

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

ZURICH AMERICAN INSURANCE COMPANY
(ZURICH NORTH AMERICA)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

DATE FILED: 6/11/02

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I. INTRODUCTION

Zurich American Insurance Company (Company) is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination. The scope of this examination was January 2000 through December 2000. The examination began June 10, 2001 and ended July 21, 2001.

The purpose of the current examination was to verify compliance with the Florida Statutes and Rules.

During this examination, records reviewed included business automobile, TOP II –agri-cover, commercial packages, general liability, commercial umbrella and excess liability, workers’ compensation, cancellations/nonrenewals, agent/MGA licensing, and claims for the period of January 2000 through December 2000, as reflected in the report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

II. PRE-EXAM REVIEW OF COMPANY WRITINGS

A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

1. General Comments

The Certificate of Authority/Renewal Invoices were reviewed for all years within the scope of the examination.

2. Exam Findings

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written.

No errors were found.

III. COMPANY OPERATIONS/MANAGEMENT

A. PROFILE

Zurich American Insurance Company is a member of the United States of Zurich Financial Services Group, a Swiss multiple line financial services provider. Zurich Financial Services Group was formed as Versicherungs-Verein, later changed to Zurich Insurance Company, in Zurich, Switzerland in 1872. The Company entered the United States in 1912 as an alien insurer, through the State of New York, and established its administrative offices in Chicago, Illinois. In 1955, the Company began operating under the name Zurich Insurance Company – U.S. Branch. In 1980, it moved its administrative headquarters from Chicago to Schaumburg, Illinois. In 1989, the personal lines business was shifted to Maryland Casualty Group. On January 20, 1999, the Company was domesticated in New York and began operating under the name Zurich American Insurance Company. Presently, Zurich American Insurance Company writes most commercial property and casualty lines of business in the middle market and large multi-state sectors of the admitted insurance market.

Zurich American Insurance Company principally uses independent agents and brokers to market its commercial line products. Both package and monoline business is solicited and underwritten for risks ranging from small proprietorships to major multi-national corporations. The Company's target market specializes in agri-business, hospitality, light manufacturing, private schools, technology, and construction risks.

Zurich American Insurance Company uses company adjusters to administer the claims. Some claims are assigned to independent adjusters who in turn report their findings to company adjusters. The company adjusters review the independent adjusters' recommendations and process the claims to conclusion.

B. MANAGEMENT

The Company's management oversees the general operations and is responsible for the security and maintenance of the computer systems, anti-fraud plan, disaster recovery plan and internal audit plans.

Zurich American Insurance Company operates on four computer platforms. The main frame system is housed in Schaumburg, Illinois. As part of the LAN facility, Zurich also uses personal laptop or notebook style personal computers that link with the LAN via dial up, Virtual Private Network, or cable access. Some portions of the systems are mixed main frame and LAN networks.

In 1987, the Company established an Anti-Fraud Plan and Special Investigative Unit. The Anti-Fraud Plan covers procedures for handling internal and external fraudulent activity. The Plan has been filed with the Florida Department of Insurance and the Company is in compliance with Section 626.9891, Florida Statutes.

The Company Disaster Recovery Plan covers a multitude of disaster events, from fire, bomb threats to hurricanes. The Plan has established a disaster recovery team and alternate personnel who will implement the Disaster Recovery Plan in the event of a disaster. Computer operations are overseen by both a Security Team that looks to the protection of the computer systems, and a disaster recovery team that plans for and prepares for the recovery from disasters, damaging facilities and equipment.

The Company has established internal audit procedures to insure the financial and operating activities are in compliance with the Company's operating guidelines.

The Company has established a Privacy Plan and has notified all insureds of the Privacy Policy in accordance with Emergency Rule 4ER01.

C. OPERATIONS

Zurich American Insurance Company principally writes commercial lines business. The Company has established several business units, which are focused underwriting units. These units include agri-business, enterprise risk, middle markets, small business, construction, and special casualty. The Company targets agricultural business, the hospitality business, light manufacturing, private schools, technology, and construction business. The specialty lines include large property and casualty risk, environmental hazards, political risk, directors and officer's liability, and energy production exposures. The Company writes throughout the State of Florida, with a concentration of business written in the greater Orlando area.

IV. REVIEW OF POLICIES

A. BUSINESS AUTOMOBILE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Zurich American Insurance Company is a member of Insurance Services Office (ISO) and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

Zurich American Insurance Company is a member of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$14,055,837	148

3. Exam Findings

Twenty-four (24) policy files were examined.

One (1) error was found

The error did not affect premium.

The error is described as follows:

1. One (1) error was due to failure to maintain records. This constitutes a violation of Section 627.318, Florida Statutes. No rating worksheet was maintained in the file.

B. TOP II AGRI-COVER

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Zurich American Insurance Company is a member of ISO and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

Zurich American Insurance Company is a member of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$32,212	2

3. Exam Findings

Two (2) policy files were examined.

Six (6) errors were found.

None of the errors affected premium.

The errors are broken down as follows:

1. Two (2) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U IM 3848 – A (07-08) - Debris Removal and Pollutant Clean Up Endorsement has not been filed.
2. Two (2) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U IM 3808-B (06-92) - Earth Movement and Flood Endorsement has not been filed.

3. Two (2) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U IM D 3822-B (01-93) - Miscellaneous Property Coverage Declarations has not been filed.

C. COMMERCIAL PACKAGE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Zurich American Insurance Company is a member of ISO and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

Zurich American Insurance Company is a member of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$3,040,596	51

3. Exam Findings

Twenty-five (25) policy files were examined.

No errors were found.

D. GENERAL LIABILITY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Zurich American Insurance Company is a subscriber of ISO and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

Zurich American Insurance Company is a subscriber of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$34,697,675	506

3. Exam Findings

Twenty-four (24) policy files were examined.

Forty-four (44) errors were found.

None of the errors affected premium.

The errors are broken down as follows:

1. Three (3) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) has not been filed. Composite Rate Endorsement form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
2. Two (2) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Underground Storage Tank Exclusion has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.

3. Two errors were due to use of an unfilled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Superfund Exclusion has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
4. Two (2) errors were due to use of an unfilled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Radioactive Matter Exclusion has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
5. Two (2) errors were due to use of an unfilled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Knowledge of Occurrence has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
6. Three (3) errors were due to use of an unfilled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Waiver of Subrogation has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
7. Five (5) errors were due to use of an unfilled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Hired Auto and Non-Owned Auto Liability has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.

8. Five (5) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Advertising Injury has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus eliminating the unique nature of the form.
3. Five (5) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Non-Owned Auto Liability has not been filed. The form was designed to be a manuscript form; however, the Company used the same wording repeatedly, thus elimination the unique nature of the form.
10. Five (5) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-113-B CW (04/89) Mental Anguish has not been filed. This form was designed to be a manuscript form; however, the Company used the same working repeatedly, this elimination the unique nature of the form.
11. Ten (10) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-GL-D-140-B CW (01/93) has not been filed. The Company has since filed the form for use effective July 26, 2001.

E. COMMERCIAL UMBRELLA AND EXCESS LIABILITY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Zurich American Insurance Company is a subscriber ISO and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

Zurich American Insurance Company is a subscriber of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$2,971,160	259

3. Exam Findings

Twenty-five (25) policy files were examined.

Fifty (50) errors were found.

The errors are broken down as follows:

1. Sixteen (16) errors were due to use of unfiled rates. This constitutes a violation of Section 627.062, Florida Statutes. The rating plan that was used to develop the final premium has not been approved for use. The Company contends that the risks are (A) rated, however, documentation shows that the Company is rating these risks according to an unapproved rate plan.
2. Nine (9) errors were due to failure to document individually rated risk. This constitutes a violation of Section 627.062, Florida Statutes. The (A) rate worksheet does not show a specific (A) rate. The Company contends that the risks are (A) rated, however, documentation shows that the Company is rating these risks according to an unapproved rate plan.

3. Twenty-five (25) errors were due to use of an unfiled form. This constitutes a violation of Section 627.410, Florida Statutes. Form U-EU-155-A CW (07/88) has not been filed.

F. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

Zurich American Insurance Company is a National Council on Compensation Insurance (NCCI) company and as such uses this organization's rules, rates and forms. The NCCI acts as statistical agent for this line of business.

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$53,573,012	176

b. Error Percentages

Twenty-five (25) policies were examined.

No errors were found.

V. AGENTS/MGA REVIEW

Twenty-three (23) applications/policies written during the scope of examination were examined.

Fifteen (15) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Five (5) errors were due to failure to maintain records. This constitutes a violation of Section 627.318, Florida Statutes. There were no policy applications in the files provided.
2. Ten (10) errors were due to failure to display agent's name, agent's license ID number or Company name on the application. This constitutes a violation of Section 627.4085, Florida Statutes.

VI. CANCELLATIONS/NONRENEWALS REVIEW

Twenty-five (25) cancelled/nonrenewed policies were examined.

Ten (10) errors were found.

None of the errors affected premium calculations.

The errors are broken down as follows:

1. Five (5) errors were due to failure to provide a specific reason for cancellation or nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. The cancellation or nonrenewal reasons “underwriting reason” and “account no longer meets Company underwriting guidelines” are not specific reasons.
2. Four (4) errors were due to failure to provide timely notice of cancellation or nonrenewal. This constitutes a violation of Section 627.4133, Florida Statutes. The policies were being moved from one company in the group to another without notice of termination of the contract to the insured. Exhibit I.
3. One (1) error was due to failure to provide proof of mailing. This constitutes a violation of Rule 4-167.010, Florida Administrative Code. There was no proof of mailing in the file provided for review.

VII. CLAIMS REVIEW

Twenty-five (25) claims were examined.

Eight (8) errors were found.

None of the errors affected payments.

The Company's internal claims handling procedures and reserving practices are described in Exhibit II.

The errors are broken down as follows:

1. Eight (8) errors were due to use of unappointed adjusters. This constitutes a violation of Section 626.112, Florida Statutes.

VIII. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
COMPANY TRANSFER DOCUMENTATION	I
CLAIM MANAGEMENT PROCESS AND STANDARDS	II