

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
PO BOX 110805
JUNEAU, AK 99811-0805

Order # TA 22-05)
In the Matter of Audit of)
Marsh & McLennan Agency LLC)
_____)

FINDINGS OF FACT

1. An audit report of Marsh & McLennan Agency LLC, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Marsh & McLennan Agency LLC.
2. The audit report of Marsh & McLennan Agency LLC (TA 22-05) has been transmitted to Jamie Esquivel, Compliance Officer, Marsh & McLennan Agency LLC (Auditee), and Auditee has been accorded at least 30 days' opportunity to review and comment on this audit report.
3. The director of the Division of Insurance has fully considered and reviewed the report and any relevant portions of the auditor's work papers to the extent she considered necessary.

CONCLUSIONS OF LAW

1. The written audit report referred to in Finding of Fact No. 1 was issued in accordance with Alaska Statute (AS) 21.06.150(b).
2. The actions set forth in finding of Fact No. 2 were conducted in accordance with AS 21.06.150(b).
3. The director of the Division of Insurance has reviewed the audit report and any other relevant work papers as set forth in Finding of Fact No. 3 to the extent she considered necessary in accordance with AS 21.06.150(b).

ORDER

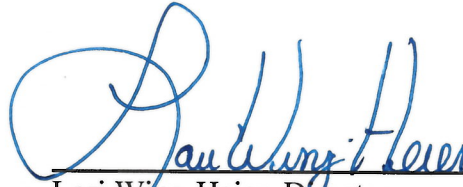
IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of Marsh & McLennan Agency LLC (TA 22-05) is approved as filed.

2. Pursuant to AS 21.06.060, the audit report shall be kept in the office of the director of the Division of Insurance and be open to public inspection.

This order is effective May 9, 2023.

Dated this 9th day of May, 2023 at Juneau, Alaska.



Lori Wing-Heier, Director
State of Alaska
Division of Insurance

PREMIUM TAX AUDIT OF

Marsh & McLennan Agency LLC

Anchorage, AK

Alaska License #82353

TA 22-05

As of June 30, 2022

Issued by

DIVISION OF INSURANCE

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC

DEVELOPMENT

STATE OF ALASKA



FINAL REPORT:

May 9, 2023

TABLE OF CONTENTS

	PAGE
1) TABLE OF CONTENTS.....	2
2) SALUTATION.....	3
3) SCOPE OF AUDIT.....	3
4) METHODOLOGY.....	4
5) PREMIUM TAX AUDIT.....	6
6) SUMMARY AND SUBSEQUENT EVENTS.....	12
7) AFFIDAVIT.....	13



May 9, 2023

Lori K Wing-Heier
Director, Division of Insurance
Department of Commerce, Community and Economic Development
550 West 7th 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 premium tax audit of Marsh & McLennan Agency LLC. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

Marsh & McLennan Agency LLC

SCOPE OF AUDIT

This premium tax audit was called to review compliance with the surplus lines statutes AS 21.34, and regulations 3 AAC 25, the premium tax regulations 3 AAC 21.550 – 570 and licensing statutes AS 21.27.350 and 21.27.810. This is the fourth premium tax audit of Marsh & McLennan Agency LLC conducted by the Alaska Division of Insurance (the division).

Subject Matters Audited

Marsh & McLennan Agency LLC (the broker) is an Alaska licensed surplus lines broker based in Anchorage, AK. The division elected to audit their quarterly filings, premium taxes and filing fees paid for accuracy and timeliness as well as required diligent search efforts, disclosures, notifications, and prompt delivery of material facts in evidence of insurance to the insured.

Time Frame

The audit covered the broker's surplus lines business for policy effective dates occurring between July 1, 2020 through June 30, 2022.

METHODOLOGY

The division sent the call letter and initial data requests to the broker's office in Location. A list of all Alaska business transactions with nonadmitted insurers was requested for the period to be audited. The broker complied on a timely basis with all data requests. The number of policies written during the audit period was 212, from which a sample of 50 files was selected for audit. After starting the audit, determined Alaska was not the home state for one policy. Removed from the audit except for the Home State audit test and replaced with a different policy.

The following are the procedure steps for the audit:

- 1) Verify that quarterly reports and accompanying forms were filed on time.
 - i) Audit steps taken:
 - (1) Reviewed the quarterly reports sent to the Alaska Division of Insurance and verified they were filed by the due date.
- 2) Verify the accuracy of the premium calculation.
 - i) Audit steps taken:
 - (1) Reviewed policy, binders, and invoices to determine how taxable premium was calculated.
 - (2) Verified the correct premium was reported on the reports as filed.
- 3) Verify the accuracy of quarterly reports filed.
 - i) Audit steps taken:
 - (1) Reviewed the policy, binder, and endorsement pages in each file.
 - (2) If the effective date did not match the quarterly filing, reviewed the correspondence to ensure the documentation in the file matched when the policy was booked. Most of these occurred with endorsements that often require additional information and sometimes company approval before it can be added to the policy. The invoice date determines in which quarter the endorsement is required to be filed.
 - (3) Verified the quarterly reports as filed with the division were accurately filled out to reflect the correct effective date, premiums, taxes and fees based upon the information in the files.
 - (4) Verified the policy was included in the quarterly filing based upon the effective date of the policy.
 - (5) Verified the insured name, insured address, insurance company, producer names and license numbers were accurate on the forms filed.
 - (6) Verified the descriptions of the subject and locations of risk were identified on the reports.
- 4) Verify if tax and filing fee payments were made on time and by ACH.
 - i) Audit steps taken:
 - (1) Confirmed when the payments were received by the Alaska Division of Insurance and the payment method.
- 5) Verify tax and filing fee payments were made accurately.
 - i) Audit steps taken:
 - (1) Confirmed if the tax and fee payments matched the quarterly reports as filed.
- 6) Confirm Alaska is the home state of the insured.
 - i) Audit steps taken:

- (1) Verified where the principal place of business or residence of the insured is located.
- (2) Verified at least partial risk is located in Alaska or the highest % of premium in Alaska if headquarters not in Alaska with no risk in the headquarters state or in the case of individuals, the residence state.
- 7) Review effort made to place insured with an admitted insurer.
 - i) Audit steps taken:
 - (1) Verified the diligent search was documented prior to binding and received within 15 days from binding. If there were no declinations due to risk on the placement list, the list effective at the time of placement was reviewed to ensure the risk was on the list
- 8) Review prompt delivery of evidence of insurance AS 21.34.100(a) and 3 AAC 25.060.
 - i) Audit steps taken:
 - (1) Reviewed dates of binding and forwarding of evidence of insurance to insured.
- 9) Review required material facts are located on evidence of insurance AS 21.34.100(a).
 - i) Audit steps taken:
 - (1) Reviewed documents to confirm required material facts were located on the evidence of insurance when policy not available within 30 days of binding.
- 10) Review disclosures for use of non-admitted insurer.
 - i) Audit steps taken:
 - (1) Reviewed the evidence of insurance to ensure the broker's name and language required by statute AS 21.34.100(e) is present and legible and at least 10-point type.
- 11) Review notifications for use of non-admitted insurer.
 - i) Audit steps taken:
 - (1) Reviewed the correspondence and other documentation in the files to find a copy of the notification sent to the insured that meets the requirement in AS 21.34.110
- 12) Confirm coverage is placed with an eligible non-admitted insurer.
 - i) Audit steps taken:
 - (1) Reviewed the Alaska published white lists and NAIC Quarterly Listings of Alien Insurers to ensure the company was eligible at the time of placement.
- 13) Review notice regarding nonrenewal and premium increase
 - i) Audit steps taken:
 - (1) Verified there was an Alaska Policyholder Notice regarding nonrenewal and premium increase included with the policy in the format approved by the Director of the Alaska Division of Insurance.
- 14) Other issues not previously identified as a procedure step were included when not in compliance with Alaska laws.
 - i) Audit steps taken:
 - (1) Reviewed documents to ensure other surplus lines statutes and regulations requirements were met.

Acceptable Error Rate:

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

PREMIUM TAX AUDIT

- | |
|---|
| 1. Verify quarterly reports and accompanying forms were filed on time
AS 21.34.080 and .170, 3 AAC 25.090 and .100 |
|---|

Comments: The eight original quarterly reports and two annual tax reports with accompanying forms were filed on time.

Results: Passed (error rate 0%)

- | |
|---|
| 2. Verify the accuracy of the premium calculation
AS 21.34.180 |
|---|

Comments: The premium was reported incorrectly for two policies in the audit files. Premium for one policy had a company policy fee that was not included in premium when calculating the tax and filing fees due to the Division. The policy has now expired, and the division will not require an amended quarterly report. The other policy had a different premium in the evidence of insurance than what was reported to the Division. The insured was charged correctly. This error requires an amended quarterly report.

These errors affect two additional audit tests:

1. Accuracy of the Quarterly Reports
2. Accuracy of Tax and Fee Payments

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensures written procedures are followed and that all fees are identified as taxable or nontaxable correctly. It is also recommended the premium be reviewed by a second individual to ensure it is accurately transferred from inhouse documents to the quarterly report. The quarterly report was amended as requested.

The broker's response: MMA Anchorage has shared the findings with the departments that fill out and submit the quarterly reports and discussed the procedures that must be followed while confirming understanding. Additionally, MMA Anchorage is asking corporate to simplify the current process to only one point of contact for the Anchorage, Alaska office instead of documents going through two departments before submitting the quarterly reports to the State of Alaska. Finally, we are retraining the MMA office colleagues on which fees are taxable and which are not.

- | |
|---|
| 3. Verify the accuracy of all quarterly reports filed
AS 21.34.080 and .170, 3 AAC 25.090 and .100 |
|---|

Comments: Multiple errors were noted on the Report of Surplus Lines Transactions and Quarterly Reports filed with the division. There were 27 amended reports (prior to those amended reports correcting audit issues) for the eight quarterly reports in the audit. Included in these amended reports were numerous corrections requested by division staff.

- Incorrect premium (switched with another policy) – 1

- Filed on amended report after the due date – 4
- Endorsement filed in wrong quarter with wrong invoice date – 1
- Start date and/or end date incorrect – 2
- Policy # incorrect – 5
- Insured address incorrect, the location of risk used instead of insured’s actual address – 1
- Location of risk – other states that were part of the risk were not identified – 4
- Location of risk initially blank – 1
- Producer name incorrect – 2
- Producer license # incorrect – 2
- Insurance companies as part of subscription policy missing – 1
- Lloyd’s syndicates initially missing – 1
- Wrong insurance company listed (switched with another policy) – 1

Total accuracy errors: 26 within 17 distinct files

Several of these errors affect one additional audit test:

1. Accuracy of Tax and Fee Payments

The broker’s staff fill out a Report of Surplus Lines Transaction form that gets transmitted to a centralized office for completing the Quarterly Report.

Results: Failed (33 files passed & 17 failed, error rate 34%)

Recommendations: It is recommended the broker modify Alaska specific written procedures to include how the centralized office should fill out the electronic Report of Surplus Lines Transaction tab in the Quarterly Report. The procedures should include what data is entered into each field. Instructions are provided in a tab of the Quarterly Report that can be used for the procedures. A second individual in the centralized office reviewing documents before submission should reduce the number of errors received by the division.

The broker’s response: MMA Anchorage has shared the findings with the departments that fill out and submit the quarterly reports and discussed the procedures that must be followed, while confirming understanding. Additionally, MMA Anchorage is asking corporate to simplify the current process to only one point of contact for the Anchorage, Alaska office instead of documents going through two departments before submitting the quarterly reports to the State of Alaska. Finally, MMA Anchorage is updating procedures to clarify that the transaction report should have listed the States where business is conducted and not just Alaska.

**4. Verify if tax and filing fee payments were made on time and by ACH
AS 21.34.180, AS 21.34.190, 3 AAC 21.550 - .570**

Comments: All payments were made on or before the required due date for the quarterly payments and made by ACH.

Results: Passed (error rate 0%)

5. Verify tax and filing fees payments were made accurately

AS 21.34.180, 3 AAC 21.550 - .570

Comments: All tax and fee payments made by the broker were accurate based upon the quarterly reports as filed. The errors found during the audit in the premium calculation, quarterly report accuracy and home state of the insured affects the accuracy of the tax and fee payments. These flow-through findings are addressed in their respective audit tests.

Results: Passed (error rate 0%)

6. Verify the home state for insured is Alaska

AS 21.34.180

Comments: The broker writes some multi-state policies. The home state of the insured was evaluated for all policies in the audit. The home state for one policy was determined to be Louisiana not Alaska. The broker will need to amend the affected quarterly report to remove the transaction and file in the correct state.

This error affects three additional audit tests:

1. Accuracy of Premium
2. Accuracy of Quarterly Reports
3. Accuracy of Tax and Fee Payments

Results: Passed (50 files passed & 1 failed, error rate 2%)

Recommendations: It is recommended the broker ensures their written procedures for how to determine the home state of the insured are followed. The home state questionnaire should always be used with surplus lines transactions. The quarterly report was amended as requested.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. Our new training will have updated information on the Home State Questionnaire and a reminder to always utilize it.

7. Review diligent search effort made to place insured with an admitted insurer

AS 21.34.020, 3 AAC 25.010 and .035

Comments: The broker has elected to use the Affidavit of Due Diligence for documenting the diligent search by the producers. Two files did not have any diligent search efforts.

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensures their Alaska specific written procedures are followed to require all Affidavits of Due Diligence are created or received no later than 15 days from binding. The broker can require the documentation prior to binding or before providing evidence of insurance to encourage the producers to provide the documentation on time.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. Additionally, we understand other MMA offices are using our license and they will receive copies of the updated training including proper completion of the due diligence document.

8. Review prompt delivery of evidence of insurance

AS 21.34.100(a) and 3 AAC 25.060

Comments: Five files have documentation showing the first evidence of insurance was provided to the insured after 30 days of binding.

Results: Failed (45 files passed & 5 failed, error rate 10%)

Recommendations: It is recommended the broker revise their Alaska specific written procedures to include the requirement for prompt delivery. The first evidence of insurance must be provided to the insured within 30 days of binding.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. Additionally, a reminder to all colleagues will go out regarding MMA's timeliness standard of binder transmittals to clients within 5 business days.

9. Review required material facts located on evidence of insurance

AS 21.34.100(a)

Comments: Twelve files show evidence of insurance missing required material facts on binders and policies, when considered the first evidence of insurance. If the binder was missing facts, the policy sent within the 30 days from binding was evaluated.

Here are the different issues that the broker is not compliant with regarding this statute:

- Binder missing broker license # – 8
- Policy missing broker license # – 2
- Binder missing insured address – 2
- Binder missing premium tax amount – 1
- Binder missing location of risk – 1
- Binder missing general coverages – 2

Total errors: 16 within 12 distinct files

Results: Failed (38 files passed & 12 failed, error rate 24%)

Recommendations: It is recommended the broker modify their Alaska specific written procedures to include what material facts regarding the coverage, insured, insurer, and broker must be on evidence of insurance. Review statute for details.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. Additionally, we will review the electronic stamps for accuracy and make sure all elements are included.

10. Review disclosures on evidence of insurance for use of non-admitted insurer

AS 21.34.100(e)

Comments: Sixteen files included problems with the required disclosure statement on the evidence of insurance. Where the insured's copy was unavailable, auditor relied upon the broker copy. Here are the different problems found in the files:

- No disclosure on binder – 2
- No disclosure on dec – 9
- No disclosure on endorsement – 12
- No disclosure on certificates – 14
- Disclosure missing one word on dec – 1
- Broker name missing on dec – 1

Total disclosure errors: 39 within 16 distinct files

Results: Failed (34 files passed & 16 failed, error rate 32%)

Recommendations: It is recommended the broker ensures Alaska specific written procedures are followed that all evidence of insurance has the required disclosure statement. The disclosure statement should be located on the first page of the evidence of insurance so the insured will not miss it, but a separate page is okay if it is in front of the evidence of insurance. It is further recommended to revise the written procedures to include the disclosure statement on all certificates as they are also evidence of insurance.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. Our existing training on Binding, Evidence of Insurance, and Endorsements will have the Surplus Lines sections redone to better highlight this as well.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: The broker generally provides the notification to the insured with the proposals. Three files were missing one or all of the required three points of the notification: the company does not have a certificate of authority, they are not regulated by the Alaska Division of Insurance and in the event of insolvency losses will not be covered by the Alaska Insurance Guaranty Association Act. The statute referenced was sometimes incorrect, but the three points were correctly identified.

Results: Passed (47 files passed & 3 failed, error rate 6%)

Recommendations: It is recommended the broker ensures their Alaska specific written procedures are followed to provide a pre-binding notice either on or with the proposals. It is also recommended the statute referenced be corrected to reflect the right statute.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. All Proposal Templates have been updated with the correct wording and notification went out to the office colleagues.

12. Confirm coverage is placed with an eligible non-admitted insurer

AS 21.34.050

Comments: All policies in the audit were placed with eligible surplus lines companies.

Results: Passed (error rate 0%)

13. Review notice regarding nonrenewal and premium increase

3 AAC 25.050

Comments: Four policies did not include the Alaska Policyholder Notice of premium increase and nonrenewal.

Results: Passed (46 files passed & 4 failed, error rate 8%)

Recommendations: It is recommended the broker ensures their Alaska specific written procedures are followed of confirming policies contain the Alaska Policyholder Notice. The broker should contact the insurance company to include the notice when it is missing.

The broker's response: MMA Anchorage has started a new training effort that will include a new recorded video for all to watch, to remind employees of this procedure. This will be included in our New Hire Learning Path (training program) so that all new hires learn this early. In addition, the existing Policy Checking training will have the Surplus Lines section redone to highlight this better. Training will include instruction and reminders to colleagues to notify the carrier if notices are not completed when they should be.

14. Additional Compliance Issues Identified

1. One 2020 policy was never sent to the insured in violation of AS 21.27.810(11).
2. One policy was part of a quota share of multiple policies. The 1% filing fee was assessed on all policies, which included admitted companies, and not just the nonadmitted policy. The insured is due a refund of the overcharged filing fee on the admitted companies' policies. AS 21.34.190.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of Marsh & McLennan Agency LLC. The auditor tested 13 standards focusing on the broker's filing of quarterly reports and the subsequent payment of premium taxes and filing fees as well as diligent search efforts, disclosure and notification requirements for using a non-admitted insurer, and prompt delivery of material facts to insured.

The audit was conducted in the auditor's office as she received electronic versions of the broker's files under audit. The broker responded quickly to all requests for additional information. The auditor appreciated this behavior.

Several significant issues did arise during the audit that affects the service to the insured and compliance with Alaska statutes and regulations.

- 1) The quarterly reports were consistently not accurate when filed. Numerous amended reports were required for corrections.
- 2) Several evidence of insurance were not delivered promptly.
- 3) Many of the evidence of insurance were missing required material facts.
- 4) Many of the evidence of insurance were missing the disclosure language.

The auditor would like to review any new or revised procedures to help the broker ensure all problems identified in the audit were captured accurately.

Re-Audit

In closing, the auditor's recommended actions and review of the procedures should help the broker correct the problems encountered. It is recommended that Marsh & McLennan Agency LLC be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

Marsh & McLennan Agency LLC
As of June 30, 2022
TA 22-05

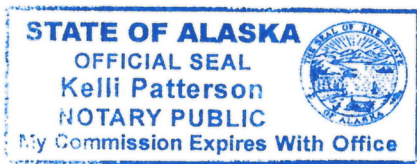
Juneau, Alaska)
May 9, 2023)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of June 30, 2022 of Marsh & McLennan Agency LLC is true to the best of my knowledge and belief.

Rebecca Nesheim

Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 9th day of May, 2023



Kelli Patterson

Notary Public in and for Alaska

My Commission Expires with office