Referral Memo

		Approvals	Date
To:	Pam O'Connell, Bureau Chief Field Rating and Underwriting	Bureau:	6-14-04
From:	Tara Sandidge Insurance Rate Analyst	Division:	
Date:	June 14, 2004	Branch:	
Re:	**MERCURY INSURANCE GROUP**		

Request: The recently filed Field Rating and Underwriting (FRUB) examination of the Mercury Insurance Group resulted in eight unresolved criticisms. We need Legal to issue a notice of Non-Compliance against Mercury to achieve compliance on the unresolved issues. In addition, a penalty is warranted due to the number of unresolved issues and due to the overall number and severity of the issues found in the examination.

Issues: The FRUB examination of the Mercury Insurance Group resulted in eight unresolved criticisms. There were eleven additional practices alleged to be in violation of California law.

Standards: The FRUB standard is to request compliance with the State of California's Insurance statutes and regulations. A penalty is appropriate considering the type, nature, and number of the violations.

Background: The FRUB examination of the Mercury Insurance Group resulted in nineteen overall criticisms including eight unresolved criticisms (seven listed as such in the report, with an eighth discovered after the exam was filed).

The seven unresolved criticisms include the following:

1. Mercury required telephone inspections to be conducted to verify information already provided on the personal auto insurance application. If a phone inspection was unable to be obtained for a risk, then Mercury non-renewed the policy. The failure to obtain a telephone inspection report does not represent a substantial increase in hazard nor does it have a substantial relationship to the risk of loss. Mercury has not agreed to change this practice or to re-offer coverage to those non-renewed due to this practice.

2. Mercury fails to allow California Good Drivers the opportunity to select coverage from each of the three personal auto programs offered. Mercury does not allow equal access to all of its personal auto programs to its appointed agents and independent brokers. In addition, those producers who do have access to all three programs do not consistently disclose coverage and premium differences to Good Drivers seeking insurance coverage.

3. Mercury's underwriting guidelines for non-good drivers allow subjectivity in eligibility determination for drivers with six or more driver safety record points. As Mercury lacks definitive eligibility criteria, non-renewal decisions are made based upon subjective evaluation of a driver's safety record and do not meet the requirements of the substantial increase in hazards provisions to non-renew an auto policy. Mercury has not drafted guidelines for non-good drivers which satisfy the requirements to be specific, objective, and substantially related to an insured's loss exposure.

4. Mercury will use a violation without a conviction appearing on an insured's MVR to non-renew policies. The use of violations without convictions does not meet the criteria prescribed by the substantial increase in hazard regulations as a legitimate basis for non-renewal. Mercury has not agreed to revise this procedure or to re-offer coverage to insureds non-renewed due to this practice.

5. The examination uncovered correspondence between Mercury and its assigned risk insureds which indicated that Mercury intended to cancel policies due to the lack of a signed named insured driver exclusion, or for the failure to complete phone questionnaires. Current CAARP laws prevent cancellation of a policy due to the failure to provide information which would not make the insured ineligible under the plan.

6. Mercury continues to require that an applicant for a homeowners policy must have a supporting auto policy in order to be eligible for coverage. Mercury had previously indicated that it no longer required applicants for homeowners coverage to have a Mercury auto policy. The policy review, along with recent attempts made by Departmental staff to obtain a homeowners only quote, revealed that Mercury is still requiring a supporting auto policy.

7. Mercury's commercial auto rating plan limits the percentage of credit available for deductibles and discounts to which insureds are entitled. The commercial auto plan allows a maximum of 25% credit total for the four discounts offered under the plan. The maximum credit available from the four discounts combined is 45% without the credit limitation. The imposition of a maximum credit is unfairly discriminatory as some insureds will not receive the full premium benefit of the credit and also allows for the application of excessive rates.

8. Continued use of a persistency discount that utilizes prior insurance with unaffiliated carriers, and combines driving safety record with length of persistency to determine eligibility for the discount. (The report shows this as resolved, but new information from the company indicates that they never made the filing promised to correct the problem.)

Additional resolved issues had enough negative impact on consumers that they should be used to calculate an appropriate penalty. A complete description of these issues is contained in the examination report but the most important included the following:

1. Inconsistency in the offering of PPA coverage to Good Drivers excluding ineligible non-good drivers. This is a repeat issue from the prior examination.

2. The use of "C-codes" on homeowners polices, to designate risks who were to non-renewed due to failure to meet guidelines. C-coded polices were not allowed to make mid-term changes to coverage or limits. The C-code remained in the system for three years, even if the insured corrected the problem and regained eligibility, meaning no coverage changes were allowed. Also, those who were non-renewed and returned to Mercury at a later date meeting all new business criteria were not allowed to purchase a policy until the C-code expired. This is a repeat criticism from the prior exam.

3. Failure to consistently allow 30 days advance notice of cancellation on commercial auto policies.

Company Response:

Mercury Insurance Group's responses to the unresolved criticisms were lengthy and centered primarily around what they considered to be our inadequate reading of the Code and related regulations. The complete responses will be included as exhibits for the attorney. Ultimately, Mercury does not believe that we have the authority to require them to change a their business practices.

Final Analysis: The arguments provided by the Mercury Insurance Group do not adequately address the issues, and Mercury has not rectified the unresolved issues. The practices are unfair and should be discontinued, and penalties are warranted. Also, the existence of repeat criticisms from the prior exam further emphasize the need for penalties