

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

a periodic internal audit of TIRSA's operations and to make appropriate recommendations to address any shortcomings noted in the internal auditor's report. The Department further recommends that TIRSA perform annual independent audits of TIRSA's 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 - Record Retention Policy :

The Examiners requested that TIRSA provide documentation of its record retention procedures and demonstrate how those procedures meet the stated record retention requirements in New York. TIRSA responded stating it “does not have written record retention procedures” but indicated that it has established and maintained an effective records retention plan that requires TIRSA to maintain for an indefinite period of time copies of all financial, organizational and Insurance Department documents since TIRSA's formation. Notwithstanding, TIRSA should do more to ensure compliance with Regulation 152 (Title 11 CRR-NY §243.3(c)), which states:

(c) An insurer shall establish and maintain a records retention plan. The plan shall include a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records. Such plan shall be provided to the superintendent upon request. The insurer shall certify the accuracy of any records that are provided in accordance with its record retention plan.

The Department recommends that TIRSA establish and maintain a records retention plan, a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.

During the examination period, TIRSA authorized Regulatory Research Corporation and Milliman to act on its behalf to perform substantially all work associated with rating. Examiners reviewed the engagement agreements between TIRSA and Regulatory Research Corporation and with Milliman to determine if TIRSA requires compliance with the provisions of Regulation 152 (Title 11 CRR-NY § 243.2, 8.d.), which states:

"An insurer shall require, by contract or other means, that a person authorized to act on its behalf in connection with the doing of an insurance business, including a managing general agent, an administrator, or other person or entity, shall comply with the provisions of this Part in maintaining records that the insurer would otherwise be required to maintain. Notwithstanding the above, the insurer shall be responsible if the person or entity fails to maintain the records in the required manner."

The Examiners could not find by contract or other means by which TIRSA required Regulatory Research Corporation and Milliman to comply with the provisions of Regulation 152 (Title 11 CRR-NY §243.0), Standards of Records Retention by Insurance Companies. The Department recommends that TIRSA require by contract or other means that a person authorized to act on its behalf in connection with performing insurance business to maintain records that TIRSA would otherwise be required to maintain.

Recommendation #3 - Written Antitrust Procedures and Guidelines:

The Examiners reviewed documentation provided by TIRSA to determine if the Association had written antitrust procedures. The Examiners also requested samples of written communications containing antitrust statements. The Examiners noted the following:

- Prior to the June 28, 2012 adoption of an Antitrust Compliance Policy, TIRSA had no written antitrust policies.
- On June 28, 2012, TIRSA's Executive Board adopted written antitrust guidelines, the "TIRSA Antitrust Compliance Policy and Guidelines."
- The "TIRSA Antitrust Compliance Policy and Guidelines" contains the following statement: *"Accordingly, TIRSA's members have, since its inception, had an unwritten policy of strict adherence to the federal and state antitrust laws and related New York regulations."*
- The "TIRSA Antitrust Compliance Policy and Guidelines" summarizes and focuses on two categories of violations: 1) per se violations, such as price fixing, , dividing markets, boycotts, and bid-rigging; and 2) monopolization. No specific statutory citations of state and

federal antitrust laws were included. Various exemptions and defenses are also summarized in the TIRSA Antitrust Compliance Policy and Guidelines.

- TIRSA noted that “prior to the adoption of the current “Antitrust Guidelines” on June 28, 2012, TIRSA did not have a written antitrust policy.

The Department recommends that TIRSA review on a regular basis and update, as needed, its Antitrust Compliance Policy and Guidelines.

Recommendation #4 - Inadequate Policies for Proprietary Information

The Examiners reviewed documentation provided by TIRSA to determine if the Association had implemented policies, standards and procedures for the management of confidential or proprietary information, including procedures for the collection, use and dissemination of such information to determine compliance with the provisions of Title 11 CRR-NY 421.2., which states:

“Information security program states: Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical, and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

The Examiners noted the following:

- TIRSA management indicated that TIRSA does not directly receive confidential or proprietary information from licensed title insurers but that such information is typically requested by and sent directly to TIRSA’s outside actuary (Milliman).
- TIRSA’s contract with Milliman does not contain provisions that address the management of TIRSA members’ confidential or proprietary information that may be received directly by Milliman on behalf of TIRSA during the course of professional services performed for TIRSA.
- TIRSA maintains no written policies or procedures for handling, disclosing, storing and disposing of confidential or proprietary information received from title insurers.

- During the Examiners' interview with TIRSA management and Milliman representatives, Milliman indicated that the TIRSA data did not include personally identifiable information or information in the protected category.

The Department recommends that TIRSA establish a comprehensive written information security program to the extent required by 11 CRR-NY 421.2, as well as formal documented policies, standards and procedures for the management of insurance confidential or proprietary information.

The Department further recommends that TIRSA require by contract or other means that a person authorized to act on its behalf in connection with performing insurance business be governed by TIRSA's comprehensive written information security program.

Recommendation #5 - Inadequate Monitoring of Vendor Activities

The Examiners reviewed documentation provided by TIRSA to determine if it has a monitoring process in place by which it adequately monitors the activities of vendors assuming a business function. The Examiners requested a listing of all assessments conducted by TIRSA to determine the level of monitoring TIRSA has over its vendors' activities. TIRSA's response did not include a formal vendor review plan or a list of any monitoring efforts of its vendors, thereby indicating TIRSA does not conduct formal assessments of its vendors' activities.

The Examiners also requested the service agreement between TIRSA and its vendor, Milliman, to determine the policies, procedures and other contractual obligations TIRSA requires of Milliman in carrying out the actuarial and statistical agent consulting services for which it was contracted. TIRSA provided three engagement letters authored by Milliman for the 2011, 2010 and 2009 engagements, which were dated January 16, 2012, October 15, 2010 and September 1, 2009, respectively. The engagement letters, which also served as contracts, outlined the scope of services, billing rates and the terms and conditions of the engagement. The contracts, however, did not include terms that would permit adequate oversight, assessment and monitoring of the process by TIRSA. Absent from the contract were provisions such as: 1) Performance metrics; 2) Provisions allowing TIRSA to review Milliman's processes and workpapers; 3)

Provisions requiring Milliman to conduct periodic audits to test statistical data, information systems and operational processes used to conduct work on behalf of TIRSA; 4) A requirement for Milliman to maintain a disaster recovery plan; and, 5) A record retention requirement consistent with New York statutes and regulations.

The Department recommends that TIRSA revise its vendors' service agreements to include terms that would permit TIRSA's oversight, assessment and monitoring of the vendors function and process related to TIRSA's business.

The Department further recommends that TIRSA establish a formal written review process to monitor the activities of its actuarial vendor related to TIRSA's business.

Recommendation #6 - Inadequate State Filings Procedures

The Examiners reviewed a sample of rules and forms filings provided by TIRSA to determine whether TIRSA adheres to applicable standards, state filing and/or approval requirements and procedures, statutes, rules and regulations prior to distribution of rates, policy forms, endorsements, factors, classifications or rating rule manuals, and to determine whether TIRSA has quality assurance processes in place to review those submissions prior to filing with the state.

The Examiners noted the following:

- During a January 18, 2013 conference call, TIRSA management indicated that TIRSA is not legally required to use, and did not use, filing identification numbers throughout the period of examination.. TIRSA representatives also indicated that TIRSA's filing procedures were not strictly applied.
- Through an April 19, 2012 form filing, TIRSA received the Department's acknowledgment for revisions to the standard New York endorsements. The versions of the revised endorsements circulated on May 7, 2012 to TIRSA members for use effective July 1, 2012 contain paragraph formatting changes and an editorial error that were not contained in the versions of the endorsements acknowledged for use by the Department.

- Examiners found no documentation indicating that the changed versions of the acknowledged endorsements had been filed with the Department as required by law.
- TIRSA submitted an October 21, 2008 rules and forms filing that addressed changes to New York banking laws. The new endorsements could not be legally available for use by TIRSA members until after they were acknowledged by the Department on November 12, 2008, yet certain provisions of the new laws were effective September 1, 2008. The fact that the filing was not made until 50 days after the effective date of relevant changes in the law and that filed changes were not in place by September 1, 2008 appears to indicate that TIRSA did not proactively advise member companies of changes implemented in loss costs, forms, factors, classifications or manuals as a result of legislative or judicial action.

A review of TIRSA's informal procedures for the preparation, submission, tracking, distribution and archiving of individual filings and related quality assurance did not consistently demonstrate an effective and efficient process as evidenced by the absence of controls assuring that final versions of policy endorsements are filed with the regulatory authority prior to distribution to members for use. Further, the Examiners observed an instance where TIRSA did not appear to be proactive in advising members of changes in rules and forms resulting from legislative action.

The Department recommends that TIRSA 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.

Recommendation# 7 - Data/Record Requests During Examination

The Examiners submitted numerous requests for data to TIRSA.

While TIRSA ultimately complied with and provided all requested data and documents to the examiners as requested, the documents were not readily available and its responses were not efficient.

The Department recommends that TIRSA establish a formal written records retention policy to include organizational protocols to ensure that all regulatory data and documents be made readily available upon request by the Department.

Recommendation #8 - Inadequate Control of Submitted Statistical Data

Historically, TIRSA has utilized the consulting services of Regulatory Research Corporation for the collection, analysis and compilation of statistical data in connection with the annual Call for Statistical Data made by TIRSA as statistical agent for the Department. Regulatory Research Corporation is headed by Dr. Nelson Lipshutz, a non-actuary. In 2009, TIRSA also retained the services of Milliman to assist Dr. Lipshutz in checking his work, including work associated with data calls, edits, processes and compilations. TIRSA stated that it does not receive any data directly from individual insurers as part of its antitrust compliance program

The Examiners believe that Milliman's involvement over the past several years has significantly enhanced the data gathering process and the accuracy of the data. However, TIRSA has limited internal mechanisms in place to demonstrate that the resulting data is reasonable. TIRSA argues that the current Executive Director takes a very active role in the process and indeed does question Milliman and does review the aggregate data for reasonableness. While that is certainly a positive step, it is a concern that when Milliman began to function as TIRSA's subcontractor, they found several areas where the data collection formulas were incorrect. Over time as Milliman became more familiar with the process, they were able to correct many of these errors. However, it is unclear whether TIRSA itself was in a position to identify that there were any errors, or to correct them.

The Department recommends that TIRSA 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 # 9 Inadequate Support of Zone Differentials, Discounts and Incremental Rates of Insurance

TIRSA submitted a rate filing to the New York Department of Financial Services on March 12, 2012 for an overall rate increase of 22.24%. This filing was required by the Department in its previous Report on Examination of TIRSA. This increase does not impact charges for several types of title coverages including \$25 endorsements and junior loan policies, and therefore no analysis was done related to the charges for these products. The filing also does not analyze any discounts or incremental rates of insurance. In addition, the overall change of 22.4% applies to the entire state and does not differentiate by zone. The filing also does not include any analysis of the current differential between the zones. The Report on Examination resulting from a previous examination of TIRSA conducted by the Department as of June 30, 2006, stated the following:

“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. Therefore, the Examiners conclude that TIRSA has not provided adequate support for its zone differentials, discounts and incremental rates of insurance.

The Department recommends that TIRSA 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 #10– IT Change Management

The Examiners obtained information regarding the processes in place at Milliman to manage changes to the files utilized for actuarial and statistical processing. Per inquiries with TIRSA’s management, a formal change management policy that describes how changes to TIRSA files should be controlled does not exist. The Examiners observed a spreadsheet utilized by Milliman for change management tracking that was used in previous years. The file included details as to who tested the change prior to approval. However, a similar file for the 2011 data call showing evidence of testing and change approval was not provided.

The Department recommends that TIRSA 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 #11 – Securing Access to TIRSA Files

The Examiners obtained information regarding how security access is controlled for TIRSA files utilized at Milliman for actuarial and statistical processing. Milliman representatives indicated that access to the folders where TIRSA's Microsoft Excel sheets are stored was secured via Microsoft Active Directory (User and Group Access Database) and group based security (a security group is created and stored within the Active Directory and contains the User IDs that may access a specified resource) at the folder level. All of Milliman NY Casualty group was indicated as having access to the TIRSA folders. However, not all of Milliman NY Casualty group resources specifically work on the TIRSA account.

The Department recommends that TIRSA 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 #12 – IT Environmental Controls

The Examiners toured the data center facilities, utilized by Milliman, which host TIRSA data. During the tour, the Examiners noted several issues related to environmental controls. As Milliman was not the subject of the examination, the environmental control issues were communicated to TIRSA and the Department. TIRSA has not instituted regular oversight procedures of their member companies' data while housed on Milliman's database to ensure that the data is maintained under appropriate environmental controls and safeguards.

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

3. ORGANIZATION AND MANAGEMENT

A. History

TIRSA is a Not-For-Profit Corporation (as of 12/22/1993); prior to that date it had been a non-profit unincorporated association of title insurers. From August 1, 1991 through November 18, 1991, the Association was "in formation". The formal Association was formed November 19, 1991, upon licensing as a rate service association. TIRSA is licensed pursuant to Section 2313 (d) of the New York Insurance Law, as a rate service organization for title insurers licensed in New York. The territory and area of authority is the State of New York. TIRSA has no shareholders or ownership, and its purpose is to carry out the activities permitted to rate service organizations pursuant to Article 23 of the Insurance Law of the State of New York.

TIRSA files rates on behalf of its member and subscriber companies. Individual companies have the right to file, with the Department, deviations to the rates and forms filed by TIRSA. Any changes to the TIRSA rate manual are recommended by the Law and Forms Committee and or the Rate Committee, which sends its recommendations to the full TIRSA membership for a vote. Any revisions to the TIRSA filed rates must be approved by the Rate Committee and then by the full TIRSA membership. TIRSA's rates and forms are reviewed by the Law and Forms committee and Rate Committee, along with the Executive Director and outside counsel, to determine if any revisions need to be proposed to the Department.

TIRSA was designated as the statistical agent by the Department on November 19, 1991 for the collection and compilation of statistical data for the title insurance industry. TIRSA gathers statistical information in accordance with a statistical plan on file with the Department. All title insurance companies licensed to do business in New York must report their data to TIRSA's agent (Milliman at present time - formally Regulatory Research Corporation and Dr. Nelson Lipschitz). At the present time there is one company that is not a TIRSA member or subscriber, but which is mandated to submit its data to the state via TIRSA. TIRSA hired Milliman to compile and analyze this data on its behalf and to act as

TIRSA's agent in regard to TIRSA's role as statistical agent for the Department. TIRSA had decided to shield all members and employees from the exposure to individual company data as a part of its antitrust compliance program. Milliman is under direction not to reveal or discuss any individual member company's data with TIRSA members or the Executive Director to meet this goal.

B. Articles of Association and By-Laws

TIRSA supplied the Examiners with its amended and revised By-Laws which were adapted on September 23, 2012. The purposes for which the Association is formed are to: (a) carry out the activities permitted to or required of rate service organizations by Article 23 of the NY Insurance Law and to do so under the supervision of the Department and any successor department or agency of the State of New York having regulatory authority over title insurers and the Association; and (b) to act as the Department's statistical agent for title insurance in New York State.

i) Objectives of TIRSA

TIRSA is a voluntary non-profit organization, with no shareholders or ownership, whose purpose is to carry out the activities permitted to rate service organizations pursuant to Article 23 of the Insurance Law of the State of New York and to do so under the supervision of the Department. TIRSA files rates on behalf of its member and subscriber companies. TIRSA was designated as the statistical agent by the Department for the collection and compilation of statistical data for the title insurance industry. TIRSA gathers statistical information in accordance with a statistical plan on file with the Department.

ii) Membership and Subscribers

During the examination scope period TIRSA's membership included the following number of member companies:

| Year | TIRSA Membership |
|------|------------------|
| 2006 | 16 |
| 2007 | 18 |
| 2008 | 20 |
| 2009 | 21 |
| 2010 | 15 |
| 2011 | 14 |
| 2012 | 16 |

According to TIRSA, eligibility of members and subscribers may include any title insurance corporation licensed by the State of New York, which is not a member of the Association. Such title insurance corporations may apply to become a subscriber to the rating services of the Association, provided that each eligible member meets the requirements of the Association.

iii) Internal Organization

a) Officers

According to TIRSA's By-Laws, the Association shall have the following officers: a President, Vice President, Alternate Vice President, Secretary, Treasurer and Executive Director. Only officers or employees of member companies shall be eligible to serve as officers of the Association, except that the Executive Director and Secretary need not be an employee of a member company. The Executive Director may be elected to serve as Secretary.

The duties of the officers are as follows:

President: The President shall be the chief executive officer of the Association. He or she shall have authority, subject to review by the Board, to direct the work of the Association and the Executive Director, to supervise the activities of all other officers and employees, and to represent the Association in any matter. The President may appoint such special committees as may be necessary in connection with the work of the Association, and shall ex-officio be entitled to attend meetings of such committees and to take part in discussion, but

he or she shall not vote as a member of any committees except as otherwise provided in these By-Laws.

Vice President: The Vice President, during the absence of the President, pro tempore shall exercise the powers and perform the duties of the President.

Alternate Vice President: The Alternate Vice President, during the absence of the President and Vice President, pro tempore shall exercise the powers and perform the duties of the President.

Treasurer: The Treasurer shall be custodian of all moneys and funds belonging to the Association, and all disbursements of such moneys and funds shall be regulated and controlled by the duly elected officers. The Treasurer shall render a report on the financial status of the Association at the Annual Meeting of the members and each regular meeting of the Board. The Treasurer shall cause an annual audit of the Association's finances to be conducted by an independent Certified Public Accountant and furnish a report of said audit to the members.

Secretary: The Secretary shall keep a record of all proceedings of the Association and of all its Committees. The Secretary shall notify the member companies and the Board of all meetings, shall transmit to each member company a copy of the minutes of every meeting of the members and transmit to each director a copy of the minutes of every meeting of the Board, and shall perform such other duties as may be assigned to him or her by the President of the Association.

Executive Director: The Executive Director shall be the chief administrative officer of the Association and shall be responsible for the day-to-day business of the Association.

The Officers for the 2012/2013 fiscal year are as follows:

President - Mr. Welling, Stewart Title

Vice President - Mr. Bagwell, Old Republic National

Alternate Vice President - Mr. Berey, First American Title

Treasurer - Mr. Richards, Fidelity National

Secretary - Ms. Shapiro, TIRSA

b) Employees of TIRSA

TIRSA has two employees presently on staff: the Executive Director and an administrative assistant. The position of Executive Director is a full-time position, and at present the administrative assistant is a part-time position. The present Executive Director is Felice K. Shapiro, Esq. Ms. Shapiro took over the position from Mr. David Sidikman in November of 2009. Ms. Shapiro is a licensed New York State attorney and had prior to her employment by TIRSA been employed in the title insurance industry since 1983. Ms. Shapiro was a prior TIRSA Executive Board member from 1993 to 2009 and a prior past president of TIRSA.

The Executive Director of TIRSA is responsible for all management functions of TIRSA as its Chief Administrative Officer. Responsibilities include the following areas: direction of all activities of TIRSA in accordance with its By-laws and regulations; the hiring and termination of all TIRSA support staff; executing of contracts, agreements and commitments for and on behalf of TIRSA, with express approval of the President of TIRSA, working with the TIRSA membership and keeping them informed on the conditions and operations of TIRSA and executing all of their decisions such as rate and form filings with the Department, working with all TIRSA committees, providing proper liaison and support staff, and assisting such committee work, performing the duties of Secretary of TIRSA if so elected, maintaining sufficient records and books of account for TIRSA to provide an accurate reflection of the financial status and condition of TIRSA, acting a liaison between members of the Department and TIRSA, and working as a liaison between outside counsel, actuary and TIRSA members.

c) Executive Board

Each member company, upon becoming a member of the Association, and annually thereafter, files with the Association the name of the principal representative who will represent the member at the meeting of the members and two alternate representatives who can only act in the absence of the principal representative. The member representatives should be an officer or another employee of a member company. The member representative will have full power and authority to act for and bind the member company which he or she represents at all meetings.

During the examination scope period, TIRSA held 47 Executive Board meetings. The listing of 2012-2013 Executive Board members including member name, company name, company address, email address and telephone number is included in Appendix 1.

iv) Association Meetings

TIRSA holds regular meetings of the Board, for the transaction of such business as may be set forth in the notice of the meetings which will be held at least quarterly at a time and place determined by the President and specified in the notices of meeting. Special meetings of the Board may be called at any time by the President, or, in the absence or disability of the President, by a Vice President, and must be called by such officer on written request of not less than one-fifth of the entire Board, which request must state the purpose or purposes for which the meeting is to be called. Each special meeting of the Board will be held at a time and place determined by the person calling the meeting and specified in the notice of meeting. The annual meeting of the Board will be the first meeting held immediately after the annual meeting of the member companies.

Notice of each regular or special meeting of the Board stating the time and place of the meeting will be given by the President, a Vice President or the Secretary to each director and his/her alternate not less than three days before the meeting by mailing the

notice, postage prepaid, addressed to each director and his/her alternate, at his or her usual place of business, or not less than two days before the meeting, by delivering the notice to each director of the Board and his/her alternate personally, by fax, by electronic mail or by telephone. Any one or more members of the Board or any committee of the Board may participate in a meeting by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.

v) Committees

According to the Amended & Restated By-Laws, TIRSA shall have a Rate Committee and a Law and Forms Committee. The members of each committee shall be appointed by the President. In addition to the Rate Committee and the Law and Forms Committee, the President of the Association may appoint such other committees of the Association as may be deemed necessary to carry on the work of the Association. Each member company shall be entitled to appoint an officer or employee to each committee. In the event that the appointed officer or employee of a member cannot attend the committee meeting, the member may be represented by any other officer or employee of the member, who shall have the authority to vote on behalf of the member.

During the examination scope period, the Examiners identified the following committees:

Budget Committee: The TIRSA Budget Committee is a committee that meets near the end of the TIRSA fiscal year. The President appoints members to the yearly committee, typically composed of the Executive Director, President, Treasurer, and one or two additional TIRSA board members. Prior to the first meeting of the Budget Committee, the Executive Director prepares a budget for the upcoming fiscal year, July 1 through June 30. This proposed budget is distributed to the Budget Committee members, who then meet to discuss the proposed budget. The Budget Committee votes to approve the proposed budget and to recommend approval of the proposed budget by the full TIRSA

membership. At the annual meeting of TIRSA's Board, the President presents the proposed budget for full board approval. All TIRSA members have an opportunity to question and review the annual budget. A proposed yearly TIRSA member assessment is also voted on by the full TIRSA membership. The assessment is prepared based upon the terms as set forth in the TIRSA By-Laws. To help ensure efficient operations relative to costs, the Budget Committee reviews the proposed budget for the upcoming fiscal year and makes recommendations for any changes.

Law and Forms Committee: The Law and Forms Committee reviews changes to New York law in conjunction with the currently approved form in question on an as needed basis. The Law and Forms Committee determines if any change should be made to the form, and if so the committee would then make such recommendation to the TIRSA membership at an executive board meeting. The Law and Forms Committee is responsible for reviewing all approved policies and forms in the TIRSA rate manual and for making any recommendations for changes or additions.

Rate Committee: The Rate Committee is a standing committee as set forth in the By-Laws of TIRSA. Each member company is entitled to appoint a member to the Rate Committee. The appointments to the Rate Committee are done on a yearly basis at the beginning of each fiscal year. The Rate Committee meets on an as needed basis, and it is the Rate Committee's charge to review proposed changes to existing rates, propose new rates for new forms, types of coverages and review proposed rate filings. The Chairman of the Rate Committee who is chosen on a yearly basis by the President will then report back to the full TIRSA board any recommendations as to these rate changes. There are some years that the Rate Committee will meet numerous times and other years when it will not meet at all. The Rate Committee met one time during the examination period (in 2011).

Rate Manual Revision Committee: The Rate Manual Revision Committee was involved in the total revision to the existing TIRSA rate manual. The work of this

committee culminated with the submission of a revised rate manual to the Department on May 7, 2012.

C. Organizations that Provide Services to TIRSA

During the examination period, TIRSA contracted with numerous organizations as follows:

- Milliman was contracted as the sole actuarial and statistical agent in 2011. From 2009-2011, Milliman provided oversight to Regulatory Research Corporation's work, including work associated with data calls, edits, processes and compilations.
- Gibson, Dunn & Crutcher was contracted from 2006-2011 to represent TIRSA as antitrust counsel.
- Hodgson Russ LLP was contracted in 2011 to represent TIRSA in connection with antitrust, regulatory and related matters.
- Regulatory Research Corporation was contracted as the statistical agent up to 2011.
- Kevin J. Mullins was contracted as a Certified Public Accountant.

4. STATISTICS

TIRSA does not have a written policy in place regarding a review and update of existing statistical plans. According to TIRSA, the Executive Director works in conjunction with the statistical agent/actuary regarding the review, drafting changes, advising on change feasibility, etc. Once the yearly statistical plan has been completed and filed with the Department, the Milliman team begins its internal review to determine what changes and or updates they believe should be incorporated in the following year's plan. Milliman communicates with the Executive Director any changes they believe should be incorporated. The Executive Director will discuss with the President and possibly outside counsel if the changes are substantial, will require a large cost to TIRSA or will have antitrust implications. Minor changes to the instructions or minor clean up issues will be approved without getting full board approval. Changes may be suggested by Executive Board members.

Once Milliman has completed their internal review and made any changes, they will prepare the upcoming year's statistical plan. Milliman will also conduct a test of the plan to determine that the

changes have been successfully integrated in the forms. They will send to the Executive Director a copy of the proposed plan along with a description or explanation of any changes from the previous year's submission. The Executive Director of TIRSA submits the proposed statistical plan to the Department via email, requesting the Department's approval and/or acknowledgement. Once the Executive Director receives communication from the Department, Milliman and the Executive Board are advised. Milliman is responsible for communicating the changes to TIRSA's member companies and includes a summary of any changes within the instructions.

TIRSA submitted the following statistical plans to the Department during the examination period:

| <u>Year</u> | <u>Date Submitted</u> |
|--------------------|------------------------------|
| 2006 | September 10, 2007 |
| 2007 | March 18, 2009 |
| 2008 | April 14, 2010 |
| 2009 | June 30, 2010 |
| 2010 | June 1, 2011 |
| 2011 | May 15, 2012 |

The Department recommends that TIRSA establish a written policy including timelines, deliverables and due dates for the review and update of statistical plans.

5. RATES AND RATING PROCEDURES

TIRSA does not have written policies and procedures for the preparation and submission of policy forms and filings or written procedures to effect compliance with state filing laws and protocols. In response to the Examiners' request, TIRSA explained that the process in place for the review of submissions, forms or rates begins with the Law and Forms Committee and/or Rate Committee. These two committees meet prior to submitting a proposal to the full TIRSA membership. The two committees will make recommendations to full TIRSA membership, and then the Executive Board will take an official vote. The Executive Director will, at numerous points in the process, work with the committees and with TIRSA's outside consultants, both in the drafting process, determining compliance with antitrust issues,

and obtaining necessary statistical back-up. Once the committees have approved a proposed submission, the President will schedule an Executive Board meeting with this as an agenda item.

6. REVIEW OF TITLE INSURANCE RATES AND DATA

The Examiners observed that the rate filing submitted by TIRSA in March 2012 was the first rate filing submitted in over 10 years. It appeared that there was also no internal rate analysis performed over that period of time. While there is no statutory requirement that a rate filing be submitted to the Department, rate adequacy should be a primary concern. There is no evidence that there was any type of rate analysis performed by TIRSA or on its behalf from 2001 until the rate filing of 2012. Best practices would indicate that TIRSA should implement some type of rate monitoring process on behalf of its insurers. Monitoring of the rate level adequacy should provide the necessary information as to when it would be necessary to file for a rate level revision.

The Department recommends that TIRSA 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 requirements.

The Examiners questioned how TIRSA reconciles member companies' data. TIRSA supplied the Examiners with the consistency check sheets for 2006 through 2011 and the tolerance check sheets for 2010 and 2011 prepared by Milliman. The Examiners asked a series of questions related to data reconciliation. Based on the answers to these questions supplied by Milliman, the Examiners believe that Milliman has come a long way in improving the accuracy of the statistical data. However, there are still some areas that could be improved upon. For example, the Examiners noted occasions where a member company had failed a consistency and/or tolerance check. Milliman states that, "If a company's explanation of an apparent internal discrepancy makes sense and/or the amount is very small, we generally accept the explanation." While these instances may be few in number and the amounts may be small, it would be preferable not to have to rely on judgment but rather to have specific written rules in place to determine if the data is acceptable in all cases.

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

In the rate filing submitted by TIRSA on March 12, 2012 as required by the Department in its previous Report on Examination, there was no analysis for several types of coverages including \$25 endorsements and junior load policies. The filing also does not analyze any discounts or incremental rates of insurance. In addition, the filing does not differentiate between the rate increase as applied to zone 1 and zone 2. The June 30, 2006 examination report stated that "TIRSA must maintain actuarial data appropriate to the title insurance industry, as directed by the Department, to support its zone differentials and incremental rates of insurance." The Examiners noted that TIRSA has not complied with this recommendation.

TIRSA does not receive data directly from the insurers. Rather TIRSA uses a third party to collect and edit the insurers' statistical data. The Examiners expressed a concern that the system that TIRSA uses to collect and analyze insurer data could result in inadequate controls of the submitted data. TIRSA did not agree, stating that it has always employed a third party subcontractor for its "actuarial" functions. TIRSA stated that it switched subcontractors from the Regulatory Research Corporation to Milliman based upon recommendations of the five year examination report as of June 30, 2006.

TIRSA submitted a rate filing to New York Department of Financial Services on March 12, 2012 as required by the Department in its previous Report on Examination. The filing was prepared by Dr. Nelson Lipshutz of Regulatory Research Corporation. As noted earlier, Dr. Lipshutz has a PhD in theoretical high energy physics and an MBA in finance. He is not a recognized member of any actuarial society. As per the Report on Examination recommendations as of June 30, 2006, an actuarial certification of this filing was provided by an accredited actuary from the Milliman staff. In the documentation reviewed by the Examiners and through subsequent discussions with TIRSA, the Examiners noted that having a non-actuary prepare the TIRSA rate filing led to inadequate actuarial

resources being devoted to the rate filing analysis. TIRSA responded that it does not agree with the Examiners because TIRSA believes that it has fulfilled the requirements included in the examination report of 2006. While fulfilling the recommendations of the examination report is important, that fact in and of itself does not mean that the filing should not follow actuarial best practices. TIRSA stated that there is no specific definition of actuarial best practices. While that is factually correct, the filing did not include all of the documentation which one would expect to see if it had been prepared by a qualified actuary. For example, there is no documentation detailing alternative trend sources and the reasons for selecting the specific trend timeline. In addition, there is no discussion as to how the results might differ by using other trend assumptions.

A. Review of TIRSA's Data and TIRSA's Data Management

TIRSA has outsourced the gathering of member company data to Milliman. Milliman developed a Microsoft Excel spreadsheet (Data Call) to obtain title insurance data from member companies. The Data Call includes a series of edits in order to ensure the data submitted is as accurate as possible. Upon receipt of the data call submission from the member company, Milliman reviews the file and the various checks and balances within the spreadsheet. Applicable tabs within the Data Call have a "Difference Check" section that tests that data entered passes the appropriate criteria. The criteria are translated into a formula within the Data Call. The Examiners confirmed through testing that the formulas coded on the Data Call seemed appropriate and were operating effectively.

Additionally, data from each member company's published Form 9 (financial statement) is entered by the member company on one of the Data Call tabs. Other data input tabs compare the data entered on that tab to what was entered on the Form 9 tab. The Examiners tested the formulas within the cells that compare the value input to the Form 9 tab and confirmed the edit was working properly.

After all the Data Calls are submitted and reviewed, the data is aggregated into what is referred to as the Composite Data Call. To ensure the data maintains integrity and accuracy through the aggregation process, another Microsoft Excel spreadsheet (Composite Check) is utilized. The Composite Check spreadsheet contains a formula that compares the aggregated values entered on the Composite Check spreadsheet to the sum of the values from each of the individual member company's

submitted data calls. The Examiners obtained the Composite Check spreadsheet for 2011 and confirmed that the data balanced.

As noted above, Milliman's processes for data receipt and preparation occur within Microsoft Excel spreadsheets. The spreadsheets are stored within data folders that reside on the Milliman network and server hardware at Milliman's New York location. Upon inspection of the New York Data Center, the Examination Team noted several issues that were submitted to TIRSA and the Department. Controls over the logical security and change management of the spreadsheets and the folders they reside in were also reviewed. Issues were identified by the Examiners and submitted to TIRSA and the Department.

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

TIRSA submitted a rate level request to the Department for a 22.24% increase in manual rates. This request is based on the rate level review conducted by Dr. Nelson Lipshutz dated March 12, 2012. The basic data underlying the filing are drawn from the Statistical Reports collected by TIRSA as the statistical agent for the Department. The rate increase is based on the ratio of the projected combined ratio to the target ratio, adjusted for the proportion of total premium written through the agency channel and the anticipated level of commission rates. As the filing contains the data of all title insurers writing business in New York, it is considered fully credible. The filing includes 11 years of data from 2000 through 2010.

Projected Combined Ratio

The projected combined ratio is the sum of the estimated ultimate loss and loss adjustment expense ratio and the expense ratio. The ultimate loss ratio is the ratio of the developed ultimate losses to the total on-level rated revenue.

To develop the losses to ultimate, the filing calculates loss development factors based on policy year data including loss and loss adjustment expenses reported by the member companies as of December 31, 2010. Loss development factors have been selected as the straight average of the development factors. No other averages such as weighted averages or averages excluding high and low

have been provided. The Examiners noted that in their opinion, this is atypical for a loss development analysis. Losses are not trended because based on its analysis; as such, Dr. Lipshutz concluded that the loss trend was similar to the premium trend. Milliman agreed that this was a reasonable assumption. Therefore a loss ratio trend of zero was selected. The Examiners noted that the filing does not include the underlying analysis of the loss trend.

Rated revenue is brought up to current premium level by adjusting for the rate changes that have been implemented over the experience period. A trend factor is calculated to adjust for liability and expense inflation. The trend data is based on external economic data including government sources. To adjust for the trend in residential real estate prices, the Case-Shiller index for New York as reported by Standard & Poor's is used. For the 2015 residential real estate price, the value of the CME Case-Shiller index futures is used. For the trend in commercial real estate prices, a weighted average of Moody's REAL CPPI for various property types is used. The weighting factor is the value of commercial property of each type as reported in the Annual Reports of the Office of Tax Policy, New York City Department of Finance. For 2015 commercial real estate prices, the 2015 value reflected an exponential growth regression model of the weighted CPPI values for the years 2000, 2001, 2010 and 2011 only. The filing notes that the use of only these four years provides an estimate that is undistorted by the boom and the bust in the middle of the decade. The Examiners note that no comparison calculations are included to validate the use of only these four years of data. An adjustment to the calculated liability change is made due to the fact that insurances revenue changes are not directly proportional to liability. As noted above, the trend factor is not applied to the rated revenue as it was determined that it would be offset by the loss trend. Therefore, trend was not applied to either the rated revenue or the losses.

The expense ratio is the ratio of agents' commissions and other expenses chargeable against rated revenue on current rate level and at 2015 price level to the on-level rated revenue trended to the rating period. Agents' commissions are adjusted for rate changes and changes in inflation. Other expenses are first adjusted to recognize that some portion of the title insurers' general expenses is attributable to the production of non-regulated revenues and is not chargeable against the regulated rate. The other expenses are adjusted to the level expected for the year 2015. The GDP deflator for services

is used to project the other expenses. To establish the 2015 value, the 2011 first quarter GDP deflator value is increased using an annual rate of change of +2.1%. The 2.1% figure is the forecast for the increase in the CPI contained in the First Quarter 2011 Survey of Professional Forecasters conducted by the Federal Reserve Bank of Philadelphia. No growth projections were available directly for the GDP deflator, but the GDP deflator can be expected to rise at a similar rate.

The projected combined ratio is 1.0304.

Target Ratio

TIRSA rates are set to provide for a 5% profit allowance including investment returns on policyholder funds. TIRSA calculates the percentage of amount of investment income supplied by policyholders to the average reserves over the 11 year period to be 3.74% or 1.06% of reported total rated revenue. Therefore, the target combined ratio is $(1.00 - .05 + .0106)$, or .9606.

Indicated Change

The indicated change is calculated as the ratio of the difference between the projected combined ratio less the target ratio divided by the target ratio adjusted for the proportion of total premium written through the agency channel and the anticipated level of commission rates. A final adjustment is made to reflect that portion of revenue that will not be subject to the rate level change.

7. FILINGS

During the examination period, TIRSA submitted the following filings:

- 4/19/2012, Standard New York Endorsements - Owners and Loan Policy
- 8/16/2010, Revision of Section 2 of the TIRSA rate manual
- 1/26/2010, Revision of Section 15 of the TIRSA rate manual
- 8/05/2008, Standard New York Endorsements - Owners and Loan Policy Waiver of Arbitration Endorsement, Fannie Mae Balloon Mortgage Endorsement, Variable Rate Mortgage Endorsement, Variable Rate Mortgage Endorsement (Fixed Rate Conversion), Variable Rate Mortgage Endorsement (Negative Amortization)
- 5/07/2012, Revised TIRSA rate manual
- 3/12/2012, Rate filing

8. BOOKS AND RECORDS

TIRSA's Executive Director is responsible to ensure that all members make timely payment of the yearly dues and assessments. The President of TIRSA is copied on all emails where there is any issue of lack of payment or late payment. During the examination period, two member companies withdrew from TIRSA, and the acting President was advised and copied of all correspondence. In addition, another member company withdrew and thus failed to pay the dues and assessment for the year. The entire Board was advised due to the fact that it resulted in a reduction of income to TIRSA that previously had been budgeted for.

A separate register is maintained by TIRSA to record the receipt of dues, assessments and special assessments. Furthermore, via TIRSA's accounting system of "QuickBooks", a log is maintained as to when the checks are received and deposited into the bank account. All bookkeeping is done by the TIRSA administrative assistant using QuickBooks and under the direct supervision of the Executive Director. All invoices received by the TIRSA office are opened and reviewed by the Executive Director. They are dated, and once the check has been cut, they are marked for payment and signed by the Executive Director.

The Executive Director approves all invoices and has check signing authority. The Executive Director has authority to sign checks up to and including \$10,000; checks exceeding that amount require an additional signature. TIRSA has three members who are authorized signatories on the checking account for this purpose. The Executive Director keeps the President and Treasurer advised of major invoices received by TIRSA for example those of outside counsel and actuarial consultant. The Executive Director gets approval from the President and or Treasurer for any large or out of the ordinary expenditures.

9. FINANCIAL STATEMENTS

According to TIRSA, TIRSA's CPA reviews quarterly payroll tax filings, prepares and files yearly tax returns, performs annual review of TIRSA's QuickBooks files including proper allocations for all expense and income items, prepares yearly financial statements (the Examiners received an audited financial statement for 2009 and unaudited financial statements for 2006, 2007, 2008, 2010, and 2011), prepares and files annual form 5500 for the TIRSA 401(k) Plan, and prepares the three year Audit of Statement of Assets/Liabilities/Net Cash Basis of TIRSA. In 2011, TIRSA switched the payroll function over to ADP Corporation. Prior to that time, bi-weekly payroll was done in-house via QuickBooks and then reviewed by the outside CPA.

10. INSURANCE COVERAGE OF THE ASSOCIATION

TIRSA maintains the following insurance coverages:

| Type of Policy | Company | Purpose of Coverage |
|---|--|--|
| Commercial Property and General Liability | Zurich | General Aggregate, Tenants Legal, Medical Expenses, Personal Injury, Advertising Injury, Hired and Non-Owned Automobile Injury |
| Workers Compensation | Zurich | Bodily Injury by Accident, Bodily Injury by Disease |
| Directors and Officers Policy | Philadelphia Indemnity Insurance Company | Liability |
| Group Dental | First Rehab Life Insurance | Dental |

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

| 2012-2013 EXECUTIVE BOARD | | | | |
|----------------------------------|--|--|------------------------------------|-------------------------|
| Member Name | Company | Company Address | E-mail | Telephone Number |
| 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 | mwelling@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 | llipschitz@wltic.com | 914-428-1100 |

| 2012-2013 EXECUTIVE BOARD | | | | |
|----------------------------------|---------------------------------|--|-------------------------|--------------------------------|
| <u>Member Name</u> | <u>Company</u> | <u>Company Address</u> | <u>E-mail</u> | <u>Telephone Number</u> |
| 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

