

MARKET CONDUCT EXAMINATION REPORT

KEY INSURANCE COMPANY

NAIC #12966

8595 College Blvd., Suite 200
Overland Park, KS 66210-2617

MATS # KS-KS057-9

For the Period January 1, 2017 through June 30, 2018



KANSAS INSURANCE DEPARTMENT

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The Honorable Vicki Schmidt
Insurance Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612

Dear Commissioner Schmidt:

In accordance with your respective authorization, and pursuant to K.S.A. 40-222, a market conduct examination has been conducted on the business affairs of:

KEY INSURANCE COMPANY

NAIC # 12966
8595 College Blvd., Suite 200
Overland Park, KS 66210

Hereafter referred to as “Key,” or the “Company,” the following report of such examination is respectfully submitted,

Shannon Lloyd, CPCU, FLMI, PIR, AIC, AINS
Senior Examiner, Market Regulation
Examiner-In-Charge

PURPOSE AND SCOPE OF REVIEW

The Kansas Insurance Department (the “Department”) conducted a targeted market conduct examination of Key Insurance Company (“Key” or “Company”), pursuant, but not limited to, K.S.A. 40-222. Key is domiciled in Kansas and has been authorized to transact insurance business here since 2007. The examination was based on an increase in consumer complaints and untimely responses to the Department as well as similar concerns raised by other states. The Department last conducted a market conduct exam on the Company in 2012, which was based upon consumer complaint concerns.

The Department reviewed the Company’s complaint handling and claims processing procedures for private passenger automobile insurance. Analysis of Kansas complaints found a pattern of delays in the handling of claims. Market analysis revealed that consistent delays were due to a high growth rate in certain states, particularly Oklahoma, and inadequate staffing of adjusters to meet that growth.

The Department reviewed electronic copies of complaint and claim files provided by Company. The examination included a review of complaint and claim samples for the period of January 1, 2017 through June 30, 2018. Interrogatories were submitted to the Company prior to the file review segment of the examination, and written responses were provided. The examination included, but was not limited to, company operations and management, complaint handling, and claim processing.

The review was conducted according to the guidelines and procedures recommended in the NAIC Market Regulation Handbook 2018 (MRH). The exam team utilized the standards and tests recommended in the Handbook, which allows an error tolerance of 7% for claims procedures and 10% for all other categories. This examination report is written primarily by exception. Due to the limited scope of this exam, not all NAIC standards were tested. Silence on any Company practice does not imply KID acceptance or endorsement of such practices. Applicable statutes and regulations cited throughout the report may be found in Appendix A.

EXECUTIVE SUMMARY

A targeted market conduct examination of Key Insurance Company was conducted pursuant, but not limited to, K.S.A. 40-222. The examination period was from January 1, 2017 through June 30, 2018. The primary focus of the exam was complaint handling and claim processing related to private passenger automobile insurance.

The complaint handling portion of the exam involved review of the Company's complaint register for accuracy, and the review of a random sample of 29 complaints. The complaint register was found to be missing a final disposition date for all files, but was otherwise accurate. In reviewing the complaint sample, the Company was found to have difficulty responding timely to KID upon receipt of a complaint or inquiry.

The claim handling portion of the exam involved reviewing a random sample of 150 claim files. The main issue found was failure to conduct timely claim investigations. Other violations were noted, but were below the error tolerance and not considered to be business practices.

The exam team made several recommendations based on the violations found during the examination, regardless of whether or not the standard was passed. Additional details on each standard, including percentages of compliance, are found within the individual sections of this report.

Recommendations

1. The Company must have procedures in place to ensure that claims are investigated timely.
2. The internal and external audit reviews should be performed regularly and be up-to-date.
3. It is necessary that date stamps and scans reflect the date that an item was received.
4. Steps should be taken to ensure that the claim notes are clearly written, so that the progress of the claim can be easily followed.
5. The Company must add the date of disposition field to the complaint register.
6. The Company must take steps to ensure that adequate responses are sent to KID on complaint files within the required time frame.

*KID has required that the Company provide a timeline highlighting relevant dates pertaining to its correction process.

DESK EXAMINATION

OPERATIONS AND MANAGEMENT

Key began writing personal automobile insurance in Kansas on July 15, 2008. Key expanded into Arizona and Nevada in 2009, Alabama in 2011 and Oklahoma in 2012. Due to poor results, Key discontinued writing new business in Arizona in 2014, and the program remains in runoff. In addition to withdrawing from Arizona, Key elected to discontinue writing in Alabama in late 2016 with the exception of one high valued agency. Key's programs are targeted exclusively toward non-standard risks and include both liability and property coverage.

The book of business written by Key in Kansas, Arizona and Nevada originated from an existing book managed previously by Med James, Inc. (MJJ), the parent company of Key. Alabama and Oklahoma were both start up programs. MJJ had served as a market for the production, underwriting, issuance and servicing of non-standard automobile insurance policies since 1991. While acting as a managing general agency for several years, the introduction of Claims Professionals, Inc. (CPI) in 2004 as a separate and distinct contractor for claims processing placed MJJ in the role of general agency and program manager. MJJ had contracted with various insurance carriers over the years (e.g.: American Reliable, Guaranty National, Benchmark, and American Sterling) for the necessary licensing. The book of business and the processing capability of MJJ had developed to the point where having a primary carrier in the MJJ structure was both desirable and feasible. Accordingly, Key was formed in 2007.

When reviewing some of the Standards listed in the MRH, the following should be noted from the review of operations and management:

- The Kansas Certificate of Authority was reviewed and complies with Kansas law.
- With the exception of three incidents toward the end of the exam, the Company generally provided the exam team with the necessary documents and responses in a timely fashion.
- Key was able to provide evidence that an internal control audit had been performed in 2012, but none had been performed during the exam period. As previously noted, the exam period was January 1, 2017 through June 30, 2018.

COMPLAINT HANDLING

The complaint register provided by the company for the exam period included 61 records. This includes complaints received from the Department of Insurance as well as various other methods of receipt directly from consumers. The examiners reviewed a random sample of 29 of the complaint files. The examiners reviewed the complaint register for accuracy, as required by K.S.A. 40-2404(10). The complaint files were reviewed for proper handling and documentation. Of the 29 complaints reviewed, a total of eight (8) violations were found.

There was one (1) violation concerning the complaint register, which is applicable to all files in the sample. The register was found to be incomplete in that it did not include a date of final disposition. This is in violation of K.S.A. 40-2404(10).

Standard 1

All complaints are recorded in the required format on the company complaint register. The Company fails this standard.

Recommendation: The Company must add the date of disposition field to the complaint register.

There were seven (7) complaint files in which the Company did not respond to the Kansas Insurance Department within the required time frame. This is a violation of K.A.R. 40-1-34, which adopts the National Association of Insurance Commissioners' Unfair Settlement Practices Model Regulation Section 6(b).

Standard 4

The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations. The Company fails this standard.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	29	7	76%

Recommendation: The Company must ensure adequate responses are sent to the Kansas Insurance Department on complaint files within the required time frame.

*The Kansas Insurance Department previously performed a targeted examination of Key for the period of January 1, 2011 through December 31, 2011. That exam focused solely on complaint handling, and found errors surrounding the same issues as provided above in that the Company failed standards 1 and 4. However, the exam team notes that while these issues still exist, there appears to have been some improvement since the 2011 exam.

CLAIM HANDLING

The examiners reviewed a random sample of 150 claims processed during the exam period. The examiners utilized the guidance of the MRH while reviewing the claim files against various standards. Timeliness, communications, and general adherence to state law were reviewed. Of the 150 claims reviewed, there were forty-four (44) violations of state law noted by the examiners.

- Examiners reviewed one (1) claim in which the Company made no attempt to effectuate settlement in good faith where liability had become reasonably clear, in violation of 40-2404(9)(f).
- Examiners reviewed one (1) claim in which the Company failed to provide the necessary claim forms and instructions in violation of K.A.R. 40-1-34, which adopts the National Association of Insurance Commissioners' Unfair Settlement Practices Model Regulation Section 6(d).
- Examiners reviewed three (3) claims in which the Company failed to advise of acceptance or denial of the claim in violation of K.A.R. 40-1-34, which adopts the National Association of Insurance Commissioners' Unfair Settlement Practices Model Regulation Section 8(a).
- Examiners reviewed four (4) claims in which the Company failed to acknowledge notification of a claim or other pertinent claim communications within 10 days in violation of K.A.R. 40-1-34, which adopts the National Association of Insurance Commissioners' Unfair Settlement Practices Model Regulation Sections 6(a),(c).
- Examiners reviewed thirty-five (35) claims in which the Company failed to complete investigation of the claim within 30 days after notification of the claim or show that investigation could not be reasonably completed within such time in violation of K.A.R. 40-1-34, which adopts the National Association of Insurance Commissioners' Unfair Settlement Practices Model Regulation, Section 7.

Standard 2

Timely investigations are conducted. The Company fails this standard.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	150	35	76%

Recommendation: The Company must ensure procedures are in place to investigate claims timely. The exam team notes that in general, straightforward claims were completed quickly; however, when there are questions regarding coverage or liability, claims typically sit for an inordinate amount of time with little action being taken to close them. The Company needs to have a formalized set of procedures in place to guide adjusters when coverage or liability is in question.

*The claim portion of the exam was broken into three separate samples of 50, with sample 1 being the earliest, and sample three the most recent. The exam team would like to note that the earliest

claims (sample 1) had the greatest number of errors (21). The second and third samples had fewer errors (15 and 8, respectively) showing that the Company had managed some improvement over time. However, even though the most recent sample had the least error, there were too many errors in sample three to pass the standard.

CONCLUSION

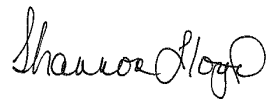
I would like to acknowledge the cooperation and courtesy extended to the examination team by Key Insurance Company staff. The following examiners from the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

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Assistant Director, Market Regulation

Shannon Lloyd
Market Regulation Examiner-In-Charge

Tate Flott
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Respectfully submitted,



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Senior Examiner, Market Regulation
Examiner-In-Charge

APPENDIX A

Related Kansas Insurance Statutes and Administrative Regulations

K.S.A. 40-222. Examinations

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

...

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

...

K.S.A. 40-2404, Section 9(f) Unfair claim settlement practices

...

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

...

K.S.A. 40-2404, Section 10 Failure to maintain complaint handling procedures

Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222 , and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section

...

K.A.R. 40-1-34, Section 6 Failure to Acknowledge Pertinent Communications

- (a) Every insurer, upon receiving notification of a claim shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.
- (b) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.
- (c) An appropriate reply shall be made within ten working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.
- (d) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ten working days of notification of a claim shall constitute compliance with Subsection A of this section.

...

K.A.R. 40-1-34, Section 7 Standards for Prompt Investigation of Claim

Every insurer shall complete investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

...

**K.A.R. 40-1-34, Section 8 (a) Standards for Prompt, Fair and Equitable Settlements
Applicable to All Insurers**

- (a) Within fifteen working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.