

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
3 DIVISION OF INSURANCE  
4 550 West 7<sup>th</sup> Avenue, Suite 1560  
5 ANCHORAGE, ALASKA 99501-3567  
6  
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8

9 **ORDER # MCE 05-01**

10 In the Matter of the Market ) Order Under the Provisions of  
11 Conduct Examination of ) AS 21.06.150(b), Approving  
12 ) the Report on Market Conduct  
13 SeaBright Insurance Company, ) Examination.  
14 )  
15 )  
16 Examinee. )  
17 \_\_\_\_\_ )  
18  
19

20 The Director of Insurance for the State of Alaska, Linda S. Hall, issues this order adopting the  
21 Report of Market Conduct Examination MCE 05-01 of SeaBright Insurance Company  
22 (SeaBright), dated June 21, 2005, based upon the following findings:  
23  
24

25 **FINDINGS OF FACT**

26  
27 **Finding No. 1.**

28  
29 SeaBright is a non-domiciled insurer writing property and casualty insurance in Alaska  
30 and holds Certificate of Authority No. 773 and is subject to examinations pursuant to Alaska  
31 Statute (AS) 21.06.120.  
32

33 **Finding No. 2.**

34  
35 The Notice of Examination, which outlined the scope of the examination, was presented  
36 to the examinee on February 4, 2005. The primary focus of the examination was to review the  
37 company's application of its "Schedule Rating Plan" (SRP) when rating and underwriting  
38 workers' compensation insurance.  
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40 **Finding No. 3.**

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42 The Market Conduct Examination was conducted between March 7 and March 11, 2005.  
43 Mr. Donald E. Hale, CLU AIE, was the Examiner-in-Charge.  
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1 Finding No. 4.

2  
3 A Report on the Market Conduct Examination of SeaBright in compliance with Alaska  
4 statute and matters enumerated in the Notice of Examination was presented to the examinee on  
5 June 21, 2005 and filed with the Alaska Division of Insurance in accordance with  
6 AS 21.06.150(b).

7  
8 Finding No. 5.

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10 In accordance with AS 21.06.150(b), SeaBright was afforded the opportunity to respond  
11 to the Alaska Division of Insurance concerning matters contained in the Report on Market  
12 Conduct Examination. A response was received on July 21, 2005. SeaBright agrees and will  
13 comply with the recommendations of the Market Conduct Report. SeaBright's response is  
14 appended, and is made a part of the examination report.

15  
16 Finding No. 6.

17  
18 The Director of Insurance has fully considered and reviewed to the extent that she  
19 considered necessary the Report on Market Conduct Examination, together with the written  
20 response of SeaBright, and any relevant portion of the examiner's work papers.

21  
22 Finding No. 7.

23  
24 The examination of SeaBright was conducted in accordance with applicable Alaska  
25 statutes. The report is a factual account of the findings of the examiners based on tests that  
26 determine compliance with Alaska statutes and regulations and supported with appropriate  
27 documentation.

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29  
30 **CONCLUSIONS OF LAW**

31  
32 Conclusion No. 1.

33  
34 The examination report was filed with the division and transmitted to SeaBright in  
35 accordance with AS 21.06.150(b).

36  
37 Conclusion No. 2.


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39 An order should be issued in accordance with AS 21.06.150(b) approving the  
40 examination report.

1 **ORDER**

2  
3 It is hereby ordered that under AS 21.06.150(b) the attached Report on the Market  
4 Conduct Examination of SeaBright (MCE 05-01), dated June 21, 2005, is approved and directed  
5 that SeaBright's response be appended and made a part of the examination.  
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7 This order is effective December 29, 2005,  
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9 Dated this 29th day of December 2005, at Anchorage, Alaska.  
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\_\_\_\_\_  
Linda S. Hall  
Director

**STATE OF ALASKA  
DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT**

**DIVISION OF INSURANCE**

**REPORT OF LIMITED MARKET**

**CONDUCT EXAMINATION**

**OF**

**SeaBright Insurance Company  
Chicago, Illinois**

**2101 4<sup>th</sup> Avenue, Suite 1600, Seattle, Washington 98121  
P.O. Box 21868, Seattle Washington 98111**

**MCE 05-01**



**Submitted by  
Donald E. Hale, CLU  
Market Conduct Analyst  
June 21, 2005**

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## **Recommended Actions**

**Recommendation 1)** It is recommended that SeaBright review, implement, and/or update policies, procedures and training to ensure that its files contain all notes, papers documents, and similar material, and be in sufficient detail that those relevant events; the dates of those events, and all persons participating in those events can be identified.

**Recommendation 2)** It is recommended that SeaBright re-file its Loss Cost Multiplier with the Division of Insurance and when doing so review its operational requirements for any changes that may be needed.

**Recommendation 3)** It is recommended that SeaBright file a new "Schedule Rating Plan" (SRP) with the Division of Insurance and when doing so review its underwriting/rating activities/needs for any changes that The Company would like to submit for regulatory approval.

**Recommendation 4)** Without proper documentation of the "Schedule Rating Work Sheet," it is difficult for the company to demonstrate the consistent application of credits and debits. Therefore, it is recommended that SeaBright implement policies and procedures that will ensure the proper documentation of all rating decisions made, including the application of schedule debits/credits and increases/decreases to schedule credits/debits. This documentation must include the underwriter's reasoning for the debits or credits applied and refer to supporting file documents.

**Recommendation 5)** It is recommended that SeaBright complete schedule rating worksheets for all premium quotations and revisions. The Reason Bases and other rationale must be provided for the schedule credits/debits (additions & changes) and must be listed on the schedule rating worksheets and supported by file exhibits.

**Recommendation 6)** It is recommended that SeaBright implement & update policies, procedures, and training that will ensure that its application of the SRP does not exceed the limitations imposed by the State.

**Recommendation 7)** It is recommended that SeaBright apply its SRP in a consistent manner and only revise the resulting premium quotations when it becomes aware of actual changes in the circumstances upon which the original quotation was based. These changes must be documented (on the schedule rating worksheet), supported by valid exhibits, and must not be made for competitive reasons.



## DIVISION OF INSURANCE

*Frank H. Murkowski, Governor*

June 21, 2005

Linda S. Hall, CPCU, CIC  
Director, Division of Insurance  
Department of Community and Economic Development  
550 West 7<sup>th</sup> Avenue, Suite 1560  
Anchorage, AK, 99501-3567

Pursuant to Alaska Statute (AS) 21.06.120, the Alaska Division of Insurance performed a limited and targeted market conduct examination of the SeaBright Insurance Company (The Company) on March 7 through March 11, 2005, in the company's Anchorage Alaska Offices. The examination team consisted of Donald E. Hale, Examiner-in-Charge (EIC), Mr. Robert F. Sloper, Insurance Analyst, and Mr. Michael D. Ricker, Insurance Analyst, of the Alaska Division of Insurance.

### **SeaBright Insurance Company (SeaBright)**

#### **SCOPE OF EXAMINATION**

This examination was called to review The Company's application of its "Schedule Rating Plan" (SRP). This was a very limited and narrowly focused examination primarily involving those Procedure Steps directly related to the use of SRPs.

A note of explanation: the "targeted" nature of the examination speaks only to the fact that the subject matter being reviewed is "targeted". It does not imply the examinee was a "target". The term "targeted and limited" examination is utilized by the NAIC Market Conduct Examiners Handbook. "Target Examination", as defined by the handbook, reads as follows:

"Target examinations are specific as to area of concern and may be called by any jurisdiction at any time with or without notice to the insurer as circumstance dictates.

A target exam may involve the review of one or more business areas, where only selected standards may be reviewed." (NAIC Market Conduct Examiner's Handbook, 2004, U.S.A., Volume I, p.17.)

This is the first Market Conduct Examination of SeaBright, Conducted by the Alaska Division of Insurance.

## **Subject Matters Examined**

The Alaska Workers' Compensation Market recently was dealt a severe blow, due in large part to the failure of California's Freemont Insurance Company. The resulting strain placed on the Alaska Guaranty Fund and Alaska Businesses has caused the Division of Insurance to intensify its regulatory oversight of the Alaska Workers' Compensation Insurance Market. SeaBright recently reported data to the Division of Insurance that raised concern about the company's schedule rating practices, in particular, the use of scheduled credits and/or debits applied during the rating process. The Company's Alaska writings increased significantly in 2004. Additionally a review of The Company's 4th quarter 2003 filing with The Division displayed a loss ratio of 392%. Therefore, The Division elected to review SeaBright's Underwriting and Rating practices, including the "bid files" to identify any potential problems that could be corrected early.

## **Time Frame**

The examination review covered The Company's Underwriting and Rating Operations from October 1, 2003 through December 31, 2004.

## **COMPANY HISTORY & PRODUCTION PROFILE<sup>1</sup>**

### **SeaBright**

SeaBright Insurance Company (SeaBright) is primarily active in Alaska, California, and Hawaii, and its corporate offices are located in Seattle Washington. SeaBright is admitted in 47 states and only writes workers' compensation insurance.

SeaBright's origins began with the Eagle Pacific Insurance Company (EPIC). EPIC began writing specialty workers' compensation insurance almost 20 years ago, out of their Seattle Washington Office. In July of 1998, Lumbermens Mutual Casualty Company (Lumbermans), a Kemper company, acquired Eagle (EPIC) and Pacific Eagle Insurance Company (PEIC), known collectively at the time as Eagle Insurance Companies (EIC) and are the predecessors to SeaBright.

On January 1, 1999, EPIC and PEIC entered into quota share reinsurance arrangements with Lumbermens Mutual Casualty Company, their ultimate parent, whereby EPIC and PEIC ceded to LMC 80% of the net retained liabilities, after application of all external reinsurance, and 80% of underwriting expenses for all policies written by EPIC and PEIC from January 1, 1999 through December 31, 2002.

Due to subsequent financial difficulties encountered by Lumbermens and its pursuit of a solvent runoff plan, SeaBright Insurance Holdings, Inc., was formed in 2003 by members of the current management team (including prior EPIC Executives) and entities affiliated with Summit Partners, a private equity and venture capital firm. The reason for the formation of SeaBright Insurance Holdings was the completion of a management-led purchase of Kemper Employers Insurance Company (KEIC), a "shell company," from Lumbermens. The buyout closed on September 30, 2003, which The Company refers to as "The Acquisition." The Illinois Department of Insurance approved the name change to SeaBright Insurance Company on November 20, 2003. *EPIC was*

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<sup>1</sup> Portions of this profile were taken from SeaBright's S1 Document (Prospectus dated 1/20/2005, prepared for the recent IPO) and [www.sbic.com](http://www.sbic.com).



*domiciled in Washington State and PEIC was domiciled in California. However, KEIC (subsequently SeaBright) was and SeaBright remains an Illinois Domestic Company.*

In the Acquisition, The Company acquired the renewal rights and substantially all of the operating assets and employees of the former EPIC and PEIC, which The Company collectively refers to as Eagle or the Eagle entities. The Acquisition gave The Company renewal rights to an existing portfolio of business, representing a valuable asset given the renewal nature of The Company's business, and a fully-operational infrastructure. These renewal rights gave The Company access to Eagle's customer lists and the right to seek to renew Eagle's continuing in-force insurance contracts.

SeaBright's current chairman, chief executive officer and president joined EIC in December 1998, and other senior members of the current management team joined EIC in 1999. The combined ratio on the Eagle book of business has improved from 176% in 1999, the first year in which current management was responsible for the Eagle book of business, to 88% in pro forma 2003.<sup>2</sup> By comparison, the industry average combined ratio was 115% in 1999 and 108% in 2003. The Company believes the improvement in the combined ratio has resulted primarily from its focus on the niche markets in which The Company currently operates and its emphasis on larger accounts and fewer customers. For the four-year period beginning with 2000 through pro forma 2003, the gross premiums written on The Company's book of business increased at an average annual rate of 27%. For the nine months ended September 30, 2004, The Company had gross premiums written of \$86.1 million, total revenues of \$54.7 million and net income of \$4.0 million. The Company's gross premiums written refer to its direct premiums written plus assumed premiums. Assumed premiums are premiums that The Company has received from another company under a reinsurance agreement or from an authorized state mandated pool.

The Company promotes itself as a specialty provider of multi-jurisdictional workers' compensation insurance. The Company focuses on employers with complex workers' compensation exposures, and provides coverage under multiple state and federal acts, applicable common law or negotiated agreements. The Company also provides traditional state act coverage in markets it believes to be underserved.

The Company currently provides workers' compensation insurance to customers in the following three targeted markets:

- **Maritime.** The Company focuses on employers with complex coverage needs over land, shore and navigable waters. This involves underwriting liability exposures subject to various state and federal statutes and applicable maritime common law. The Company's customers in this market are engaged primarily in ship building and repair, pier and marine construction and stevedoring. These customers generated \$27.5 million, or 33.8%, of The Company's direct premiums written during the nine months ended September 30, 2004. Direct premiums written refer to all premiums billed by The Company during a specified policy period.

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<sup>2</sup> Management has provided the Division the following information concerning this 2003 "pro-forma" combined ratio. "This number was developed by using Eagle Insurance Companies financial information for the first nine months of 2003, after which Eagle was placed in runoff. We included Eagle earned premiums, incurred losses and underwriting expenses for the three remaining months of 2003 while in runoff, and we also included SeaBright's actual financial results for the same period. So in brief, "pro-forma" was a way to examine an entire year's performance by combining the results of the predecessor companies with those of the new company."

- **Alternative Dispute Resolution.** The Company provides customized solutions to employers who are party to collectively bargained workers' compensation agreements that provide for settlement of claims out of court in a negotiated process. This product currently is focused on the needs of the construction industry in California. These customers generated \$31.6 million, or 38.8%, of The Company's direct premiums written during the nine months ended September 30, 2004.
- **State Act.** The Company underwrites coverage for benefits that employers are obligated to pay specifically under state workers' compensation laws. The Company primarily targets states that it believes are underserved, such as California, Hawaii and Alaska. These customers generated \$22.4 million, or 27.4%, of The Company's direct premiums written during the nine months ended September 30, 2004.

A part of The Company's operational plan is to maintain its experienced claims staff, during the transition. In order to accomplish this goal The Company continues to administer all of the Eagle runoff claims. The Company acts as a Third Party Administrator (TPA) for and receives fee income from Lumberman's Mutual for paying the run-off claims. Lumberman's Mutual is funding the claims from the reserves received from Eagle (\$150,000,000). The Company's servicing of Eagle customers/claimants facilitated maintenance of its claims department. As the Eagle claims runoff diminishes, new SeaBright claims will take their place.

SeaBright's parent company, SeaBright Insurance Holdings, Inc., recently completed (January 2005) a successful Initial Public Offering (IPO). SeaBright Insurance Holdings sold eight million shares of common stock in exchange for \$80.8 Million in proceeds. This capital infusion along with the floating of \$12 Million in variable rate surplus notes (2004), and a Summit Partners infusion of \$5.3 million (2004), is being used to bring SeaBright's surplus from ~\$40 million in 2004 to ~\$129.5 million, as of January 31, 2005.

SeaBright Insurance Company is a wholly owned subsidiary of SeaBright Insurance Holdings, Inc. SeaBright Insurance Holdings, Inc also owns PointSure Insurance Services, Inc., a Managing General Underwriter (MGU). Pointsure will be further discussed below.

**SeaBright is authorized to issue Workers' Compensation Insurance in Alaska. Workers' Compensation Insurance is SeaBright's only line of business.**

**SeaBright's 2004 Workers' Compensation Market Share**

**Total Workers' Compensation Premium for Alaska in 2004 was \$299,923,197.00. Of this amount, SeaBright underwrote \$16,369,064.00 or 5.46%.**

## **METHODOLOGY**

The Market Conduct Section prepared and directed the call letter and all initial data requests to SeaBright's Seattle Home Office. A list of all Alaska business was requested, along with a list of all bid files (business not written) for the period to be reviewed. SeaBright complied with all data requests in a timely manner.

*The following Procedure Steps (Standards & Tests) were followed and/or subject matter reviewed.<sup>3</sup>*

1. The Company has an up-to-date, valid internal or external audit program.
  - a. Determine how management is using the audit reports.
  - b. Determine if the company responds to internal or external audit recommendations to correct, modify and implement procedures.
2. The Company has appropriate controls, safeguards, and procedures for protecting the integrity of computer information.
  - a. Review computer security procedures.
  - b. Review security procedures for electronic policy changes.
  - c. Ensure there is adequate security of applicant/insured data secure during electronic transference of information.
3. The company adequately monitors the activities of the Managing General Agents (MGAs).
4. Records adequate, accessible, consistent, and orderly and comply with state record retention requirements.
  - a. Review state record retention requirements to determine company compliance.
5. The company cooperates on a timely basis with the examiners performing the examination.
6. Verification of use of the filed expense multipliers; the company should be using a combination of loss costs and expense multipliers filed with the Department.
  - a. Verify that the Loss Cost Multiplier (LCM) being used is the one filed and approved for use by the company.
  - b. Verify that the schedule rating plan (SRP) being used is the one filed and approved for use by the company.
7. Credits and deviations are consistently applied on a non-discriminatory basis.
  - a. Determine if the reasons for use of credits and debits are documented.
  - b. Verify that the application of the schedule rating plan complies with limitations imposed by the state.
8. Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.
  - a. Determine if the company is adjusting individual premiums to target premium levels for competitive reasons. Typically the test for this is to review the documentation in the underwriting files.
9. The company does not engage in collusive or anti-competitive underwriting practices.

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<sup>3</sup> *In light of the fact that this was a targeted examination with a narrow focus, Standards one through four above were reviewed and discussed with management, but not tested. Standards five through nine were specifically reviewed and examined for testing purposes.*

**Acceptable Error Rate:**

The Company's acceptable error rate for the above referenced standards and tests must be less than 10%.

**Pre-examination Interview:**

A pre-examination interview with SeaBright Senior Management was conducted by Mr. H. Theodore Lehrbach, Chief of Market Conduct, and Donald E. Hale, EIC on March 2, 2005, to obtain an overview of Company operations and management to discuss the purpose and scope of the examination. Seabright Senior Management Team Members present for the March 2, 2005 meeting were Joseph S. De Vita, Senior Vice President & CFO, Jeff Wanamaker, Vice President Underwriting, Richard Gergasko, Executive Vice President, James L. (Skip) Borland, III, Vice President, Chief Information Officer, and Keith Laughlin, Underwriting Director.

On Monday, March 7, 2005, the examiners arrived at The Company's Anchorage Office and were greeted by Mr. Tim Bryner, Regional Underwriting Manager. Mr. Bryner provided the examiners with complete access to the 72 SeaBright files to be reviewed. The review of all 72 files was completed by the end of business, Friday, March 11, 2005. The examiners were also given complete access to the "bid files" (business lost or not quoted) for review. Sixty-five of the bid files were reviewed during the visit.

The examiners provided Mr. Bryner with Exception Reports identifying issues that required additional information and/or clarification. Mr. Bryner forwarded these interrogatories to the Seattle office for reply. The Company was afforded the opportunity to agree with or dispute the findings contained in the Exception Reports. The last Exception Report (#3) was submitted on March 18, 2005. Mr. Wanamaker responded to all Exception Report interrogatories on behalf of the company. The collected data and completed Exception Reports support all statements made in this report.

On April 5, 2005, The Company provided the last requested documentation in the fieldwork process. Analysis of the data collected from the file review and subsequent correspondence warranted closure of the fieldwork phase of the examination on April 6, 2004.

**THE SAMPLE**

In light of the fact that The Company commenced operations on October 1, 2003, and by March 2005, had only 104 Alaska policy files; it was decided to forego a statistical sampling and examine all of the Anchorage office files. Based on the results of the Anchorage file review, a determination would be made concerning the possible examination of the Alaska files residing in The Company's Seattle home office. *It was determined that a review of the Seattle files is not required.*

**A. COMPANY OPERATIONS AND MANAGEMENT**

*Comments:* The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the examination is designed to provide a view of what the Company is and how it operates. It is not based on sampling techniques. It is more concerned with structure. This review

is not intended to duplicate financial examination review but is important in establishing an understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address the problems that can arise.

The management of well-run companies generally has some processes that are similar in structure. While these processes vary in details and effectiveness from company to company, the absence of them or the ineffective application of them is often reflected in failure of the various standards that follow in this section and those following. The process usually includes:

- A planning function where direction, policy, objectives and goals is 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 operation.

**Standard 1**

**The Company has an up-to-date, valid internal or external audit program.**

**AS 21.09.100**

*Comments:* The review methodology for this standard is generic. A company that has no internal audit function lacks the ready means to detect structural problems until after problems have occurred. A valid internal or external audit function and its use is a key indicator of competency of management, which is an important factor the Director may consider in the review of an insurer. This standard was discussed with management, but not tested.

*Result:* Pass

*Observations:* As SeaBright is a publicly traded company, quarterly and annual audits are required. These audits are conducted by KPMG, LLP, an independent registered public accounting firm. In connection with KPMG's annual audit of the Company's consolidated financial statements, KPMG is required to have certain communications with the Audit Committee of the Company's Board of Directors. The Audit Committee comprises three independent, non-employee members of the Company's Board of Directors. The items required to be communicated to the Audit Committee include, but are not limited to, the following:

- Accounting policies and alternative treatments
- Quality of accounting principles
- Management judgments and accounting estimates
- Audit adjustments and uncorrected misstatements
- Disagreements with management
- Difficulties encountered in performing the audit
- Material written communications
- Significant deficiencies and material weaknesses

KPMG has similar communications with the Audit Committee in connection with its reviews of the Company's quarterly financial statements for the first, second and third quarters of the year. In addition to the Audit Committee meetings at which KPMG and management are both present, the

Audit Committee meets quarterly in separate executive sessions with KPMG and management.<sup>4</sup>

During our March 2, 2005 meeting with Senior Management, we mentioned to SeaBright that one of the triggers for this examination was the company's reported 392% Loss Ratio for the fourth quarter of 2003. In response, Management offered that they had just completed an actuarial review of their Alaska business, as they were also concerned about this loss ratio. Management explained that The Company commenced operations in the fourth quarter of 2003 (first policy dated 10/15/2003) and that they had a death claim almost immediately. This combined with a low level of new premium, at that time, resulted in the large loss ratio.

Price Waterhouse Coopers (PWC) prepares actuarial reviews for The Company on a quarterly basis, with particular attention paid to Reserves and Actuarial Calculations.

**Standard 1**

**The Company has an up-to-date, valid internal or external audit program.**

**Topic 1) Determine how management is using the audit reports.**

**Topic 2) Determine if accuracy of internal statistical data and information systems periodically tested by the company's audit program.**

**AS 21.09.100**

*Comments:* The review methodology for these topics is generic. These tests were discussed with management, but not tested.

*Result:* Pass

*Observations:* Senior Management states that they review the PWC reports, looking at them from an actuarial review and post the reserves acceptable to PWC's independent estimates. Currently, the Company has one year of claims information reflective of current operations.

Concerning the use of the KPMG quarterly and annual audits, Management and the Audit Committee meet regularly to review KPMG's conclusions and recommendations. By procedure, any comments regarding internal control deficiencies that may be made which have not already been corrected are discussed and, if necessary, promptly addressed.<sup>5</sup>

**Standard 2**

**The company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.**

**Topic 1) Review computer security procedures**

**Topic 2) Review security procedures for electronic policy changes**

**Topic 3) Is applicant/insured data secure during electronic transfer?**

**• AS 21.09.100**

*Comments:* Review methodology for this standard and tests is generic. Appropriate safeguards for protecting the integrity of the computer information are a public protection issue. Appropriate

<sup>4</sup> These comments were provided by SeaBright's Comptroller.

<sup>5</sup> This comment was provided by SeaBright's Comptroller.

controls, safeguards and procedures for protecting the integrity of computer files is an indicator of competency of management that the Director may consider in the review of an insurer. These items were discussed with management, but not tested.

*Result:* Pass

*Observations:* The Company has a complete Information Technology (IT) Department. All SeaBright data servers are in Seattle, and all customer/policy information resides there.

The Company uses Citrix Server Technology that allows all server infrastructure components and IT personnel to reside in the Seattle Home Office. This technology allows the branch office employees, using their work stations, to access and work with account records as though they were physically in the Seattle Home Office. Except for secure offsite back-up and disaster recovery purposes, the data never leaves the Seattle Servers. The branch office server infrastructure is only used to communicate with the Citrix Servers and manage the printing needs of the branch office employees. The Company provides further data security by using a private frame relay network, instead of using other comparable Internet Based Technology such as A Virtual Private Network or VPN. Branch office employees are provided high-speed Internet access for other business purposes, not involving policy records.

The Company maintains a hot site with a well regarded computer/data service company. This is used for disaster recovery purposes. The Company can designate any remote site as the back-up home office in the event of an emergency. Additionally, in recent disaster recovery tests The Company was able to retrieve all of the "mission critical" data in approximately 38 hours, well ahead of the industry norm of 72 hours.

**Standard 5**

*The company adequately monitors the activities of the Managing General Agents (MGAs) (sic)*

AS 21.27.590 – 21.27.620

*Comments:* Review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is focused on the level of the oversight provided by the Company when it contracts with an external entity that assumes a business function of the Company. The particular interest is on oversight impacting records and actions considered in a market conduct examination, such as but not limited to, trade practices, claim practices, policy selection and issuance, rating, complaint handling, etc.

*Result:* Pass

*Observations:* SeaBright does not use MGAs.

SeaBright Insurance Holdings, Inc. has a wholly owned Managing General Underwriter (MGU), Pointsure Insurance Services that operates on a wholesale basis. Pointsure holds an Alaska Adjustor & Producer Firm License and acts as a MGU. PointSure is licensed in 47 states and the District of Columbia.

**Standard 7**

**Records are adequate, accessible, consistent, and orderly and comply with state record retention requirements.**

**AS 21.27.350, 3 AAC 29.400 (3)**

*Comments:* Review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the company's transactions. The focus is on the records and actions considered in a market conduct examination such as but not limited to, trade practices, claim practices, policy selection and issuance, rating, complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate handling of claims, inappropriate rates and other issues which can provide harm to the public.

*Result:* Pass (Needs Improvement)

*Observations:* Alaska Regulation 3 AAC 26.030 requires that all files to be examined, contain all notes, papers documents, and similar material, and be in sufficient detail that those relevant events; the dates of those events, and all persons participating in those events can be identified.

The examiners generally found The Company's files legible and easy to understand. However, the examiners noted that the reason basis given for schedule debits and credits often remained the same from one year to the next, while those schedule debits and credits were changed at renewal. In most cases there were no other noted reasons in the file justifying those changes. 3 AAC 29.400 (3) requires that the documentation in an insurer's underwriting file provide sufficient detail to establish that the assignment of a credit or debit under a schedule rating plan complies with 3 AAC 29.400 -- 3 AAC 29.469. The examiners were informed that The Company creates a new file for each new policy period. The Company has stated that it does not maintain a (hard copy) "master file" containing the complete account history, due to size of its policy files. The Company further stated that it would not be practical to do so.

*Recommendations:*

**Recommendation 1)** It is recommended that SeaBright review, implement, and/or update policies, procedures and training to ensure that its files contain all notes, papers documents, and similar material, and be in sufficient detail that those relevant events; the dates of those events, and all persons participating in those events can be identified.

**Standard 7**

**Records are adequate, accessible, consistent, and orderly and comply with state record retention requirements.**

**Test 1) *Review state record retention requirements.***

**• AS 21.27.350, 3 AAC 21.470**

*Comments:* Review methodology for this test is specific. This test has a direct insurance statutory requirement. As the nature of the examinee's business may involve long term contingencies and liabilities, the focus is on the proper maintenance and availability of all historical records. This standard was discussed with management, but not tested.

*Result:* Pass



*Observations:* Per Senior Management, record retention for all files is to be 75 years for underwriting files. Claim file record retention surpasses Alaska State statutory requirements.

**Standard 9**

**The company cooperates on a timely basis with examiners performing the examination.**

**AS 21.06.170, 21.06.120-21.06.160**

*Comment:* Review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is aimed at assuring that the company is cooperating with the state in the completion of an open and cogent review of the company's operations in Alaska. 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.

*Result:* Pass

*Observations:* During all phases of the examination The Company exhibited a positive and cooperative attitude. On several occasions, both Senior Management and Branch Office Personnel stated that they wished to use the examination process as learning experience and for improvement. Tim Bryner, Regional Underwriting Manager, in the Anchorage Branch Office was very cooperative with and responded timely to all examiner requests. It has also been a pleasure working with the Seattle Senior Management. All questions and request for information were responded to timely and in a professional manner.

## **B. UNDERWRITING AND RATING**

**Standard 1**

**Verification of use of the filed expense multipliers; the company should be using a combination of loss costs and expense multipliers filed with the Department.**

**Test 1) Verify that the company Loss Cost Multiplier (LCM) being used is the filed and approved LCM.**

**• AS 21.39.040(h)**

*Comment:* Review methodology for this standard and test is specific. This standard and test has a direct insurance statutory requirement. It is necessary to determine if the company is in compliance with rating systems, which have been filed with and approved by the Alaska Division of Insurance. Rates should not be unfairly discriminatory. Wide-scale application of incorrect rates by a company may raise financial solvency questions or be indicative of inadequate management oversight. Deviation from established rating plans may also indicate a company is engaged in unfair competitive practices.

*Result:* Pass (Needs Improvement, see recommendation)

*Observations:* SeaBright is using the old LCM previously approved for the Kemper Employer's Insurance Company (KEIC). This is more a matter of formality since SeaBright was formally KEIC, and has the same Company Code. However, numerous references were found in the files

stating that certain rating decisions were made because of the “Inherent Inadequacy in the Alaska loss costs and in our LCM”. *The use of this as a “Reason Basis” will be discussed elsewhere in the report.* Had The Company filed a new LCM it would have had the opportunity to review the adequacy of the current LCM, and could have filed for changes. Unfortunately this detail was most likely overlooked during the acquisition/transition as outlined in section one.

**Recommendation 2)** It is recommended that SeaBright re-file its Loss Cost Multiplier with the Division of Insurance and when doing so review its operational requirements for any changes that may be needed.

**Standard 1**  
**Verification of use of the filed expense multipliers; the company should be using a combination of loss costs and expense multipliers filed with the Department.**

**Test 2) Verify that the schedule rating plan (SRP) being used is the filed and approved schedule rating plan.**

- AS 21.39.040(h)

*Comment:* Review methodology for this test is specific. This test has a direct insurance statutory requirement.

*Result:* Pass (Needs Improvement, see recommendation)

*Observations:* SeaBright is using the SRP approved for the Kemper Employer’s Insurance Company (KEIC). This is more a matter of formality due to the aforementioned reasons. However, the examiners found numerous “Reason Bases” that were not compliant with the approved SRP. *The use of these non-compliant “Reason Bases” will be discussed elsewhere in the report.* Had The Company filed a new SRP, the company would have had the opportunity to request changes that if approved, might have made some of the aforementioned “Reason Bases” compliant.

**Recommendation 3)** It is recommended that SeaBright file a new SRP with the Division of Insurance and when doing so review its underwriting/rating activities/needs for any changes that may be needed.

**Standard 4**  
**Determine if credits and deviations are applied consistently and on a non-discriminatory basis.**

3AAC 29.420, 3AAC 29.425, AS 21.36.090, AS 21.36.120

*Comment:* Review methodology for this standard is specific. This standard has a direct insurance statutory requirement. Insurers must apply their filed schedules or rate credits and deviations on a non-discriminatory basis, consistency is the key in avoiding the appearance or actuality of an unfair discrimination.

*Result:* Fail

*Observations:* Of the 72 files reviewed, only nine had sufficient history to test for consistency. Of those nine files the examiners had concerns with seven. The examiners noted a consistent renewal

