

REPORT ON EXAMINATION  
OF THE  
TITLE INSURANCE RATE SERVICE ASSOCIATION, INC.  
AS OF  
June 30, 2012

DATE OF REPORT: July 26, 2013

EXAMINER: Risk & Regulatory Consulting, LLC

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
1 STATE STREET  
NEW YORK, NEW YORK 10004

Governor

Superintendent

July 17, 2013

Honorable Benjamin Lawsky  
Superintendent of Insurance  
New York, NY 10004

Sir:

Pursuant to instructions contained in Appointment No. 31004, dated September 13, 2012, I have made an examination into the conditions and affairs of the Title Insurance Rate Service Association, Inc., as of June 30, 2012, and the following report thereon is respectfully submitted.

Whenever the designations "TIRSA" or "The Association" appear herein without qualification, they should be understood to indicate the Title Insurance Rate Service Association, Inc.

Whenever the term "Department" appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

Whenever the term "Examiners or RRC" appears herein without qualification, it should be understood to mean Risk & Regulatory Consulting, LLC.

Whenever the term "Handbook" appears herein without qualification, it should be understood to mean the National Association of Insurance Commissioners' Market Regulation Handbook.

## 1. SCOPE OF EXAMINATION

The Department's previous examination of TIRSA was conducted as of June 30, 2006. The current examination covers the period from July 1, 2006, through June 30, 2012. The examination included a review of those items called for in the NAIC handbook, including Appendix F , including but not limited to a review of income (assessments), disbursements and those records deemed necessary to accomplish an analysis of TIRSA's operations; an in-depth review of TIRSA's role as the statistical agent for the Department; TIRSA's function as a rate service organization; TIRSA's responsibility to file rates and forms with the Department on behalf of its members and subscribers and to determine if TIRSA has appropriate controls, safeguards, and procedures for protecting the integrity of computer information. The Examiners relied on records and information maintained by TIRSA and its vendors.

The examination included a review of the following market conduct, actuarial and IT areas:

- Operations/Management/Governance
- Statistical Plans
- Report Systems and Data Requests
- Ratemaking
- Data Collection and Handling
- Form Development and Review
- Management and Organization Controls
- Physical Security
- Logical Security - System/Environment Access
- Logical Security - Application Access
- Security - Monitoring and Management
- Application Management
- Disaster Recovery/Contingency Planning
- Operations and Processing Control

The Report on Examination is a report by exception. However, not all unacceptable or non-complying practices may have been identified during the examination. As such, the failure to identify such specific practices does not constitute acceptance of these practices.

## 2. SUMMARY OF RECOMMENDATIONS

### **Recommendation #1 - No Internal Audit Program:**

The Examiners reviewed documentation provided by TIRSA to determine if it has an up-to-date, valid internal or external audit program. The Examiners noted the following:

- Financial statement audits were not conducted for 2006, 2007, 2008, 2010 and 2011.
- TIRSA does not have a Formal internal audit function and does not perform regular internal audits of its operations.
- The “TIRSA Financial Procedures” provided to Examiners do not represent audit procedures.

The Report on Examination resulting from a previous examination of TIRSA conducted by the State of New York Insurance Department as of June 30, 2006, stated the following:

*“It is imperative that every organization engage in constant review of its ongoing operations in order to assess the effectiveness of its operations. One mechanism frequently used by other organizations is an internal audit. The Department recommends that TIRSA's President appoint a committee to be responsible for conducting a periodic internal audit of TIRSA's operations, and to make appropriate recommendations to address any shortcomings noted in the internal auditor's report. TIRSA has agreed to comply with this recommendation.”* TIRSA advised the Examiners that *“although not designated as an “audit committee,” the President and Treasurer of TIRSA constitute a de facto audit committee”*. TIRSA has not complied with this recommendation from the previous Report of Examination.

The Department recommends that TIRSA comply with the Department's recommendation from the previous Report on Examination to appoint a committee to be responsible for conducting



























































9. FINANCIAL STATEMENTS

As of TIRSA, TIRSA's CPA [unclear]  
 as of TIRSA's Q [unclear]  
 as of TIRSA's [unclear]  
 for 2009 and 2006, 2007, 2008, 2010, and 2011),  
 as of TIRSA 401(k) Plan [unclear]  
 as of TIRSA. In 2011, TIRSA [unclear]  
 as of ADP Company [unclear]  
 as of CPA.

10. INSURANCE COVERAGE OF THE ASSOCIATION

TIRSA [unclear]

Type of Policy	Company	Purpose of Coverage
General Liability	Zb	General Liability, Professional Liability, Directors and Officers Liability
Workers Compensation	Zb	Workers Compensation, Disability
Directors and Officers Liability	Professional Liability Company	Liability
Group Term Life Insurance	Fidelity	Life



## 11. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior Report on Examination contained the following recommendations (italicized). The Examiners' comment regarding TIRSA's compliance is below each recommendation. The Examiners identified three areas for which corrective action had not yet been taken. Those three areas pertain to internal controls and oversight which is an element of good corporate governance.

### A. Committee

*The President is to appoint a committee to conduct a periodic internal audit of TIRSA's operations.*

TIRSA has not complied with this recommendation. In the May 19, 2009 Board Meeting minutes, a member of the Executive Board discussed "that pursuant to the Insurance Department's Report, TIRSA is required to appoint an Audit Committee." The minutes further indicate that the Executive Board will announce the members of the Committee at the Annual Executive Board Meeting on June 17, 2009. However, per subsequent Executive Board meeting minutes, no indication was found that the Audit Committee was appointed.

### B. Organizations Employed by TIRSA

- i. *TIRSA must specify, in accordance with the recommendations contained in this Report, written guidelines for the compilation and analysis of statistics to be undertaken by TIRSA's statistical consultant.*

TIRSA has not complied with this recommendation.

- ii. *TIRSA should reduce to writing its service agreements with all entitles retained to provide services to TIRSA.*

TIRSA has complied with this recommendation.

C. Review of TIRSA's Rate Filing Methodology and Assumptions

- i. *TIRSA is to implement enhanced verification and data gathering procedures that will reduce data errors in the compilation of statistical data by TIRSA's statistical consultant.*

*TIRSA has complied with this recommendation.*

- ii. *TIRSA will ensure that going forward its statistical consultant resolve all data inconsistencies within statistical reports.*

TIRSA has complied with this recommendation. The Examiners note that there has been a vast improvement in this process, however, TIRSA should draft guidelines for use by its statistical consultant to guide their judgment on what is or is not an acceptable data inconsistency.

- iii. *All future responses to data calls submitted to TIRSA are to be reconciled, to the fullest extent possible, to the applicable member's filed statutory annual statement.*

TIRSA has complied with this recommendation.

- iv. *A new schedule is to be added to the data call requiring the reconciliation of New York specific expenses, and other expenses, to title insurers' filed statutory annual statements.*

TIRSA has complied with this recommendation.

- v. *In the future, TIRSA will utilize a policy year based approach in its rate filings to the Department.*

TIRSA has complied with this recommendation.

- vi. *In the future, TIRSA should not consider assumed and ceded premiums in its rate filing with the Department.*

TIRSA has complied with this recommendation.

- vii. *TIRSA will develop enhanced procedures for its overall management of data to better enable the Department to utilize the statistical data provided to the Department by TIRSA.*

TIRSA has complied with this recommendation.

- viii. *TIRSA must prepare a prospective rate filing using reconciled data for the most recent ten year period. All of the data used in that filing must be reasonably attributable to title insurance business for the state of New York, on a policy year basis, and reconciled, to the fullest extent possible, to filed statutory annual statements of each TIRSA member.*

TIRSA has complied with this recommendation.

- ix. *TIRSA must provide an actuarial certification by a credentialed actuary with each future rate filing certifying that the data was reviewed for reasonableness and consistency; that the methodologies and assumptions in TIRSA's rate filing are reasonable and comply with appropriate standards for the title insurance industry; and that the rates are in accord with the NYIL.*

TIRSA has complied with this recommendation.

- x. *TIRSA must maintain actuarial data appropriate to the title Insurance industry, as directed by the Department, to support its zone differentials, discounts and incremental rates of insurance.*

TIRSA has not complied with this recommendation.

D. *Books And Records*

- i. *The President should conduct follow-up investigations on a regular basis to assure that members make timely payments as required by the Articles of Association.*

TIRSA has complied with this recommendation.

- ii. *A separate register should be maintained by TIRSA to record the receipt of dues, assessments, and special assessments.*

*TIRSA has complied with this recommendation.*

*E. Financials*

- i. TIRSA should institute a system of internal controls whereby invoices are date stamped upon receipt and prior to making any payments, duly signed as approved.*

TIRSA has complied with this recommendation.

12. SUMMARY OF COMMENTS AND RECOMMENDATIONS

Operations, Management and Governance

Recommendation 1:

TIRSA should perform annual independent audits of its financial statements, perform periodic audits of its vendors at reasonable intervals, and develop procedures for the use of internal and external audit reports.

Recommendation 2:

TIRSA should establish and maintain a formal written records retention policy, to include but not be limited to: a description of the types of records being retained, the method of retention, the safeguards established to prevent alteration of the records, and organizational protocols to ensure that all regulatory data and documents be made readily available upon request by the Department.

Recommendation 3:

TIRSA should require by contract or other means that a person authorized to act on its behalf in connection with performing insurance business maintain records that TIRSA would otherwise be required to maintain.

Recommendation 4:

TIRSA should review on a regular basis and update as needed their Antitrust Compliance Policy and Guidelines.

Recommendation 5:

TIRSA should establish a comprehensive written information security program as required as well as formal documented policies, standards and procedures for the management of insurance confidential or proprietary information.

Recommendation 6:

TIRSA should require by contract or other means that a person authorized to act on its behalf in connection with performing insurance business comply with TIRSA's comprehensive written information security program.

Recommendation 7:

TIRSA should revise its vendors' service agreements to include TIRSA's oversight, assessment and monitoring of the vendors' function and process related to TIRSA's business.

Recommendation 8:

TIRSA should establish a formal written audit process of its vendors to monitor the activities and perform routine audits of its vendors related to TIRSA's business.

Recommendation 9:

TIRSA should establish controls and formalize its filing procedures for the preparation, submission, tracking, distribution and archiving of individual filings and related quality assurance to ensure that filing identification numbers are consistently used and the final versions of filings and endorsements are filed with the Department prior to distribution to members for use.

Statistics:Recommendation 10:

TIRSA should establish a written policy, including but not limited to, timelines, deliverables and due dates for the review and update of statistical plans.

*Title Insurance Rates and Data:*

Recommendation 11:

TIRSA should establish independent controls and internal mechanisms to evaluate the rate service process to demonstrate that the resulting aggregate statistical data and recommendations provided by contracted vendors are reasonable.

Recommendation 12:

TIRSA should implement a rate monitoring process on behalf of its member companies to ensure that rate level adequacy is reviewed on a regularly scheduled basis by a qualified actuary as well as to determine when to file for a rate level revision but no less frequently than every four years in order to ensure compliance with statutory standards.

Recommendation 13:

TIRSA should establish specific procedures, guidelines and definitions to ensure that decisions and minimal discrepancies related to data reconciliations are acceptable.

Recommendation 14:

TIRSA should require by contract or other means that a person authorized to act on its behalf comply with TIRSA's procedures, guidelines and definitions regarding minimal discrepancies related to data reconciliations.

Data and Data Management:

Recommendation 15:

TIRSA should formalize the change management process. The process should include requirements for project initiation and approval, testing, separation of duties and production approval. Testing requirements should be developed and documented for each change and signoff from the stakeholders in the impacted departments should be maintained. Evidence of the change approvals required should also be maintained.

Recommendation 16:

TIRSA should require by contract or other means that a person authorized to act on its behalf in connection with TIRSA business provide access to TIRSA data to only the employees who have specific job responsibilities related to TIRSA.

Recommendation 17:

TIRSA should establish audit and oversight controls and procedures to ensure that a person authorized to act on its behalf in connection with housing TIRSA's member companies' data maintain adequate environmental controls.

Compliance with Prior Report on Examination:Recommendation 18:

TIRSA should comply with the Department's recommendations from the previous examination report to appoint a committee to be responsible for conducting a periodic internal audit of TIRSA's operations and to make appropriate recommendations to address any shortcomings noted in the internal auditor's report.

Recommendation 19:

TIRSA should comply with the recommendations from the previous Report on Examination to ensure that rate filings provide adequate support for its zone differentials, discounts and incremental rates of insurance.

Recommendation 20:

TIRSA should establish oversight controls and a corporate governance structure to ensure that all recommendations from the current and previous Reports on Examinations are complied with.

GeneralRecommendation 21:

TIRSA should submit a written acknowledgment to the Department within 90 days after the issuance of the final examination report acknowledging that all recommendations have been implemented or provide the timeframe if more than 90 days is needed.



## APPENDIX 1: 2012-2013 Executive Board Members

<b>2012-2013 EXECUTIVE BOARD</b>				
<b>Member Name</b>	<b>Company</b>	<b>Company Address</b>	<b>E-mail</b>	<b>Telephone Number</b>
Ted Werner	Chicago Title Insurance Company	330 Old Country Road, Suite 206, Mineola, NY 11501	wernert@ctt.com	516-296-4601
Frank Carroll	Commonwealth Land Title Insurance Company	70 Niagara Street, Suite 501, Buffalo, NY 14202	carrollfr@ticortitle.com	716-362-0630
Don Delgado	Conestoga Title Insurance Company	123 East King Street, Lancaster, PA, 17602	ddelgado@contitle.com	717-431-2752
Jonathan Richards	Fidelity National Title Insurance Company	485 Lexington, Suite 1800, New York, NY 10016	jrichards@fnf.com	212-471-3751
Michael J. Berey	First American Title Insurance Company of NY	633 Third Avenue, 16th Floor, New York, NY 10017	mberey@firstam.com	212-922-9700
James J. Dufficy	National Title	2550 Redhill Avenue, Santa Ana, California, 92705	james.dufficy@lpsvcs.com	949-622-4608
Karen Brittain	National Investors Title Insurance Company	23 Whitefield Boulevard, Norwalk, Ohio 44857	kbrittain@invtitle.com	419-633-0437
Marvin Bagwell	Old Republic National Title	192 Lexington Avenue, 8th Floor, New York, NY 10016	mnbagwell@oldrepublictitl e.com	212-725-4650
Theodore C. Rogers	Security Title Guarantee Corp. of Baltimore	6 South Calvert Street, Baltimore, MD 21202	martinico@securitytitle.c o	516-326-8934
John Welling	Stewart Title	300 East 42nd Street, 10th Floor, New York, NY 10017	jwelling@stewart.com	212-922-0050
John Updegraff	Title Resources Guaranty Company	1229 Chestnut Street #230, Philadelphia, PA, 19107	juliann.hickey@trgc.com	215-440-0745
Larry Lipschitz	Westcor Land Title	701 Westchester Avenue, Suite 312W, White Plains, NY 10604	lipschitz@wltic.com	914-428-1100

<b>2012-2013 EXECUTIVE BOARD</b>				
<b><u>Member Name</u></b>	<b><u>Company</u></b>	<b><u>Company Address</u></b>	<b><u>E-mail</u></b>	<b><u>Telephone Number</u></b>
Mike Kelly	WFG National Title Insurance	5511 N University Drive, Suite 101, Coral Springs, FL 33067	mkelly@wfgnationaltitle	516-776-1400

*NEW YORK STATE*

***DEPARTMENT OF FINANCIAL SERVICES***

*I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

***Samuel D. Binnun***

*as a proper person to examine the affairs of the*

***Title Insurance Rate Service Association***

*and to make a report to me in writing of the condition of said*

***COMPANY***

*with such other information as he shall deem requisite.*

*In Witness Whereof, I have hereunto subscribed by name  
and affixed the official Seal of the Department  
at the City of New York*

*this 16th day of May, 2013*

***BENJAMIN M. LAWSKY***  
*Superintendent of Financial Services*

By:

  
\_\_\_\_\_  
*Rolf Kaumann*  
*Deputy Chief Examiner*

