retroactively cancelled the policy back to 5/22/2020 and refunded the insured the amount owed as a result of the delay in cancellation.

*Recommendation:* It is recommended that the Company provide additional training regarding the documentation that is required from an insured when initiating an insured requested cancellation. The Company should request documentation for only those reasons set forth in 18 Del. C. § 3915.

### Forms, Notices, Disclosures, Endorsements and Manuals

The Company provided copies of its Automobile Underwriting, Rating and Symbol

Manuals, along with forms, endorsements, notices and/or disclosures issued to insureds used for the examination period.

The Company provided seven Notices and two Disclosures. All seven Notices and both Disclosures were reviewed to verify their compliance with Delaware requirements.

No exceptions were noted.

The Company provided 19 Automobile Forms and Endorsements. All 19 Automobile Forms and Endorsements were reviewed to verify their approval by the Delaware Department of Insurance.

No exceptions were noted.

## **CLAIMS**

The examination of Claims was conducted and performed to verify the Company's compliance with Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17. The Company was asked to provide a listing of all Paid (total losses & non-total losses), Closed Without Payment (CWP) and Denied personal automobile claims during the experience period, along with relevant copies of all personal automobile claims procedure manuals, reference materials, and newsletters, bulletins and the like that are regularly sent to claims adjusters. The Company allowed remote access to their Claims system, sending the examiners configured laptops, so the review was performed via that capacity.

Copies of all Delaware internal claim audit reports were also requested and provided. The Company conducted 12 Internal Claims Audits that had Delaware samples. No Delaware exceptions were noted.

### Paid Claims (Non-Total Loss)

The Company was asked to provide a listing of all non-Total Loss Paid Private Passenger Automobile claims during the examination period of January 1, 2018 through June 30, 2020. The Company provided a universe of 9,740 such claims during the examination period. Of the 9,740 claims, a random sample of 109 claims was selected for review. All 109 claims were reviewed for compliance with applicable Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17.

The following 12 exceptions were noted.

**2 Exceptions: 18 *Del. Admin. C. § 902-1.2.1.3 Prohibited Unfair Claim Settlement Practices.***

The Company failed to investigate damages, available coverage, and liability. Subrogation in both claims was not sufficiently pursued.

*Recommendation:* It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.3 Prohibited Unfair Claim Settlement Practices.

**1 Exception: 18 Del. Admin. Code § 902-1.2.1.5 Prohibited Unfair Claim Settlement Practices**

The Company failed to send the insured a letter advising of the possible excess exposure beyond her policy limits.

*Recommendation:* It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.5 Prohibited Unfair Claim Settlement Practices.

**4 Exceptions: 18 Del. Admin. C. § 902-1.2.1.6 Prohibited Unfair Claim Settlement Practices.**

The Company failed to effectuate a prompt, fair and equitable settlement of claims.

In three of the exceptions noted, the Company did not appropriately settle the original claim and after review by the examiner, additional funds were remitted to the policyholder. In one of the exceptions noted, the claims process was not considered timely.

*Recommendation:* It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.6 Prohibited Unfair Claim Settlement Practices.

**5 Exceptions: 18 Del. C. § 2104 4.1 Written Notice by Insurers of Payment of Third-Party Claims.**

The Company failed to either to notify a claimant of settlement or failed to provide the required information regarding the settlement. Letters were not sent to five claimants,

*Recommendation:* It is recommended that the Company provide additional training to ensure compliance with 18 *Del. C.* § 2104 4.1 Written Notice by Insurers of Payment of Third-Party Claims.

**Paid Claims (Total Loss)**

The examiners were provided a total universe of 2,605 total losses during the exam period of 1/1/2018 – 6/30/2020. A random sampling of 108 claims was selected in accordance with the NAIC Market Regulation Handbook guidelines. Random sampling was used

through ACL programming. All 108 claims were reviewed for compliance with applicable Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17. Special emphasis was placed on how a total loss valuation was determined.

No exceptions were noted.

#### Closed Without Payment Claims

The Company was asked to provide a listing of all Private Passenger Automobile Claims Closed Without Payment (CWP) during the examination period of January 1, 2018 through June 30, 2020. The Company stated that their system does not differentiate between CWP and Denied Claims, so the list provided would encompass both. As such, a list of 4,503 CWP/Denied claims were provided. Of the 4,503 claims, a random sample of 108 claims were selected for review. The review showed that 77 claims were true CWOP claims and 31 were Denied claims. The examiners expanded the sample to include 108 files of CWOP Claims and 108 Denied claims, which were reviewed for compliance with applicable Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17.

No exceptions were noted.

#### Denied Claims

The Company was asked to provide a listing of all Private Passenger Automobile Claims Denied during the examination period of January 1, 2018 through June 30, 2020. The Company stated that their system does not differentiate between Denied and CWP Claims, so the list provided would encompass both. As such, a list of 4,503 Denied/CWP claims were provided. Of the 4,503 claims, a random sample of 108 claims were selected for review. The review showed that 31 claims were true Denied claims and 77 were CWOP claims. The examiners expanded the sample to include 108 files of Denied and CWOP claims, which were reviewed for compliance with applicable Delaware Statutes and Regulations, Insurance Department Bulletins and NAIC Market Regulation Handbook Standards in Chapters 16 & 17.

No exceptions were noted.

## CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the Exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended that the Company provide additional training regarding the documentation that is required from an insured when initiating an insured requested cancellation. The Company should request documentation for only those reasons set forth in 18 *Del. C.* § 3915. (Underwriting and Rating)
2. It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.3 Prohibited Unfair Claim Settlement Practices. (Claims)
3. It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.5 Prohibited Unfair Claim Settlement Practices. (Claims)
4. It is recommended that the Company provide additional training to ensure compliance with 18 *Del. Admin. C.* § 902-1.2.1.6 Prohibited Unfair Claim Settlement Practices. (Claims)
5. It is recommended that the Company provide additional training to ensure compliance with 18 *Del. C.* § 2104 4.1 Written Notice by Insurers of Payment of Third-Party Claims. (Claims)



The examination conducted by Joe Krug, Mark Plesha, James Hartsfield, Karen Gerber, and Bradley Shoop is respectfully submitted.

Mark Plesha

Mark Plesha, CPCU, AIE, MCM, CWCP,  
AIS, IR  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance

I, Mark Plesha, hereby verify and attest, under oath, that the above is a true and correct copy of the examination report and findings of the market conduct examination submitted to the Delaware Department of Insurance pursuant to examination authority 16322-19-755.

Mark Plesha

Mark Plesha, CPCU, AIE, MCM, CWCP,  
AIS, IR