APPENDIX IX

NCCI National Council on Compensation Insurance, Inc.

Lori Lovgren
State Relations Executive
Regulatory Service Division

December 5, 2008

Ms. P. Randi Johnson
Maryland Insurance Administration
525 St. Paul Place
Baltimore, Maryland 21202-2272

Re: **Study of Injured Workers Insurance Fund**

Dear Ms. Johnson:

This is in response to your letter of November 5, 2008 requesting information for the purpose of a study by the Maryland Insurance Administration (MIA) on the Injured Workers Insurance Fund (IWIF). As requested, we are providing information in five general areas: (1) Background on the National Council on Compensation Insurance (NCCI), (2) Data Reporting, (3) Ratemaking, (4) Experience Rating, and (5) Cost to IWIF to Affiliate with NCCI.

(1) BACKGROUND ON NCCI

NCCI, based in Boca Raton, Florida, is the oldest and largest provider of workers compensation insurance and employee injury data and statistics in the nation. Operating on a not-for-profit basis since 1922, NCCI studies workplace injuries and other national and state factors impacting workers compensation to provide analysis of industry trends, prepare workers compensation insurance rate and loss costs recommendations, determine the cost of proposed legislation, and provide a variety of data products to over 900 insurance companies and 40 states. See Exhibit 1 for a list of the 40 states where NCCI does business.

NCCI is licensed by the Maryland Insurance Administration as an advisory organization and is designated by the Maryland Workers Compensation Commission as its agent for the purpose of collecting proof of coverage information. NCCI has been operating in Maryland since April 1, 1946, which is the date NCCI was first licensed as an advisory organization. NCCI has been providing proof of coverage services to the Maryland Workers Compensation Commission since May 1, 1987.

NCCI collects loss data from all insurers writing in Maryland, except IWIF and group funds. In 2007, 286 carriers reported Maryland premium to NCCI. Excluding IWIF's 2007 market share of approximately 28%, NCCI collected data that represents approximately 72% of the Maryland's total workers compensation insurer premium volume. NCCI also collects proof of coverage information from all insurers writing in Maryland, including IWIF, but excluding group funds.

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There are state funds in 18 states where NCCI does business. See Exhibit 2 for a chart describing the characteristics of those state funds. Sixteen out of eighteen state funds are required to report loss data to NCCI and use NCCI experience ratings. With respect to ratemaking, sixteen of the eighteen state funds have the right to use NCCI rates/loss costs with eleven out of eighteen state funds required by the state regulator to in fact use NCCI rates/loss costs.

(2) <u>DATA REPORTING</u>

NCCI collects five principal types of data:

- Policy—NCCI collects coverage data for Maryland insureds. Coverage data (policies) is the information from the actual policy information page, schedules, and endorsements issued by the insurer to the insured. This data is used to ensure the completeness and timeliness of Unit Statistical data, and for the proper distribution of experience rating worksheets. Nationally, NCCI collects and processes nearly 2.6 million policies annually, along with approximately 6 million policy documents such as endorsements, cancellations, and other transactions. Coverage data collected by NCCI is also utilized to fulfill proof of coverage services for the Maryland Workers Compensation Commission.
- Unit Statistical—This data includes audited exposure, premium, and loss experience by class code and by state on a unit report for each workers compensation policy. Nationally, NCCI collects more than 4.2 million unit reports annually, containing more than 27 million exposure, loss and total records. Unit Statistical data is primarily used for classification ratemaking, experience rating, and actuarial analysis of claim costs, frequency, development and other claim statistical values.
- Financial Calls—NCCI's aggregate financial calls provide overall information on insurance company financial performance, as well as providing information for ratemaking analyses. The data collected on these calls includes premiums, losses, and expenses, which are used in determining overall rate changes. Countrywide, NCCI collects up to 23 different Financial Calls.
- Detailed Claim Information (DCI)—The data elements collected for DCI describe the insured, the claimant, the claim characteristics, the benefits and payments made, and the administrative details of individual indemnity claims (those resulting in lost work time). Nationally, NCCI collects approximately 248,000 claims annually under the DCI sampling program. DCI data is used for pricing of proposed legislative programs, post reform monitoring, analysis of cost drivers and analysis of ways to control those costs.

- Medical Call—The data elements collected include policy/claim linking elements, and medical procedure and diagnostic elements. The main purpose of the data is to support NCCI legislative pricing activities. This is a new data call. Mandatory reporting for eligible participants begins in 2010.

The first three data types are critical to NCCI's functions of ratemaking and experience rating. When a new carrier or a new state joins NCCI, these first three data types are the initial focus. The last two data types require participation if carriers meet certain eligibility requirements. Eligibility is reviewed periodically. IWIF would not be required to report the last two data types within the first five years, however, IWIF would eventually be required to start reporting the last two data types.

One of the first decisions that must be made is whether the new carrier/state will report historical data or report on a point-forward basis. These two options are described below:

- **Historical Reporting**—Historical reporting requires the new carrier/state to go back to previous policy years, extract required data elements, and report the data files in NCCI's standardized formats. The number of prior policy years will be based on the implementation date and usage of the historical data. For example, experience rating generally uses three policy years of unit statistical data, as compared to class ratemaking which requires five policy years of unit statistical data. Challenges that are associated with reporting historical data include non-captured data elements, differences in data definitions, data quality, and mapping to industry standards that were not previously required.
- **Point-Forward Reporting**—Reporting on a point-forward basis allows the new carrier/state to program in advance for capturing the required data elements in NCCI's standardized formats. Then policy data reporting begins for all policies based on a selected going forward policy effective date. Once the policy data is reported, unit statistical data would be valued and due 20 months after policy effective date. The benefits with this reporting include an ideal transition to industry standards, common data definitions, and improved data quality. However, a consideration to recognize is that it will take a number of years of data before integration into services such as experience rating and class ratemaking could begin.

Unless time is a factor and based on previous conversations with IWIF related to the anticipated difficulty of providing historical data in standardized NCCI formats, NCCI recommends point-forward reporting. In addition, assuming cost is a factor, point-forward reporting results in a timeline that allows for IWIF's costs to grow over time as services are added. The historical reporting option means IWIF will have to bear those costs more quickly. See Section 5 – Costs.

See Exhibit 3 which contains a high-level data implementation plan for point-forward reporting. The plan outlines data reporting activities, communication schedule, and training opportunities.

(3) RATEMAKING

While NCCI is not in the position to respond to the MIA's request to evaluate the appropriateness of IWIF's ratemaking methodology or adequacy of rates, NCCI has included a summary of the main aspects of its ratemaking methodology for your review, along with statements summarizing IWIF's methodology for the respective components. See exhibit 4. Since the materials provided by IWIF relate to IWIF's filing effective 1/1/2008, NCCI has provided comments from its 1/1/2008 filing for consistency.

Without IWIF's data, NCCI is currently determining the annual aggregate loss cost level in Maryland with approximately 72% of Maryland's workers compensation insurer data. While this volume of data is sufficient to determine a reasonable and adequate loss cost level, it would be logical to assume that inclusion of IWIF's data would add to the volume and stability of the aggregate lost cost level indication.

The same logic would also hold true when determining loss costs for each of the approximately 600 classifications in Maryland. Currently, there are three pure premium indications that are separately weighted to determine the loss cost for a particular classification. To the extent that there is sufficient volume in a class code to assign 100% credibility (eg. 8810 – clerical), the indicated pure premium would be given 100% weight (full credibility). To the extent that a class code is not fully credible, weight would then be assigned to the previous year's pure premium (adjusted to bring to current level) and the national pure premium (pure premiums from all other states combined, adjusted to Maryland's level). As such, while there are methods currently in place to produce a credible loss cost for each class, the inclusion of IWIF's data would provide further Maryland specific experience and less reliance on experience from other states. This would be particularly relevant for classifications which IWIF writes heavily in compared to all other carriers.

Without reviewing IWIF's underlying data, it is not clear whether the inclusion of IWIF's data with the current voluntary market data used in NCCI's loss cost filings would have a significant impact on the Maryland workers compensation loss costs calculated by NCCI. However in the event there is an impact, there are several short-term adjustments which could be made to NCCI's ratemaking procedures in Maryland so that any impact is implemented gradually and the impact on Maryland employers is minimized. Below are a couple examples:

- If IWIF's loss development factors (LDF's) differ markedly from the current voluntary market LDF's, NCCI could use a longer term average in order to limit the fluctuations that might occur by using the short term averages used currently.

- Similarly, if the inclusion of IWIF's class specific data when calculating statewide loss costs by class results in more variability than desired, IWIF's data could be phased in over a number of years in order to limit the amount of variability in class loss costs. Alternatively, swing limits (ie, the range by which industry groups vary; currently +/-25%) could be tightened in order to limit this type of variability.

As part of NCCI's review of IWIF's ratemaking methodology, NCCI compared the class codes used by IWIF against the over 600 NCCI-approved class codes in Maryland. The results are as follows:

- There are 98 IWIF codes that are non-NCCI codes (See Exhibit 5)
- There are 17 NCCI codes not used by IWIF

To the extent that non-NCCI class codes continue to be used, NCCI will not develop loss costs for those special classes. Based on NCCI's understanding, Maryland carriers are required to file any special classes and their associated rate with the MIA for approval. NCCI reporting requirements and procedures would however still need to be adhered to when reporting data related to those special classes to NCCI. The special class data would have to be reported to NCCI within the framework of NCCI approved class codes. This reporting may not prove to be too difficult if there is a clear map from the special class code to an NCCI code. This reporting may prove more difficult however if the special class code maps to several NCCI codes (for example, several occupations are bundled into the special class code). NCCI data reporting rules require that the payroll and losses from any special class code which maps to several NCCI codes be split and reported to the appropriate NCCI codes.

If the point forward reporting option is selected (see Section 2 – Data Reporting), NCCI would begin using IWIF data in ratemaking in Year 5. Although NCCI would be using five years of voluntary market Unit Statistical data for class ratemaking, NCCI would use the two years of IWIF unit statistical data available at that point.

If the historical reporting option is selected (see Section 2 – Data Reporting), NCCI could begin using IWIF data in ratemaking as of a more immediate effective date. Based on timing, Year 3 would be a conservative estimate on the earliest this could occur.

(4) EXPERIENCE RATING

The NCCI Experience Rating Plan is a uniform and mandatory plan (for eligible employers). The overall objective of the plan is to utilize an individual employer's past claims experience to more accurately predict its future claims experience.

In its simplest form the experience rating modification formula compares an employer's actual losses to expected losses during the most recently available 3 year period. The data source is Unit Statistical data.

For the 2008 rating year, NCCI produced ratings for 12,289 Maryland intrastate employers and 17,283 interstate (multi-state) employers with Maryland exposure. Nationally, NCCI produces 1.3 million ratings for 710,000 insureds.

IWIF currently produces its own ratings according to its own Experience Rating Plan. See Exhibit 4 for an outline of the differences between the NCCI Experience Rating Plan and IWIF's Experience Rating Plan. One of the most significant differences between the NCCI and IWIF Plans is that IWIF's premium eligibility threshold is much lower. If IWIF is required to adhere to NCCI's Experience Rating Plan, NCCI's premium eligibility rule would be used. Currently the NCCI threshold is $10,000 (most recent 2 years)/$5,000 (annual average greater than 2 years) as compared to IWIF's threshold of $3,000 (3 years). Applying the NCCI threshold means fewer IWIF insureds would qualify for an experience rating rating. If the insured does not qualify for an experience rating, the insured has the equivalent of a 1.0 rating. This might mean some IWIF risks with ratings currently greater than 1.0 could have their ratings reduced and others with ratings currently less than 1.0 could have their ratings increased. Without more information regarding the risks in IWIF's book of business, NCCI is unable to determine the impact of this difference. In the event that the impact is significant, a transition to slowly raise the premium threshold could be implemented.

If the point forward reporting option is selected (see Section 2 – Data Reporting), NCCI would begin using IWIF data in experience rating as of an effective date 4 years after the initial policy effective date of policy submissions. Assuming IWIF begins submitting policy data as of Year 1, then NCCI would begin producing experience ratings effective Year 5 ensuring receipt of the full three year experience period of unit data from IWIF. In the interim, IWIF would remain responsible for experience rating their book of business.

Alternatively, the earliest that NCCI could begin using IWIF data in experience rating would be two years after the initial policy effective date of policy submissions. Assuming IWIF begins submitting policy data as of Year 1, then NCCI would begin producing experience ratings effective Year 3. These ratings may be based on only one year of IWIF data as opposed to the usual three years. In addition, this would require using voluntary market experience rating values in the calculation of IWIF ratings. Since IWIF data would not be included in the annual loss cost filing until year 5, the experience rating values, which are updated every year in the annual loss cost filing, will not reflect the inclusion of IWIF data until year 5.

If the historical reporting option is selected (see Section 2 – Data Reporting), NCCI could begin using IWIF data in experience ratings as of a more immediate effective date. Based on timing, Year 3 would be a conservative estimate on the earliest this could occur.

Finally, there is the issue of interstate rating. As an example, suppose there is an IWIF insured which is a multi-state corporation known as ABC Manufacturing. ABC Manufacturing would have an interstate rating produced by NCCI for all states other than Maryland and a different intrastate rating produced by IWIF in Maryland. After the transition, ABC Manufacturing would have one interstate rating calculated by NCCI that includes all state experience including its Maryland experience. NCCI could add IWIF data to the next rating effective date for an interstate rating on or after the date NCCI begins using IWIF data in experience rating. The IWIF experience rating would continue to apply to the IWIF policy until NCCI produces an interstate rating.

A significant benefit to a single experience rating system is that all of an insured's data would be used in Maryland ratings. In a typical state, there is no impact to an insured's experience rating when they change insurers. NCCI can combine the insured's experience over the three year period to produce the experience rating. Since NCCI does not collect unit statistical data from IWIF, if an insured leaves IWIF and obtains coverage with an NCCI affiliate, there would be no (or limited) Unit Statistical data available to create an experience rating. In some instances, NCCI will produce a rating for such an insured if a form is completed and submitted. This process is more likely to be pursued when an insured's rating is better than 1.0. In those instances where this process is not pursued, the insured leaving IWIF may start over with a 1.0 rating. In sum, if all of an insured's data is not included in its rating, its experience rating may not fully reflect its actual experience.

(5) <u>COST TO IWIF TO AFFILIATE WITH NCCI</u>

IWIF currently pays NCCI approximately $230,000 on an annual basis for various services including licensing of our classification plan, proof of coverage, and secondary experience modification sales. It should be noted that NCCI's fee structure for our affiliates includes premium based charges as well as transactional charges. Using IWIF's 2007 written premium as a static measurement coupled with transitional ramp up crediting that we would provide, we estimate that IWIF's first year affiliation cost (2010) would be approximately $297,020, which is an additional cost over and above current, of $67,020.

Full affiliation ((See Exhibit 6 for additional detail) would provide access and licensing to the following products:

- Infrastructure which includes use, license and maintenance of the Experience Rating Plan, Classification System Plan, Statistical Plan, Large Account License and Policy Forms.
- Filing Services (including loss cost filing)

- Experience Rating Services
- Proof of Coverage
- Data Management Services
- Web Based Informational Tools
- Electronic Manuals
- Electronic Circulars

Anticipating a 5 year transition period coupled with several assumptions related to IWIF transactional activity, we anticipate that Year 5 (2014) estimated annual NCCI costs would be approximately $683,496, which is an additional cost over and above current, of $453,496. Please see attached exhibit 7 that outlines NCCI Affiliation Pricing.

The actual cost could vary significantly from this estimate due to the following:

- This calculation is based on 2009 affiliation pricing. The actual cost will be based on 2014 affiliation pricing.
- This calculation is based on IWIF's 2007 NAIC written premium of approximately $262 million. IWIF recently testified to the Oversight Committee that it is projecting written premium declines for 2008 and 2009. NCCI uses the most current written premium reported to the NAIC for our premium based charges.
- This calculation is based on an estimated annual policy count of 27,800 and an estimated experience rating population of 7,800. It is very likely that these counts will vary on a yearly basis. NCCI's experience rating population estimate of 7,800 for IWIF was based on an estimate from IWIF of their 2007 policy count of risks with greater than $5,000 in written premium.

Thank you for the opportunity to offer information as part of your study. If you have any additional questions, please give me a call at 561-893-3337.

Sincerely,

Lori Lovgren

Lori Lovgren
State Relations Executive

LL:ah

Exhibit 1

Alabama
Alaska
Arizona
Arkansas
Colorado
Connecticut
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Mississippi

Missouri
Montana
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
North Dakota
Oklahoma
Oregon
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
West Virginia

Exhibit 2

State	NCCI Affiliate	State Fund Name	Market of Last Resort?	Required by regulator to use NCCI rates/loss costs	Reports loss data to NCCI	Uses NCCI Experience Ratings
Arizona	YES	SCF AZ	NO	YES	YES	YES
Colorado	YES	Pinnacol Assurance Company	YES	YES	YES	YES
Hawaii	YES	Hawaii Employers Mutual Insurance Co (HEMIC)	YES	YES	YES	YES
Idaho	YES	Idaho State Insurance Fund	NO	YES	YES	YES
Kentucky	YES	Kentucky Employers Mutual Insurance (KEMI)	YES	NO	YES	YES
Louisiana	YES	Louisiana Workers Compensation Corp. (LWCC)	YES	NO	YES	YES
Maine	YES	Maine Employers Mutual Insurance Co (MEMIC)	YES	YES	YES	YES
Minnesota	YES	SFM	NO	YES in other NCCI states where SFM writes	YES for non MN data. Reports MN data to MN Rating Bureau	YES in other NCCI states where SFM writes
Montana	YES	Montana State Compensation Fund	YES	NO	YES	YES
New Mexico	YES	New Mexico Mutual Casualty Co	NO	YES	YES	YES
Oklahoma	YES	Compsource Oklahoma	YES	NO	YES	YES
Oregon	YES	SAIF Corp	NO	YES	YES	YES
Rhode Island	YES	The Beacon Mutual Insurance Company	YES	YES	YES	YES
Texas	NO	Texas Mutual Insurance Co.	YES	NO	YES	YES
Utah	YES	Workers Compensation Fund of Utah	YES	YES	YES	YES
Maryland	NO	Injured Workers Ins Fund of MD	YES	NO	NO	NO
West Virginia	YES	Brickstreet Mutual	Currently	YES	YES	YES
South Carolina	NO	South Carolina State Accident Fund	NO	NO	NO	NO

Exhibit 3

Transition Period (Part year 2009)	Year 1 (2010)	Year 2 (2011)
Initial Contact Letter and Implementation Check-List Initial implementation letter and check-list will be forwarded to the main data reporting contact on file. Letter will summarize the data reporting obligations to NCCI and provide an overview of each data type—Policy, Unit Reports, and Financial Calls. Implementation check-list will provide a roadmap of activities to be performed and checked off. Examples of activities include getting access to reference manuals, becoming familiar with reporting requirements, and understanding reporting options.	Annual Data Reporting Workshop Data reporting staff will have the opportunity to attend NCCI's annual data reporting workshop, which provides basic training on all data types, and includes hands on training on NCCI's online data applications.	Annual Data Reporting Workshop Data reporting staff will have the opportunity to attend NCCI's annual workshop, which provides training on data reporting requirements and online data applications.
Policy Data Elements Matrix The Policy Data Elements Matrix will be sent to the policy data reporting contact which lists the required policy information.	**Policies Due** Within 30 days of policy effective date (PED) of Year 1, policy data will be due to NCCI.	**Expected Financial Calls Due** By April 1st of Year 2, the primary financial calls will be due to NCCI.
Annual Data Reporting Workshop Data reporting staff will have the opportunity to attend NCCI's annual data reporting workshop, which provides basic training on all data types, and includes hands on training on NCCI's online data applications.	Financial Data Elements Matrix The Financial Data Elements Matrix will be sent to the financial data reporting contact which lists the required data elements per Call.	**Certification For Electronic Unit Reporting** To report unit data electronically, the unit data reporting contact will receive NCCI's electronic certification procedures.
Web Training on General Data Reporting Requirements An educational program will be offered to provide training on NCCI's general data reporting requirements, online data tools, and methods for submitting data.	Unit Data Elements Matrix The Unit Data Elements Matrix will be sent to the unit data reporting contact which lists the required unit report information.	Expected List of Unit Reports The unit data reporting contact will receive the first expected list of unit reports due by the 20th month after the PED of Year 1.
Certification For Electronic Policy Reporting To report policy data electronically, the policy data reporting contact will receive NCCI's electronic certification procedures.	Expected Financial Calls and Due Dates The financial data reporting contact will receive a list of expected Financial Calls that will be due by April 1st of Year 2. Year 2 Financial Calls Season Webinar	**Initial Unit Reports Due** During the 18th month after PED of Year 1, losses from the initial unit reports must be valued. These initial unit reports will be due to NCCI by the 20th month after PED of Year 1.

Exhibit 4

NCCI	**IWIF**
Methodology	
NCCI collects an extensive amount of information regarding the workers compensation system in Maryland, and submits proposed advisory prospective loss costs for review and approval by the Maryland Commissioner of Insurance. These voluntary loss costs are intended to cover the indemnity and medical benefits provided under the system. They do not, however, contemplate any other costs associated with providing workers compensation insurance (such as commissions, taxes, etc.), or the expenses associated with providing these benefits (loss adjustment expenses).	While NCCI produces only the pure premium (i.e loss cost) portion of the rate, IWIF produces pure premiums and allocated loss adjustment expense. IWIF then includes additional loads or adjustments to produce full rates. These adjustments include a provision for guaranty fund assessment, general expense, claims adjusting expense and investment income.
Experience	
NCCI analyzed the emerging experience of Maryland workers compensation policies in recent years. The primary focus of our analysis was on premiums and losses from Policy Years 2004 and 2005, evaluated as of December 31, 2006. A policy year captures the premiums and losses from the block of policies that have effective dates during a given year. Policy Year 2005 is the most recently available policy year, since the last policy had an effective date of December 31, 2005 and did not expire until December 31, 2006. The use of the two most recently available policy years is consistent with the filings made in	IWIF uses a ten year experience period consisting of Calendar Accident Years 1997-2006. Final selection appears to be based upon a weighted average of on-leveled pure premiums for the time period 2002-2006.

the past several years by NCCI in Maryland. Calendar-Accident Year 2006 experience was also analyzed for the purposes of this filing. A calendar-accident year captures the premiums earned during a given year, together with the losses associated with workplace accidents taking place during the same year. This information is useful in analyzing whether the pattern observed in recent years can be expected to continue in the same direction into future time periods.	
It should be noted that NCCI adjusts the historical policy and calendar-accident year experience to reflect both pure premium changes approved and statutory benefit changes implemented since that time period.	IWIF also adjusts the historical experience to reflect approved rate changes and statutory benefit changes implemented since those time periods. Please note that IWIF used their own adjustment (+7.2%) for the "Harris v. Board of Education of Howard County" decision, rather than the NCCI estimated impact (+2.0%).
The loss experience used by NCCI in this filing is a combination of paid losses and paid losses plus case reserves. Paid losses represent the benefit amounts already paid by insurers on reported claims, and case reserves represent the additional amounts set aside to cover future payments on those claims. The use of paid and paid plus case loss experience is consistent with NCCI's previous loss cost filings in Maryland (effective 1-1-2006 and 1-1-2007).	IWIF's ultimate loss projections are based on their 12/31/2006 reserve analysis. NCCI was not provided with this information and was therefore unable to determine the loss experience (eg. paid, paid plus case, incurred losses) or loss development methodology (eg. 3 yr average, 5 year average, tail factors) underlying its rate filing.

NCCI adjusts this historical paid and paid plus case loss experience by applying loss development factors for medical and indemnity losses. These factors are needed because paid losses, and case reserve estimates, are known to change over time until the claim is finally closed. The loss development factors are based on how paid amounts and case reserve estimates have changed over time for claims from older years. In this filing, NCCI is relying on a two-year average of the paid development factors to a 19th report, and a five-year average of the paid plus case development factors. A five-year average of total incurred development factors (including IBNR, Incurred But Not Reported, which represents amounts set aside to cover future payments for unknown claims) was used to estimate 19th report to ultimate	
The procedure for the treatment of individual large losses in this loss cost filing is the same as used in previous filings. The objective of the treatment of individual large losses in aggregate ratemaking is to address the impact individual large claims may have on aggregate loss cost level indications. The treatment is intended to stabilize loss cost level indications and to help achieve overall long-term loss cost adequacy.	There is no mention of a procedure to limit the impact of large losses on IWIF's rates.

The aggregate large loss ratemaking procedure involves replacing the amount of actual reported individual claim losses in excess of a state-specific dollar threshold with an excess loss provision—representing the expected volume of losses in excess of the threshold.	
Trend	
NCCI's 1/1/2008 loss cost filing relies primarily on the experience from Policy Years 2004 and 2005. However, the proposed loss costs are intended for use with policies with effective dates starting on January 1, 2008. Therefore, it is necessary to use trend factors that forecast how much the future Maryland workers compensation experience will differ from the past. These trend factors measure anticipated changes in the amount of indemnity and medical benefits as compared to anticipated changes in the amount of workers' wages. For example, if benefit costs are expected to grow faster than wages, then a trend factor greater than zero should be applied. Conversely, if wages are expected to grow faster than benefit costs, then a trend factor less than zero is indicated. In last year's Maryland filing, NCCI proposed an indemnity trend factor of –1.0% per year. Based on our analysis this year, we are proposing an indemnity trend factor of –1.5% per year. This means that indemnity benefits are expected to increase at a slightly slower pace than workers' wages.	IWIF separately adjusts for payroll trend, frequency trend, and a <u>combined</u> indemnity and medical severity trend. NCCI combines payroll trend, frequency trend and severity trend into a loss ratio trend factor, although a loss ratio trend factor is determined <u>separately</u> for indemnity and medical.

In last year's Maryland filing, NCCI proposed a medical trend factor of 1.0% per year. Based on our analysis this year, we are again proposing a medical trend factor of 1.0% per year. This means that medical benefits are expected to increase at a slightly faster pace than workers' wages.	
Benefits	
Workers injured in Maryland receive wage replacement (indemnity) benefits at a rate of [2/3] their pre-injury weekly wage. These benefits are subject to a weekly minimum and maximum. Each January, the minimum and maximum weekly benefits are updated based on the most recent average weekly wage in Maryland. Since losses from Policy Years 2004 and 2005 reflect the indemnity benefits being paid at that time, it is necessary for NCCI to reflect what the level of these benefits will be starting January 1, 2008. Updating the proposed voluntary loss costs to reflect the impact of minimum and maximum benefit increases on January 1, 2008 results in a 1.0% increase for indemnity losses. Since indemnity claims comprise 48.2% of all losses, the overall impact is 0.5%. A similar adjustment for medical costs needed to be made as a result of an estimated increase in the hospital fee schedule implemented by the Maryland Health Services Cost Review Commission. The hospital fee schedule was estimated to increase by an average of 5.5% effective July	IWIF includes benefit level adjustment factors to modify experience period losses to reflect changes in the workers compensation statutory provisions.

<table>
<tr><td>1, 2007. The impact on medical costs is estimated at 1.3%; the estimated overall impact is 0.6%.</td><td></td></tr>
<tr><td colspan="2">Experience Rating</td></tr>
<tr><td>The term “off-balance” refers to the average experience rating modification (E-mod) for a given year. The combined “off-balance” includes the average experience rating modification for intrastate rated risks (Maryland only risks), interstate rated risks (multi-state risks) and non-rated risks (i.e. E-mod = 1.000) It is desirable to have an off-balance near 1.00. This means that the class rates are adequate on average with the employers receiving debit E-mods offsetting those receiving credit E-Mods. In this year’s filing we are targeting an average intrastate experience modification of 0.991 and we anticipate a combined off-balance of 0.944. We estimate that the proposed loss costs, together with the targeted off-balance of 0.944, will generate sufficient premium to fund losses.

Threshold = > $10,000 premium over 2 year period; average of $5,000 per year

Actual Primary Loss = Up to $5,000

Actual Excess Loss = varies based on size of risk

For each medical only claim, the amount is reduced 70%.

Maximum = $194,500

Ballast between 19,500 (less than $42k in exp loss) and</td><td>IWIF’s Experience Rating Plan is independent of NCCI’s (was designed by actuaries at Deloitte Consulting). According to documents provided by IWIF, its experience rating plan is reviewed by its in-house actuary for actuarial balance (keeping the plan’s debits and credits relatively aligned with one another).

Threshold = > $3,000 premium over 3 year period

Actual Primary Loss = Up to $7,500

Actual Excess Loss = $7,500 to $142,500

No mention of different treatment for medical only claims

Maximum = $150,000</td></tr>
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390,000 ($3.7M in exp loss) Weights between .04 (less than $1,600 in exp loss) and .8 (>130M in expected loss) Average mod between .94 and .95 ELR Ratios and D-Ratios vary by class (determines expected losses and expected primary losses)	Ballast between 8,700 and 110,000 Weights between .051 ($1,500 base premium) and .726 ($9M and above) Average mod between .89 and .90 ELR's and D-Ratios vary by year (determines expected losses and expected primary losses)
Classification Analysis	
The change in pure premiums varies depending on the classification. Each classification belongs to one of five industry groups. After determining the required change in statewide pure premium level (through ratemaking methodology described above), the next step in the ratemaking process is to distribute these changes amongst the various occupational classifications. In order to do this, the pure premiums by classification must be adjusted, by policy period, industry group, or on an overall basis, to incorporate the changes proposed in the filing. There are three sets of pure premiums for each classification: indicated, present on rate level, and national pure premiums. The indicated pure premiums are calculated from the payroll and loss data reported, by class code and policy period, in the Workers Compensation Statistical Plan	Individual classification base rates are determined by applying base rate relativities to the overall base rate. The base rate relativities are a function of the current classification base rates, IWIF historical experience, and Maryland NCCI loss costs. The overall base rate is determined as the current average base rate times the selected base rate change chosen by IWIF. For competitive reasons, IWIF has elected to use certain rates selected internally for certain classes. In addition, IWIF continues to offer tiered rates. Tier 1 and Tier 2 rates are established at a discount from the selected base rates and are used for a preferred rating program with IWIF's own underwriting guidelines. Additionally, IWIF developed two surcharge tiers.

(WCSP) for the latest available five policy periods. Various adjustments are made to these pure premiums to put them at the level proposed in the filing. The pure premiums present on rate level are the pure premiums underlying the current manual loss cost, adjusted to the proposed level. Finally, there are the national pure premiums, which reflect the countrywide experience for each classification adjusted to state (Maryland-specific) conditions. The indicated, present on rate level and national pure premiums are credibility weighted and the results, the derived by formula pure premiums, are used to determine the final class loss costs.	
Both NCCI and IWIF Class Ratemaking methodologies use credibility weighting and swing limits (limiting the percentage change for each class) when determining final rates by class, although the specific factors differ between the two entities.	

Exhibit 5

Documentation from IWIF references the following unique codes:

Count	Class Codes	
1	7384	
2	7385	
3	8383	
4	8754	
5	8878	
6	9034	
7	9035	
8	9036	
9	9037	
10	9038	
11	9111	
12	9170	IWIF description: window washing, above one story. This is an NCCI code (Janitorial Services by contractors, includes window cleaning above ground level & drivers)

However, a comparison by NCCI indicates that an additional 87 codes used by IWIF are non-NCCI codes:

Count	Class Codes
1	0004
2	0006
3	0169
4	0909
5	0912
6	1000
7	1001
8	1016
9	1470
10	1560
11	1561
12	1605
13	2101
14	2150
15	2156
16	2576
17	2578
18	2737
19	2741
20	2747

Count	Class Codes	
21	3381	
22	3686	
23	4308	
24	4597	
25	4628	
26	4760	
27	4761	
28	4779	
29	4800	
30	4809	
31	4811	
32	4813	
33	4815	
34	4819	
35	4823	
36	5184	
37	5536	
38	5602	
39	5701	
40	6030	
41	7048	
42	7219	
43	7383	
44	7384	on IWIF's list of unique codes
45	7385	on IWIF's list of unique codes
46	7409	
47	7423	
48	7504	
49	7529	
50	7609	
51	7701	
52	7721	
53	7724	
54	8027	
55	8034	
56	8048	
57	8050	
58	8061	
59	8270	
60	8271	
61	8272	
62	8278	
63	8289	
64	8290	
65	8353	
66	8383	on IWIF's list of unique codes

Count	Class Codes	
67	8387	
68	8391	
69	8710	
70	8753	
71	8754	on IWIF's list of unique codes
72	8828	
73	8837	
74	8838	
75	8840	
76	8861	
77	8878	on IWIF's list of unique codes
78	9034	on IWIF's list of unique codes
79	9035	on IWIF's list of unique codes
80	9036	on IWIF's list of unique codes
81	9037	on IWIF's list of unique codes
82	9038	on IWIF's list of unique codes
83	9039	
84	9063	
85	9079	
86	9080	
87	9088	
88	9110	
89	9111	on IWIF's list of unique codes
90	9187	
91	9188	
92	9529	
93	9530	
94	9545	
95	9549	
96	9552	
97	9888	
98	9985	

National Council on Compensation Insurance, Inc.

Exhibit 6

2009 Affiliation Services Description Exhibit

Affiliation:

Affiliation Fee

The base charge for affiliation as a Member which includes:

- Voting Rights
- Board of Directors/Committee Participation
- Participation in Distribution of Assets

Workers Compensation Infrastructure:

Experience Rating Plan License, Service and Maintenance

Includes, but is not limited to, use of rating values, ELR, D ratios, Ballast and Weighting Values, as well as:

- NCCI's research, development, skill, judgment and creativity necessary to create experience rating values and experience rating rules filings and rating programs for regulatory approval.
- Underwriting technical support in maintenance and development of national and state rules changes.
- Underwriting technical support for questions concerning plan administration and operation.
- Information provided to Affiliates on the status of countrywide item filings and item filings circulars.
- Regulatory support in working with state regulators to obtain approval of filed changes to plan values, factors, and rules.
- Ongoing actuarial research, development, and creativity designed to monitor and improve the Experience Rating Plan.
- NCCI's participation in the dispute resolution process associated with employer or insurer appeals, including proceedings before appeals boards, review panels, and similar appeals bodies. Includes services such as analyses and review of individual risk classification and rating issues.

Classification System License, Service and Maintenance and Statistical Plan License, Service and Maintenance

Classification System: Includes, but is not limited to,

- Use of NCCI's filed and state-approved classification system, as well as:
- NCCI's judgment, skill, and creativity necessary to create and maintain NCCI's classification system, which optimizes the value of collected data.
- Analysis, review, and maintenance of the classification system affected by a continually changing business environment.
- Research, development, and support of class change filings, made on behalf of NCCI affiliates for state regulatory approval.
- Development, coordination, review and filing of various state-requested or appeals board-related classification items.
- Inspection program to monitor the accurate and consistent application of the Classification System.
- Review, analysis, and development of filings for national and state-specific rules governing the writing of workers compensation insurance.
- Customer Service technical support.
- Information provided to affiliates on the status of item filings and countrywide and state item filing circulars.

Exhibit 6

Statistical Plan: Includes, but is not limited to,

- Use of NCCI's filed and state-approved statistical plan.
- Providing judgment, skill, and creativity in maintaining a statistical plan to obtain accurate and meaningful data that serves as the foundation for classification, ratemaking, and experience rating.
- Filings to insurance commissioners/regulators including necessary modifications for changes in data elements.
- Supporting customer coding of internal systems for consistent and accurate unit reports.
- Detailed reporting instructions for each data element on all unit report formats, state-specific rules and statistical codes, pension tables for reserving claims, and examples of completed unit reports.
- Rules, coding systems, quality and timeliness requirements, edits, and correction processes to satisfy statutory data reporting requirements for required data reporting.
- Working directly with state regulators and monitoring all state rules for reporting workers compensation data.
- Awareness of, and coordination with, other organizations that maintain similar reporting requirements to ensure countrywide consistency.
- Customer Service technical support.
- Information provided to affiliates on the status of item filings and countrywide and state item filing circulars.

Large Accounts License, Service and Maintenance

If you write voluntary market workers compensation policies with premium of $200,000 or more, your large accounts License, Service and Maintenance fees are indicated in the right column. This service includes, but is not limited to, use of NCCI's Retrospective Rating Plan, as well as:

- Providing actuarial research, development, skill, judgment, and creativity necessary to monitor and improve the NCCI Retrospective Rating Plan.
- Development and filing of annual updates to rating values and plan parameters on a state basis.
- Underwriting technical support in research and development of national and state rules changes.
- Underwriting technical support responding to technical questions concerning plan administration and operation.
- Regulatory & External Affairs support in working with state regulators to obtain approval of filed changes to plan values, factors, and rules.
- Development of policy forms and endorsements used to administer the plan.

Policy Forms and Endorsements License, Service and Maintenance

Includes, but is not limited to, use of NCCI's policy forms and endorsements, as well as:

- Providing judgment, skill, and creativity necessary to research, author and maintain policy forms and endorsements for use on behalf of NCCI affiliates on a countrywide and state-specific basis.
- Monitoring law changes and court decisions to stay abreast of changes requiring policy modifications or endorsement development and alterations.
- Research, development, and support of policy and form filings, made on behalf of NCCI affiliates for state regulatory approval.
- Coordination, development, review, and filing of various state-requested endorsements.
- Customer Service technical support to assist NCCI affiliates with questions concerning policy forms and endorsements.
- Circulars provided to affiliates containing information about newly approved forms and endorsements.
- Regulatory & External Affairs support in working with state regulators to obtain approval of filed policy forms and endorsements.

Filing Services:

Filing, Reform & Legislative Services

Includes, but is not limited to:

- Providing advisory loss cost/rates projections and residual market rates.
- Performing actuarial and economic analysis testing and evaluations.
- Anticipating and answering insurance department and intervenor data requests and interrogatories.
- Providing expert testimony and legal representation, as necessary.
- Providing data management and actuarial analysis, validation and verification related to advisory or rate filing activities.
- Services provided by NCCI on behalf of state regulatory agencies.

Other Affiliation Services:

Experience Rating Services:

In accordance with the NCCI Experience Rating Plan and based on your timely submission of payroll, policy, and loss data, this services includes, but is not limited to:

- Developing experience ratings.
- Providing promulgated ratings to insurers for eligible insureds via hard copy or electronically.
- Processing and administering individual risk changes in ownership for eligible risks.
- Producing surcharge values associated with various state-regulated programs.
- Producing Contracting Classification Premium Adjustment Factors as applicable by state regulation.

Data Management Services

This service includes, but is not limited to:

- Managing and validating policy, unit report, detailed claim data, financial data, and working with data providers to promote timely and accurate data submissions
- Providing data reporting updates and announcements on **ncci.com**.
- Access to all data reporting manuals and data reporting tools
- Training opportunities including:
  - Annual Data Reporting Workshop
  - NCCI hosted Web Sessions
  - eLearning modules on **ncci.com**

Proof of Coverage

This service includes collecting coverage information from the insurance providers and providing it to various workers compensation commissions. *Current POC states are listed below. POC states may be added or removed at any time.*

Alabama	(AL)	Illinois	(IL)	Montana	(MT)	South Carolina	(SC)
Alaska	(AK)	Indiana	(IN)	Nebraska	(NE)	South Dakota	(SD)
Arkansas	(AR)	Kansas	(KS)	Nevada	(NV)	Tennessee	(TN)
Colorado	(CO)	Kentucky*	(KY)	New Mexico	(NM)	Texas	(TX)
Connecticut	(CT)	Louisiana	(LA)	New York*	(NY)	Utah	(UT)
Dist of Columbia	(DC)	Maine	(ME)	Oklahoma	(OK)	Vermont	(VT)
Florida	(FL)	Maryland	(MD)	Oregon*	(OR)	Virginia	(VA)
Georgia	(GA)	Mississippi	(MS)	Rhode Island	(RI)	West Virginia	(WV)
Idaho	(ID)	Missouri	(MO)				

* These are "opt-in" multi-vendor states where a separate request must be made for NCCI to provide Proof of Coverage services even if affiliated in that state.

Test Audit Services
Includes test audit services performed at the request of state regulatory agencies to monitor the accuracy and reliability of insurer audits.

Web-based Information Tools
NCCI will make various information tools available to affiliates at no extra charge. Current offerings include WorkComp Workstation and State Insight.

Electronic Manuals Library Enterprise License
This Internet-based library is an enterprise license that enables all your employees to access the NCCI manuals they need—quickly, efficiently and online. Current manuals included are listed below. Manuals may be added or removed at any time.

- Basic Manual for Workers Compensation and Employers Liability Insurance including NCCI's Assigned Risk Supplement
- Classification Codes and Statistical Codes for Workers Compensation and Employers Liability Insurance
- Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance
- Forms Manual of Workers Compensation and Employers Liability Insurance
- Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance
- Scopes® Manual
- Tax and Assessment Directory
- Filing Guide for Rates and Forms
- Servicing Carrier Reference Guide
- Texas Workers Compensation and Employers Liability Insurance Manual
- Assigned Carrier Performance Standards

Electronic Circulars and FYI Plus Releases
NCCI circulars and FYI Plus releases keep you current with vital trends, events and issues affecting the workers compensation marketplace. All Affiliates receive electronic countrywide and state-specific information according to the states where affiliated.

Hard copy circular subscriptions are available for additional fees; please contact Customer Service or refer to **ncci.com.** Circulars and FYI Plus releases available with affiliation include:

- Status of Rate Revisions
- Legislative Update
- Status of Countrywide Item Filings Circular
- Data Reporting Circulars and Memorandums
- Policy/Central Forms Circulars
- State-Specific Circulars (State Item Filings)

State-specific information is only available to Affiliates for the states in which your company has affiliated:

- Rate Filing/Approval Circulars

Exhibit 7

NCCI National Council on Compensation Insurance, Inc.

2009 Affiliation Pricing Exhibit

PREMIUM-BASED CHARGES:

Prices are annual fees and billed quarterly.
A basis point is a multiplier that equals 1/10,000 and is calculated using the company/group direct written premiums.

Affiliation: *billed on all premium*	
Affiliation	Membership fee: 2 basis points per NCCI state, $250 minimum per state Subscriber fee: Not Applicable

Filing, Reform & Legislative Services: *billed on all premium, multi-year discounts apply and vary based on the term and election.*

State	$1,000 plus Basis points on premium to $30M plus	Basis points on premium from $30M to $60M plus	Basis points on premium over $60M
AK	48.2	24.1	0
AL	20.4	10.2	0
AR	29.6	14.8	0
AZ	35.2	17.6	0
CO	31.6	15.8	0
CT	26.0	13.0	0
DC	48.2	24.1	0
FL	26.0	13.0	0
GA	16.6	8.3	0
HI	31.6	15.8	0
IA	22.2	11.1	0
ID	48.2	24.1	0
IL	16.6	8.3	0
KS	31.6	15.8	0
KY	37.0	18.5	0
LA	20.4	10.2	0
MD	24.0	12.0	0
ME	68.6	34.3	0
MO	18.6	9.3	0
MS	18.6	9.3	0
MT	74.2	37.1	0
NC*	1.6	1.0	0
NE	26.0	13.0	0
NH	35.2	17.6	0
NM	44.6	22.3	0
NV	29.6	14.8	0
OK	35.2	17.6	0
OR	44.6	22.3	0
RI	59.4	29.7	0
SC	18.6	9.3	0
SD	57.4	28.7	0
TN	22.2	11.1	0
UT	50.0	25.0	0
VA	27.8	13.9	0
VT	64.8	32.4	0
WV**	29.6	14.8	0

*NCCI performs rate filing support services for the North Carolina Rate Bureau.
**For West Virginia, an annual flat fee of $8,000 per contract group for Infrastructure & Filing Services.

NCCI National Council on Compensation Insurance, Inc.

2009 Affiliation Pricing Exhibit

Workers Compensation Infrastructure: *billed on all non-zero premium*	
This includes: • Experience Rating Plan License, Service and Maintenance • Classification System License, Service and Maintenance, and Statistical Plan License, Service and Maintenance • Large Accounts License, Service and Maintenance • Policy Forms and Endorsements License, Service and Maintenance	For each NCCI state in which you are affiliated 12 basis points on first \$30M plus 10 basis points on next \$30M plus 7.5 basis points on balance of premium \$1,250 per state minimum *Exceptions:* Florida 11.5 basis points on first \$30M plus 9.5 basis points on next \$30M plus 7 basis points on balance of premium \$1,250 per state minimum For West Virginia, a flat fee of \$8,000 per contract group for Infrastructure & Filing Services.

Other Affiliation Services: *billed on all premium*	
Test Audit Services *NOTE: A transaction fee also applies to Test Audits.*	State premium based fee: Alaska 1.3 basis points Florida 1.3 basis points Oregon 0.6 basis points \$200 per state minimum
Electronic Manuals Library via www.ncci.com *(Elective Service)*	Members (5- or 3-years): Enterprise license is included as part of Membership fees All-State Subscribers (5-, 3-, or 1-year) or Members (1-year): Enterprise licenses are available at 1.6 basis points on total workers compensation premium. \$250 annual minimum charge Partial-States Subscribers: Enterprise license is not available. Electronic product subscriptions are available on a per user basis. Refer to NCCI website, www.ncci.com, for product subscription prices.
Web-based Information Tools • State Insight • WorkComp Workstation	Available at no additional cost for those states in which you are affiliated.

National Council on Compensation Insurance, Inc.

2009 Affiliation Pricing Exhibit

Transaction-Based Charges:

Prices are per transaction or product order and billed monthly or annually.

Experience Rating Production Services:	
Coal Mine Experience Rating Service	$150 per rating
Contracting Classification Premium Adjustment Program (CCPAP) Factor	$24.50 per factor
Interstate and Intrastate Experience Rating Service	$22 per rating for electronic delivery $40 per rating for hardcopy or to receive both hardcopy and electronic delivery

Data and Compliance Services:	
Data Management Fees	Unit Report Fee $3.50 Florida Statistical Agent Fee $4.00 Texas Statistical Agent Fee $3.25 When applicable, a Data Quality Incentive Factor will apply as a credit or debit to the above fees.
Hard Copy Conversion Service *(Elective Service)*	Per hardcopy document fees: Policies per document, per state $12.50 POC Notices $12.50 ECRNs† per change $8.75 Unit Report – all formats $12.50 Primary Financial Calls per state $43.75 Supplemental Financial Calls per state $25.00 †ECRN = Endorsements, Cancellations, Reinstatements and Non-Renewals A 50% surcharge will be incurred for special handling instructions on policy documents, as determined by NCCI.
Proof of Coverage (POC) Service	POC single and multi-state* $1.00 POC ECRNs† single and multi-state* No Charge *Includes all proof of coverage transactions to the jurisdiction Current Proof of Coverage States**: AL GA MD NM TN AK ID ME NY TX AR IL MS OK UT CO IN MO OR VT CT KS MT RI VA DC KY NE SC WV FL LA NV SD **Additional POC states may be added through the year.
State Mandated Charges	State Mandated Charges may be charged at NCCI's discretion and will be charged on a pro rata basis by premium written in the state.

NCCI National Council on Compensation Insurance, Inc.

2009 Affiliation Pricing Exhibit

Data and Compliance Services:		
Test Audit Services *NOTE: A premium-based fee also applies to Test Audits.*	Transactional fee per audit:	$245
Circulars and FYI Plus releases via mail subscription or ncci.com *(Elective Service)*	<u>Electronic subscriptions via ncci.com</u> Includes countrywide and state-specific circulars for the states affiliated.	$0
	<u>Hardcopy subscriptions</u> Includes the following countrywide and state-specific circulars:	
	• Status of Rate Revisions	$250
	• Legislative Update	$100
	• Status of Countrywide Item Filings Circulars	$250
	• Data Reporting Circulars and Memorandums	$50
	• Policy/Central Forms Circular	$100
	• State-Specific Circulars	
	Individual State	$50
	All States	$850
	The following hardcopy state-specific circulars are only available for the states affiliated:	
	• Rate Filing/Approval Circulars	
	Individual State (per state)	$300
	All Available States	$5,100

Pamela Randi Johnson - IWIF study

From: Lori Lovgren <Lori_Lovgren@ncci.com>
To: David Diehl <ddiehl@mdinsurance.state.md.us>, Randi Johnson <prjohnson@mdinsurance.state.md.us>
Date: 12/16/2008 10:26 AM
Subject: IWIF study

Just a couple comments in response to IWIF's written and oral testimony.

1. The purpose of an experience rating system is to compare like employers on the basis of experience, and to modify the premium generated to more closely relate to the experience of the individual employer. The goal is to incent safer workplaces. When there are different experience rating plans, all employers are not compared on the same basis. Experience rating can be manipulated. The purpose of incenting safer workplaces becomes lost when an employer only has to move to IWIF to improve its rating, or an employer that develops a high rating with IWIF can leave for the voluntary market to improve its rating (eg, start over at 1.0). This practice is called mod washing. In addition, it is typical particularly in construction for those bidding on projects to have to produce mods as part of the bidding process. It is possible that a non-IWIF employer and an IWIF employer could have similar experience, however an equity could result because the IWIF employer would get the advantage simply because IWIF's experience rating system produces a lower rating.

2. It doesn't necessarily follow that requiring IWIF to use NCCI rates/rules etc. negatively impacts small business, municipalities and counties. While IWIF may no longer be able to compete with carriers by issuing more competitive experience ratings, IWIF has a long list of rating options available to them (merit rating, schedule rating, etc.). Some of these rating options can be used to incent safety for small employers under the experience rating premium eligibility threshold and have the same impact as experience rating. IWIF could apply any of those rating options to adjust the premiums to be charged to small businesses, municipalities and counties to smooth any transition impact that might be experienced. In addition, one rating option that state funds have, which is typically not available to other insurers, and is considered a competitive advantage, is tiered rating.

thx Lori

National
Council on
Compensation
Insurance, Inc.

Hearing on Study of Injured Workers Insurance Fund

December 10, 2008

Presented by: Lori_Lovgren@ncci.com
561-893-3337

What is NCCI?

- *Membership organization operating under not-for-profit philosophy*

- *Organized over 85 years ago*

- *Providing services to more than 900 reporting organizations*

- *Operating in 40 states*

NCCI's Role in Maryland

Statistical Agent Services

- *Collection and validation of various types of data*
- *Summarizing data and providing reports to Maryland Insurance Administration*

Advisory Organization Services

- *Filing of rates & rating values*
- *Production of experience ratings*
- *Develop/Maintain classification system*
- *Develop/Maintain state specific programs*
- *Regulatory & legislative reform analysis*

Proof of Coverage Vendor

- *Supply policy transaction information to Maryland Workers Compensation Commission*

NCCI

Who is Required to Report to NCCI as Statistical Agent?

- *All insurers writing workers compensation insurance in Maryland (286 carriers reported premium/loss data in 2007)*

  Excluded: *IWIF and group funds*

- *In 2007, NCCI collected data that represented 72% of Maryland's total workers compensation insurer premium (IWIF 28%)*

NCCI

Who is Required to Utilize NCCI Advisory Organization Services (ie Rates/Rules/Forms)?

- *All insurers writing workers compensation insurance in Maryland*
  Excluded: IWIF and group funds

- *Note: Insurers may file deviations, unique classes, independent programs and forms, etc. with the regulator for prior approval*

NCCI

Who is Required to Utilize NCCI Proof of Coverage Services ?

- *All insurers writing workers compensation insurance in Maryland and IWIF*

Excluded: *Only group funds*

NCCI

IWIF Does Voluntarily Utilize Some NCCI Services

- *Licenses class plan (but not required to adhere)*
- *Secondary mod sales (but not required to apply NCCI mods to IWIF risks)*
- *Submits proof of coverage*

What Services are Utilized by State Funds in Other NCCI States?

- *16 of 18* are required to report loss data to NCCI*
- *16 of 18* have the right to use NCCI rates/loss costs (11 of 18 are required by the state regulator to use)*
- *16 of 18* are required to use NCCI experience ratings*

**Exceptions are MD and SC*

Options if IWIF is Required to Report Data to NCCI

Historical Reporting: Go back to previous policy years, extract required elements, and report in NCCI standardized formats

- *Transition is quicker*
- *More challenging to get good data quality*
- *IWIF has to bear costs quicker*

Point-Forward Reporting: Program in advance and begin reporting with a selected going forward policy effective date

- *Transition takes longer*
- *Quality of data generally better*
- *Costs grow over time at slower rate*

NCCI

NCCI Recommends 5 Year Plan (Point-Forward Reporting)

Year 1 (2010) – First policies due

Year 2 (2011) – First units and financial calls due

Year 5 (2014) – IWIF included in ratemaking with 2 years of units used in class ratemaking as opposed to 5; Experience ratings produced with 3 years of units

What is Impact of Including IWIF Data in NCCI Ratemaking?

- *Adds to the volume and stability of the aggregate loss cost level indication*

- *More reliance on MD-specific data in class ratemaking and less reliance on experience from other states*

NCCI

What is Impact of Including IWIF Data in NCCI Experience Rating?

- *Uniform system makes the process more efficient and a rating more meaningful to stakeholders (ie, today, since the calculation is different, one cannot make a valid comparison between an NCCI rating and an IWIF rating)*
- *Changing from the voluntary market to IWIF and vice versa would not result in any loss of data in the experience rating calculation*
- *Multi-state insureds could have a single interstate rating including Maryland data*

NCCI

What is Impact of Including IWIF Data for Regulatory/Legislative Reform Analysis?

- *IWIF data would improve cost driver studies*
- *More data would improve reform estimates*
- *Reform estimates would be included in NCCI loss cost filings and upon approval by the Maryland Insurance Administration, applied uniformly to all Maryland insureds*

Other NCCI Services Which Would Become Available to IWIF Insureds

- *Classification Inspections*
- *Dispute Resolution*
- *Publications of Rates, Rules, Forms Approved in Maryland*

NCCI

NCCI Pricing

- *Uniform to all affiliates (no special deals)*

- *Based on premium volume and transactions*

- *Adjusted annually based on actual costs (NCCI operates on not-for-profit philosophy)*

Estimate of IWIF's Costs for NCCI Services

CURRENT: *$230,000*

YEAR 1: ***(2010)*** *$297,020*
(increase of $67,020 over current)

Year 5: ***(2014)*** *$683,496*
(increase of $453,496 over current)

IWIF's Actual Cost for NCCI Services Could Vary

- *Estimate based on 2009 Affiliation Pricing*

- *Estimate based on IWIF's 2007 NAIC written premium of approx $262M*

- *Estimate based on estimated annual policy count of 27,800 and an estimated experience rating population of 7,800*

National Council on Compensation Insurance, Inc.

Closing Remarks

Thank You!

APPENDIX X

MERLINOS & ASSOCIATES, INC.
ACTUARIES AND CONSULTANTS

December 8, 2008

Ms. P. Randi Johnson
Associate Commissioner
Property and Casualty
State of Maryland
Maryland Insurance Administration
525 St. Paul Place
Baltimore, MD 21202-2272

RE: Injured Workers' Insurance Fund (IWIF)
Workers Compensation Rates Effective January 1, 2008

Dear Ms. Johnson:

At your request, we have reviewed the above-referenced rates effective January 1, 2008 to determine the appropriateness of IWIF's current rate making practices and whether those practices utilized by IWIF produce actuarially sound rates. We were also asked to compare the IWIF and NCCI Experience Rating Plans. This letter documents our review.

Background

IWIF is the largest provider of workers' compensation in Maryland, with a 28% market share and more than 28,000 policyholders. In 2007, net earned premiums were $290 million.

In 2008, SB 679 was enacted that requires the MIA to determine, among other things, whether IWIF uses ratemaking techniques that produce actuarial sound rates. Before SB 679, the MIA did not have the authority to review IWIF's rates.

Changes Effective January 1, 2008 – Based on the Deloitte rate study and related IWIF review underlying the rates effective January 1, 2008, IWIF reduced overall base rates 5% and made various base rate changes by class that were in most cases between -14% and 6%. (The largest rate changes were +6% and –53.6%.)

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In support of the -5.0% overall base rate change, the Deloitte rate study developed an indicated change prior to merit rating of -5.1%. Merit rating includes experience rating, schedule rating, and other loss control programs. The indicated change therefore does not apply to the billed premium, which reflects merit rating, and is not directly comparable to the actual -5.0% change taken by IWIF. Consideration of merit rating results in billed premium that is roughly 10% lower than manual premium, and produces an indicated change after merit rating that is about $11\% = 1/(1 - 0.10) - 1$ higher than the indicated change prior to merit rating.

The Deloitte study provided a classification relativity analysis in conjunction with the overall rate change.

IWIF also offers tiered rates, which originally became effective January 1, 1998. Tier 1 and tier 2 rates are established at a discount from the selected base rates of -15% and -25%, and are used for preferred rating program. Additionally, IWIF has developed two surcharge tiers. The lower surcharge tier (20%) was effective September 1, 2000, and the higher surcharge tier (50%) was effective on January 1, 2002. The discount and surcharge factors were not revised with the January 1, 2008, change.

Changes Effective January 1, 2009 – We understand that IWIF plans to implement new rates on January 1, 2009, which are a 6.8% reduction from the 2008 rates on an overall basis, and a –15% to 5% change for individual classes. Per IWIF, some classes of business will receive decreases at large as 40%. We have not reviewed any analysis supporting these changes.

Actuarial Analysis

In the remainder of this letter, we will discuss:

1. The development of the overall base rate change and changes by classification in Deloitte's rate study underlying IWIF's rates effective January 1, 2008;
2. IWIF's classification system compared to NCCI's; and
3. IWIF's experience rating plan.

Overall Base Rate Change – Deloitte uses a pure premium approach, and develops the indicated rate change over all classes combined, prior to merit rating. Expected pure premium (losses and ALAE per $100 of payroll) is selected based on an analysis of ten years of calendar accident year experience, including ultimate losses adjusted for trend and benefit level changes and ultimate payroll trended to prospective levels. Deloitte adds NCCI's terrorism loss cost to the selected pure premium and loads in anticipated guaranty fund assessment, claims adjustment expenses and general expenses. This loaded pure premium is then adjusted to reflect investment income and IWIF's Premium Discount Plan. These loadings and adjustments are all described in detail in the attached APPENDIX – SUMMARY OF RATING FACTORS ("Appendix"). The loadings and adjustments are reasonable with the following exceptions/comments:

- Guaranty Fund Assessment - As noted in the Appendix, the actual assessment rate is much lower than Deloitte's selected 2% provision, based on the worst-case scenario. We have selected an alternative provision of 0.5% based on the observed assessment rate for 2008, and we recommend that future rate studies use an expected value rather than the 2% worst-case scenario.

- Claim Adjustment Expenses – The selected 12% provision is high compared with the observed expense ratios based on the latest three calendar years, and we have selected an alternative provision of 10.5% based on these years.

- General Expenses – The selected 18.5% provision is high compared with the observed expense ratios for the latest four calendar years, and we have selected an alternative provision of 18% based on these years and the later knowledge that the premium going forward has dropped significantly (per December 3, 2008 conversation with IWIF personnel).

- Loss Frequency – The selected -2.0% loss frequency appears high based on the analysis provided, and we have selected an alternative frequency trend of -3.0%.

- Consideration of Merit Rating – As stated in the Appendix, per conversation with Deloitte, merit rating is implicitly considered in Deloitte's selected proposed change. Deloitte's rate study provides an exhibit (Section 1, Exhibit 10) that shows that merit rating produces billed premium that is roughly 10% lower than the manual premium. We have assumed a 10% provision for merit rating as a percentage of premium, which adjusts the indicated base rate change upward so that the rate level obtained after consideration of merit rating will be that indicated by actual experience. ***We recommend that future rate studies explicitly consider the impact of merit rating. We have discussed this issue with IWIF and they agree to reflect all credits/debits/experience mods explicitly in future ratemaking processes.***

Exhibit MA-1 shows our alternative indications compared with the filed indications. The 2008 -5% overall base rate change is reasonably consistent with our midpoint alternative indicated change of -4.3%.

Classification Base Rate Changes – As mentioned in *Changes Effective January 1, 2008* section above, the 2008 IWIF rates introduced various classification base rate changes that were in most cases between -14% and 6%, with the following exceptions given in the table below. We noted that these exceptions comprise roughly 20% exposure in terms of the 2006 payroll.

Work Class	Description	2006 Payroll	% Base Rate Change
3632	Machine Shops NOC	13,528,463	-51.4%
4299	Printing	32,487,171	-17.8%
4307	Bookbinding	278,968	-25.6%
7384	Independent Schools-Drivers, Chauffeurs, ...	193,036	-53.6%
8044	Store: Drug Retail	25,675,998	-18.0%
8754	Store: Furniture-Floor Sales	13,570,365	-26.5%
8810	Clerical Office Employees NOC	1,628,577,065	-22.2%
8878	Independent Schools-Prof. and Clerical	47,362,731	-25.5%
9012	Building Operations-Professional Empl	57,742,073	-23.6%
9111	Independent Schools-All Other Employees	2,675,851	-28.2%
Total	All Class Codes	8,965,781,571	-5.0%

Accident years 2002 - 2006 were considered in the development of the indicated class base rate changes. Ultimate losses by accident year per the paid loss development method from the 12/31/2006 Deloitte reserve study were used to develop indicated class pure premium relativities, which were assigned credibility based on IWIF payroll during this 5-year period. The indicated base rate relativities were calculated using:

Z x PP Relativity + (1 – Z) x (40% x NCCI Relativity + 60% Current IWIF Relativity),

where:

- PP Relativity = class pure premium / average pure premium over all classes. The class pure premium is sum of the adjusted losses for CAY 2002-2006 divided by the payroll for that period. The adjusted losses are historical paid losses, developed to ultimate using development factors from the 12/31/06 reserve analysis, adjusted to current benefit levels and trended to 2008 levels based on the assumptions used to develop the statewide indicated base rate change.

- Current IWIF Relativity = current class base rate / current weighted average base rate over all classes using IWIF 2006 payroll

- NCCI Relativity = MD NCCI class loss cost / average MD NCCI loss cost over all classes using IWIF 2006 payroll. If the class is unique to IWIF, the current IWIF Relativity is used here.

- Z = credibility, which is sqrt($\Sigma_{x=2002-2006}$ Payroll$_x$ / 500,000,000)

We have no objections to this general approach for developing the indicated base rate relativities.

Comparison of IWIF and NCCI Classification Systems – IWIF classifies municipal and county risks quite differently from an NCCI-member insurer, as we will describe in more detail later in this section. Exhibit MA-2 shows the classifications that IWIF uses to rate municipal and county risks. We noted that these risks comprise over 20% of IWIF's exposure in terms of 2006 payroll, with the majority of this exposure coming from Clerical risks (code 8810).

Per IWIF's November 14, 2008, response, instead of using the nine IWIF classifications displayed in Exhibit MA-2, an NCCI-member insurer might place these risks in one of the classes listed in Exhibit MA-3 (which includes the corresponding NCCI loss effective January 1, 2007). Note that while this list is not comprehensive, it illustrates the potential variation in the NCCI loss costs. Specifically, risks classified by IWIF as Counties; Excl Clerical, Police and Firefighters or Township, Municipality; Excl Clerical, Police and Firefighters, and therefore rated under the 2008 rates using a rate of 5.67 or 8.60 per Exhibit MA-2, may be rated by an NCCI-member insurer using a loss cost anywhere between 0.11 and 7.77 according to Exhibit MA-3.

Per IWIF's November 26, 2008, email, separate class codes were established in 2007 for County Police (code 9034) Municipal Police (code 9038) and Municipal Firefighters (code 9039). However, in the Deloitte study:

- County Police data was combined with Counties; Excl Clerical, Police and Firefighters (code 9035) data to develop a single rate applicable to both classifications, and
- Municipal Police and Municipal Firefighters data was combined with Township, Municipality; Excl Clerical, Police and Firefighters (code 9037) data to develop a single rate applicable to all three classifications.

We noted that based on the most recent available payroll provided in IWIF's November 26 response, County Police and Municipal Police classifications have exposure in excess of County Boards of Education - All Employees (code 9036). In the Deloitte study, County Boards of Education - All Employees was assigned 63.7% credibility, and rates were developed for this class without combining its data with other classes. ***Based on the apparently credible exposure for County Police and Municipal Police classes and the difference in loss exposure between these classes and the Counties; Excl Clerical, Police and Firefighters and Township, Municipality; Excl Clerical, Police and Firefighters classes, we recommend that future studies develop separate indicated rates for these two classes.*** We understand that IWIF is in the process of accumulating the five years of data that Deloitte normally uses in its class analysis to independently rate these classes.

Note that Exhibit MA-2 lists seven classes, specifically 7701, 9034, 9035, 9036, 9039, 9038 and 9037, which are a subset of the classes unique to IWIF. Exhibit MA-4 gives a complete list of classes unique to IWIF per IWIF's November 26, 2008, response, along with IWIF exposure and rate information. The 14 classes given here comprise a little over 5% of the IWIF's 2006 payroll. We understand that per the NCCI, there are 98, rather than 14 classes, unique to IWIF, and these 98 classes comprise around 10% of IWIF's 2006 payroll. We requested that NCCI describe how these 14 IWIF classes would be classified using NCCI classes; however, the NCCI responded that this would require an extensive study and additional information. Consequently, a comparison of IWIF rates versus NCCI loss costs for these classes is currently not available.

Experience Rating Program – The experience mod factor is calculated using the formula:

$$\frac{[\text{Actual Primary Loss} + \text{Wt} \times \text{Actual XS Loss} + (1 - \text{Wt}) \times \text{Expected XS Loss}] + \text{Ballast}}{\text{Expected Actual Loss} + \text{Expected XS Loss} + \text{Ballast}}$$

where:

- Actual Primary Loss represents sum of losses limited to $7,500.
- Wt and Ballast are just credibility factors that reflect the predictive power of the policyholder's historical loss experience.

We reviewed the NCCI experience rating program, which uses essentially the same formula to determine the experience mod factor. In addition to different values for Expected Loss (Actual and XS), Wt and Ballast, other differences between the two programs include:

	IWIF	NCCI
Primary Loss Threshold	$7,500	$5,000
Plan Eligibility in Terms of Subject Premium	3,000 over 3-year period	10,000 over 2-year period or 5,000 per year on average
Minimum Mod	0.50	N/A
Maximum Mod	2.60 to 3.50, varying directly with premium size	Varies with total expected losses and state's average cost per claim

While IWIF's overall approach appears reasonable and similar to the NCCI's experience rating plan, a detailed comparison of the two programs and evaluation of the IWIF experience rating factors would require a more extensive study.

Summary

Based on our actuarial review, the overall base rate change underlying IWIF rates effective January 1, 2008 results in rates that are not excessive, inadequate, nor unfairly discriminatory and follow Maryland's rating law. While we did have some objections to the assumptions used to develop the indicated overall base rate change, our alternative indicated overall base rate change was consistent with the January 1, 2008 change. We recommend that future base rate changes consider:

- a Guaranty Fund Assessment provision based on an expected value rather than the 2% worst-case scenario.

- the impact of merit rating. Per Jan Lommele, the Deloitte rate study **implicitly** considers the impact of merit rating when it selects its proposed overall change. We recommend that future rate studies **explicitly** consider the impact of merit rating. We have discussed this issue with IWIF and they have agreed to reflect all credits/debits/experience mods **explicitly** in future ratemaking processes.

While Deloitte's approach to determining indicated base rate changes by class appears in general reasonable, in future rate studies we recommend that Deloitte/IWIF consider developing separate indicated base rate changes for County Police (code 9034) Municipal Police (code 9038) and not use data combined over multiple classes. We understand that IWIF is in the process of accumulating the five years of data that Deloitte normally uses in its class analysis to independently rate these classes.

While IWIF's overall experience rating program appears reasonable and similar to the NCCI's rating plan, a detailed comparison of the two programs and evaluation of the IWIF experience rating factors would require a more extensive study.

Please do not hesitate to contact us to discuss any of these issues further.

Sincerely,

David Shepherd

David Shepherd, FCAS, MAAA

Suejeudi Buehler

Suejeudi (Sue) Buehler, FCAS, MAAA

APPENDIX – SUMMARY OF RATING FACTORS

The key rating factors considered to develop the indicated overall -5% base rate change underlying the rates effective January 1, 2008, as well as our comments, are discussed below.

Experience Considered – Loss experience for accident years 1997 through 2006 were included in the Deloitte rate study. Due to the nature of the organization, IWIF has no loss experience outside of Maryland. Ultimate losses by accident year per the Deloitte reserve study supporting the 12/31/2006 Actuarial Statement of Opinion were used. IWIF experience was considered fully credible. We have no objections to the loss experience considered.

Adjustments to Historical Exposure – Deloitte considered the following adjustments in the development of the indicated overall base rate change:

- *Payroll Development* – For each year of experience considered, payroll to date was developed to ultimate using a loss development-style analysis. The developed payroll appears reasonable and supported by the data provided.

- *Payroll Trend* – Ultimate payroll was projected to prospective levels using payroll trend based on state average weekly wage as promulgated by the Maryland WC Commission. The payroll trend analysis and selections appear reasonable and supported by the data provided.

- *Premium Discount Plan Offset Factor* – Deloitte assumes an adjustment of 9.85% (as a percentage of premium) to reflect the impact of IWIF's premium discount plan on the rate level. This adjustment appears reasonable and supported by the data provided. Deloitte noted that the indicated overall base rate change does not include an explicit provision to reflect the premium credits given through its merit rating, which includes experience rating, schedule rating, and other loss control programs. Per Deloitte's report, the rate study does not consider an explicit provision for merit rating, and per conversation with Deloitte, merit rating is judgmentally considered when selecting the proposed change. The Actuarial Analysis section above provides further comments on the consideration of merit rating in selecting the annual base rate change.

Adjustments to Historical Loss Experience – Deloitte considered the following adjustments in the development of the indicated overall base rate change:

- *Loss Development* – Upon request, IWIF provided the Deloitte reserve study supporting the 12/31/2006 Actuarial Statement of Opinion used for the ultimate loss and ALAE estimates. Direct losses were developed to ultimate using the following methodologies:

- Paid and incurred loss development for medical and indemnity, separately and combine
- Paid loss development for medical and indemnity combined using 3-year average age-to-age factors
- Paid and incurred Bornhuetter-Ferguson for medical and indemnity combined
- Paid and incurred loss severity method for medical and indemnity combined

The reserve study noted that IWIF has made numerous changes to its case reserving practices, which have led to inconsistent historical development. The changes include:

- In 1993, IWIF converted to the MIRA case reserving, which significantly altered its case reserving procedure.
- In 1998, IWIF introduced judgmental reserving because of issues with MIRA estimates. Specifically, MIRA did not always project reserves until certain claimant services had occurred and been paid. Further, the projected reserves on more complex large claims were frequently inaccurate. At this time, for claims in excess of $750,000, case reserves were judgmentally determined by IWIF claim adjusters, although IWIF continued to rely on MIRA for case estimates for claims under $750,000.
- In 2002, IWIF began using judgmental reserving on all claims instead of MIRA.
- In 2003-2004, IWIF revised certain assumptions underlying its judgmental reserving philosophy.
- In 2006, IWIF adjusted its case reserves to reflect cost of living adjustments that occurred since 2005.

As a result of the historical changes in case reserving practices listed above, IWIF's historical incurred loss development appeared volatile. Therefore, Deloitte supplemented IWIF's historical incurred development patterns with NCCI development patterns.

In addition to these changes in case reserving practices, in 1997 IWIF implemented a "Full and Final Settlement" initiative focused on closing all open claims with one final payment. In 2000, IWIF increased its focus on this initiative. The reserve study noted increases in paid loss development as a result of this initiative. In general, IWIF's historical paid loss development experience remained reasonably consistent over time even considering this operational change. The selected paid loss development factors were reasonable and supported by the data provided.

In addition to the loss development methodologies, we reviewed the assumptions and selections for the other methodologies for estimating ultimate loss and ALAE. These appeared reasonable and supported by the data provided.

- *Benefit Level Changes* – In all but one instance, losses were restated at current benefit levels using adjustments published by NCCI in their annual statistical bulletin. To reflect the impact of the Harris Decision on the compensability of claims, Deloitte prepared its own independent analysis based on a study done by IWIF's claims department using the IWIF's claims data only, and did not use the published NCCI adjustment. We have no objections to this approach.

- *Loss Severity* – Deloitte selected an annual severity trend of 7% for accident years 2003 and prior and 8% for accident years 2004 and subsequent, based on observed severity for calendar accident years 1997 - 2006. We noted the observed severity for this period produced the following exponential fits:

Years	Exponential Fit
All	7.1%
7-Year	7.7%
5-Year	9.6%

The severity trend analysis and selections appear reasonable and supported by the data provided.

- *Loss Frequency* - Deloitte selected an annual frequency trend of -6% for accident year 1997 and -2% for accident years 1998 and subsequent, based on observed frequency for calendar accident years 1997 - 2006. We noted the observed frequency for this period produced the following exponential fits:

Years	Exponential Fit
All	-3.8%
7-Year	-4.8%
5-Year	-6.5%
7-Year Excl 2006	-2.3%
5-Year Excl 2006	-2.6%

We noted that all of the fits were lower than the -2% selected for most accident years. The Actuarial Analysis section above provides further comments on the frequency selections.

Catastrophes – The indicated overall base rate change adopts the NCCI Terrorism Load of 0.03 per $100 payroll to reflect potential for future catastrophic loss that is not present in IWIF's historical experience. This approach appears reasonable.

Expenses Provisions – The Deloitte study considers the following expense loadings in the development of the indicated overall base rate change:

Guarantee Fund Assessments – A 2% provision (as a percentage of losses) was selected by IWIF to reflect expected guaranty fund assessments. Per conversation with Company personnel, IWIF became a member of the Guaranty Fund in May 2008 and expects an assessment of $1.2 million for 2008. Per our November 11, 2008, conversation with Joseph Petr, Executive Vice President of Property & Casualty Insurance Guaranty Corporation, the guaranty fund allocates assessments to participating companies in proportion to market share, not to exceed 2% of the participating company's losses. He noted that this 2% cap is very rarely reached, and that in most cases a company's assessment is around 0.005% of losses. Given IWIF's 2008 assessment of 1.2 million and $256 M of incurred loss and LAE per the 2007 statement of operations, we would expect an actual assessment rate of around 0.5% of losses (1.2 M / 256 M).

The Actuarial Analysis section above provides further comments on this selected 2% provision.

- *Claim Adjustment Expenses* – A 12% provision (as a percentage of losses) was selected based on a review of calendar year expense data experience for 1993-2006. We noted that for the latest 3 calendar years, the observed expense ratio has been trending downward and is on average 10.5%. The Actuarial Analysis section above provides further comments on this selected 12% provision.

- *General Expenses* – An 18.5% provision (as a percentage of premium) was selected based on a review of calendar year expense data experience for 1993-2006. We noted that for the latest 4 calendar years, the largest observed expense ratio was 17.3%. This decrease is likely explained in part by the significant increase in earned premiums. The Actuarial Analysis section above provides further comments on this selected 18.5% provision.

- *Premium Tax* – Unlike most insurance companies, IWIF is not subject to premium tax. The premium tax rate is 2% of premium for licensed insurers and 3% of premium for non-licensed insurers. If IWIF were subject to premium tax, the indicated overall base rate would increase approximately 2%.

Underwriting profit – Due to the nature of the organization, IWIF does not include a profit provision in the calculation of the indication. If a profit provision were included, the indicated overall base rate would increase.

Contingencies – In the development of the indicated overall base rate change, Deloitte assumes an investment rate of 3.25%, which was selected by IWIF and is below both historical treasury yields and IWIF's 5.2% observed 2007 investment yield. If the 5.2% rate had been used, it would have resulted in a lower indicated overall base rate. Per IWIF's review of Deloitte's study, the difference allows a margin for unexpected adverse inflationary and frequency trends, legislation, catastrophes, etc., and stands as an implicit contingency load. We have no objections to this approach.

Investment Income – Deloitte includes investment income as a discount to selected pure premium used in the development of the indicated overall base rate change in order to account for expected investment earnings on unpaid losses. As mentioned above, Deloitte assumes a 3.25% investment rate, which when combined with the assumed loss payout pattern, results in an adjustment of 0.793 to the selected pure premium. This adjustment essentially says that for every dollar of loss paid out, only 0.793 of premium should be collected because of investment income return.

Unlike most other insurance companies, no return on surplus is reflected, either from the writing of policies or the investment income on the surplus. We have no objections to the treatment of investment income in the Deloitte rate study.

Exhibit MA-1

M&A Alternative Determination of Base Rate Change Including Merit Rating		Low	Mid	High
(1)	Selected Pure Premium (-3.5% Frequency Trend)	2.88	3.03	3.18
(2)	NCCI Terrorism Loss Cost	0.03	0.03	0.03
(3)	Pure Premium (Including NCCI Terrorism Loss Cost)	2.91	3.06	3.21
(4)	Guarantee Fund Assessment (0.5%)	1.01	1.01	1.01
(5)	Investment Income Adjustment	0.793	0.793	0.793
(6)	Premium Discount Adjustment (9.85% of Premium)	1.109	1.109	1.109
(7)	Merit Rating Adjustment (10.0% of Premium)	1.111	1.111	1.111
(8)	Claim Adjustment Expense Load (10.5% of Losses)	1.105	1.105	1.105
(9)	General Expense Load (18.0% of Premium)	1.220	1.220	1.220
(10)	Indicated Average Base Rate	3.85	4.05	4.25
(11)	1/1/2007 Average Base Rate	4.23	4.23	4.23
(12)	Indicated Base Rate Level Change	-9.0%	-4.3%	0.5%

Filed Determination of Base Rate Change Prior to Merit Rating		Low	Mid	High
(1)	Selected Pure Premium	3.06	3.22	3.38
(2)	NCCI Terrorism Loss Cost	0.03	0.03	0.03
(3)	Pure Premium (Including NCCI Terrorism Loss Cost)	3.09	3.25	3.41
(4)	Guarantee Fund Assessment	1.02	1.02	1.02
(5)	Investment Income Adjustment	0.793	0.793	0.793
(6)	Premium Discount Adjustment (9.85% of Premium)	1.109	1.109	1.109
(7)	Claim Adjustment Expense Load (12.0% of Losses)	1.12	1.12	1.12
(8)	General Expense Load (18.5% of Premium)	1.227	1.227	1.227
(9)	Indicated Average Base Rate	3.81	4.01	4.21
(10)	1/1/2007 Average Base Rate	4.23	4.23	4.23
(11)	Indicated Base Rate Level Change	-9.9%	-5.2%	-0.5%

	Selected Base Rate Level Change		-5.0%	

Municipal & County Classifications

Exhibit MA-2

					Classification Relativities				Base Rates			Loss Cost	
Code	Description	Payroll Per November 26 Response	2006 Payroll	Credibility (e)	2007 IWIF	2008 IWIF Indicated (f)	NCCI (g)	2008 IWIF (h)	2007 IWIF	NCCI (1.8 LCM)	2008 IWIF (i)	NCCI	2008 IWIF Indicated (j)
7704	Volunteer Fire Fighters	6,203,267	7,000,358	25.3%	6.20	7.80	3.11	6.93	26.22	11.43	27.79	6.35	51.93
8810	Clerical	1,543,310,968	1,628,577,065	100.0%	0.11	0.12	0.09	0.09	0.45	0.34	0.35	0.19	0.38
7701	County Fire Fighters (a)	2,525,449	1,587,913	5.6%	1.26	1.94	3.11	1.26	5.35	11.43	5.05	6.35	2.53
9034	County Police (b), (c)	72,893,445	0	0.0%	1.26	NA	0.85	1.41	5.35	3.13	5.67	1.74	NA
9035	Counties; Excl Clerical, Police and Fire Fighters	131,803,856	188,459,083	100.0%	1.26	1.41	NA	1.41	5.35	NA	5.67	NA	4.52
9036	County Boards of Education - All Employees	30,354,767	28,843,841	63.7%	0.22	0.16	NA	0.20	0.95	NA	0.82	NA	0.41
9039	Municipal Fire Fighters (a), (d)	4,672,815	0	0.0%	1.96	NA	3.11	2.14	8.29	11.43	8.60	6.35	NA
9038	Municipal Police (b), (d)	37,179,853	0	0.0%	1.96	NA	0.85	2.14	8.29	3.13	8.60	1.74	NA
9037	Township, Municipality; Excl Clerical, Police and Fire Fighters	96,749,122	129,799,583	100.0%	1.96	2.11	NA	2.14	8.29	NA	8.60	NA	6.78
	TOTAL	8,481,978,570	8,965,781,571		1.00	1.00	1.00	1.00	4.23	3.67	4.01	2.04	3.21

Notes

(a) The NCCI information provided here is for class code 7710 (Fire Fighters Paid) and is for illustrative purposes only. Deloitte did not consider 7710 in its analysis of the rates for classes 7701 and 9039.

(b) The NCCI information provided here is for class code 7720 (Police Officer) and is for illustrative purposes only. Deloitte did not consider 7720 in its analysis of the rates for classes 9034 and 9038.

(c) Analyzed with 9035, so 2006 Payroll is displayed as 0 for this class and no separate indications are developed for this class.

(d) Analyzed with 9037, so 2006 Payroll is displayed as 0 for these classes and no separate indications are developed for these classes.

(e) sqrt ($\Sigma_{year=2002\text{-}2006}$ $Payroll_{year}$ / 500,000,000)

(f) Credibility x IWIF Indicated Relativity + (1 - Credibility) x (0.4 x 2007 IWIF Relativity + 0.6 x NCCI Relativity). If NCCI Relativity = NA, then 2007 IWIF Relativity is used.

(g) NCCI Loss Cost / TOTAL NCCI Loss Cost. "NA" indicates classification is unique to IWIF.

(h) 2008 IWIF Selected / TOTAL 2008 IWIF Selected

(i) Effective January 1, 2008.

(j) Based on 5 years of paid losses, adjusted to 2008 benefit level and developed to ultimate.

Exhibit MA-3

SAMPLE NCCI CLASSIFICATIONS FOR IWIF MUNICIPAL & COUNTY RISKS

Description	Code	NCCI LC Effective 1/1/2007
Animal Control Officers (Veterinary)	8831	1.23
Attendants - Juvenile Home (Police)	7720	1.74
Court Officer (Bailiff)	7720	1.74
Police Officer	7720	1.74
Probation Officers	7720	1.74
Attorney - City, incl. Clerical	8820	0.11
Bookmobile Driver (Drivers, Chauffeurs)	7380	3.32
Civil Defense Auth. Or Engineers	8601	0.56
Clerical	8810	0.19
Doctors: Health Department (Physicians)	8832	0.25
Hospital Professional Employees	8833	0.58
Hospital Non-Professional Emps	9040	1.89
EMT's	7705	5.08
Ambulance Service (EMT's)	7370	5.08
Fire Fighters Volunteer	7711	6.35
Fire Fighters Paid	7710	6.35
Garage Employees (R/A Bus Co.)	8385	3.88
Garbage Collectors	9403	6.06
Garbage Works	7590	1.84
Janitors	9015	2.10
Municipal Garage	8380	1.88
Municipal, Township, County or State Employee NOC	9410	3.59
Recreational Dept. (Parks)	9102	1.51
School board Employees	8868	0.26
Sewage Treatment	7580	1.16
Sewer Construction	6306	3.69
Snow Removal	9402	3.11
Street Cleaning	9402	3.11
Street Construction (Paving)	5506	5.27
(Sub Surface Work)	5507	7.77
Visiting Nurses	8835	2.21
Waterworks	7520	2.02
Minimum Loss Cost		0.11
Maximum Loss Cost		7.77

Exhibit MA-4

IWIF Independent Classes

Code	Description	Payroll Per November 26 Response	2006 Payroll	Credibility (c)	Classification Relativities: 2007 IWIF	Classification Relativities: 2008 IWIF Indicated (d)	Classification Relativities: 2008 IWIF (e)	Base Rates: 2007 IWIF	Base Rates: 2008 IWIF (f)	Loss Cost: 2008 IWIF Indicated (g)
7384	Independent Schools - Driver, Chauffers & Helpers	111,035	193,036	2.6%	1.53	1.55	0.75	6.47	3.00	7.42
7385	Taxicab Lease System	0	0	0.0%	3.15	3.15	3.20	13.31	12.83	0.00
7701	County Fire Fighters	2,525,449	1,587,913	5.6%	1.26	1.24	1.26	6.35	5.05	2.53
8383	Franchise New Auto Dealers	192,765,240	81,870,082	40.5%	0.81	0.66	0.74	3.44	2.96	1.38
8754	Store: Furniture - Floor Sales	14,086,147	13,570,365	35.3%	0.96	0.74	0.75	4.08	3.00	1.04
8878	Independent Schools - Professional Employees & Clerical	43,670,120	47,362,731	36.7%	0.11	0.10	0.09	0.47	0.35	0.26
9034	County Police (a)	72,693,445	0	0.0%	1.26	1.28	1.41	5.35	5.67	NA
9035	Counties; Excl Clerical, Police and Fire Fighters	131,803,856	188,459,083	100.0%	1.26	1.41	1.41	5.35	5.67	4.52
9036	County Boards of Education - All Employees	30,354,767	28,843,841	63.7%	0.22	0.16	0.20	0.95	0.82	0.41
9037	Township, Municipality; Excl Clerical, Police and Fire Fighters	96,749,122	129,799,583	100.0%	1.96	2.11	2.14	8.29	8.60	6.78
9038	Municipal Police (b)	37,179,853	0	0.0%	1.96	1.96	2.14	8.29	8.60	NA
9039	Municipal Fire Fighters (b)	4,672,815	0	0.0%	1.96	1.96	2.14	8.29	8.60	NA
9111	Independent Schools - All Other Employees	2,595,088	2,875,851	8.9%	0.82	0.79	0.62	3.48	2.50	1.50
9170	Window Washing, Above One Story	1,080,909	987,362	9.4%	2.18	2.20	2.24	9.23	8.98	7.74
	TOTAL	8,481,978,570	8,985,781,571		1.00	1.00	1.00	4.23	4.01	3.21

Notes

(a) Analyzed with 9035, so 2006 Payroll is displayed as 0 for this class and no separate indications are developed for this class.

(b) Analyzed with 9037, so 2006 Payroll is displayed as 0 for these classes and no separate indications are developed for these classes.

(c) sqrt ($\Sigma_{year=2002\text{-}2006}$ $Payroll_{year}$ / 500,000,000)

(d) Credibility x IWIF Indicated Relativity + (1 - Credibility) x 2007 IWIF Relativity.

(e) 2008 IWIF Selected / TOTAL 2008 IWIF Selected.

(f) Effective January 1, 2008.

(g) Based on 5 years of paid losses, adjusted to 2008 benefit level and developed to ultimate.

APPENDIX XI

Maryland Retailers Association
171 Conduit Street, Annapolis, MD 21401
(410) 269-1440 • Fax (410) 269-0325 • www.mdra.org

December 10, 2008

STATEMENT

The Maryland Retailers Association (MRA) appreciates the opportunity to submit written comments to the Maryland Insurance Administration (MIA) in regards to their study of the Injured Workers Insurance Fund (IWIF). MRA has enjoyed an excellent relationship with IWIF for over 10 years through our association group plan that provides workers compensation insurance to MRA members. IWIF's rates are very competitive and provides good service. Most importantly, however, IWIF was the only insurer that would do an association program with MRA.

MRA President Tom Saquella has been involved with IWIF for over 20 years going back to his chairmanship of Governor's Commission To Study The Worker's Compensation Commission. This commission found that IWIF (then called the State Accident Fund) was not meeting its potential and recommended a subsequent commission to focus on reforming IWIF. Mr. Saquella served on this subsequent commission, Governor's Task Force To Study The State Accident Fund, which recommended numerous changes that established the framework for today's IWIF. IWIF's membership in NCCI was discussed during the deliberations of both commissions.

A healthy and viable IWIF is critical to the small business community in Maryland. As mentioned above, it was the many small premium amounts that discouraged other insurers from offering MRA an association group plan. This situation is replicated with tens of thousands of small businesses across Maryland who depend upon IWIF. This concern for the well being of IWIF is underscored by MRA's previous support for putting IWIF under MIA first for financial oversight and now for market conduct.

In light of IWIF's importance to small retailers, MRA is concerned that joining NCCI could create costly and unnecessary changes to IWIF rates. IWIF in particular and the workers compensation market in general are functioning well. Why make such a dramatic change? The present economic recession just underscores that now is not the time to take such significant action, especially when there is NO evidence of a problem. Maryland faces many real and serious problems. It does not need to chase solutions in search of a problem!

IWIF is not just another insurance company and putting IWIF under NCCI just *levels the playing field* with private insurers. IWIF is the insurer of last resort that makes possible Maryland's mandate that employers maintain workers compensation insurance. IWIF offers ~~insurance to any employer regardless of the risk. If we want to talk about leveling~~ the playing field, private insurers should also be required to take so many high risk employers with a poor experience rating as a condition of their license. I doubt private insurers would rush to support such a proposal that would put them on the same footing with IWIF.

It is important that IWIF maintain its present ratemaking flexibility to remain a viable operation while covering those high risk employers who cannot get insurance from private carriers. IWIF needs to attract "good business" so there is no need for a public subsidy to remain solvent. It is this critical public policy role, along with its historic focus on small employers, that should not be jeopardized by requiring IWIF to join NCCI.

Thank you for the opportunity to express MRA's strong opposition to requiring IWIF join NCCI.

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APPENDIX XII

PCI Property Casualty Insurers Association of America

Shaping the Future of American Insurance

December 9, 2008

VIA EMAIL

P. Randi Johnson
Associate Commissioner for Property & Casualty
Maryland Insurance Administration
525 St. Paul Place
Baltimore, Maryland 21202
prjohnson@mdinsurance.state.md.us

RE: Public Hearing to Study the Injured Workers' Compensation Fund

Dear Associate Commissioner Johnson:

PCI is the nation's leading Property & Casualty insurance trade association. Our members write approximately 38 percent of Maryland workers' compensation business. On behalf of our association and members, I would like to thank you for the opportunity to provide comments on the study pertaining to the Injured Workers' Compensation Fund.

As enacted, SB 679 subjects the IWIF to examination and enforcement by the Commissioner in the same manner applied to other insurers by the Insurance Article. The effective date of this law is October 1, 2008. To this end, it makes modifications to Labor and Employment Section 10-125, while additionally requiring the Maryland Insurance Administration to study the impact of subjecting the IWIF to laws regarding rate-making, rating, and rate review enforced by the Administration for other property and casualty insurers. In particular, the study must include the following:

- An analysis of whether the Fund's current rate-making practices produce actuarially sound rates;
- A determination of the cost impact to the IWIF for the Fund to be required to file rates with a rating organization; and
- A comparison of the experience rating plan used by the IWIF for small employers as compared to the experience rating plan established by a rating organization for small employers.

PCI supported SB 679 during the legislative process and continues to support the need for the study as prescribed by the provisions in this new law. PCI believes that the public and business community is best served by private enterprise competing in a free market. When a state has established a governmental entity or quasi-governmental entity to compete in providing workers' compensation insurance with private insurers, it is imperative that the fund operate consistent with its historical mission, that any regulatory differences be related to its historical mission, and that the regulatory differences do not operate to undermine the ability of the private sector to fairly compete in the marketplace.

While PCI favors having all competitors in the marketplace be subject to the same regulatory scheme, it recognizes that some regulatory differences may exist because of a state fund's governmental status or the requirements of its historical mission. However, these regulatory differences should be kept to a minimum and regulatory differences that deny private insurers the ability to fairly compete and that will ultimately disrupt the marketplace should be eliminated.

We respectfully request that the study, at a minimum, be designed to compare the IWIF's rate making practices to the standards that are required of private insurers. In addition, the study should guarantee that the IWIF's rate-making practices are carried out at the highest level of integrity and support sound actuarial principles. To maintain an appropriate balance in the Maryland Workers' Compensation system, all insurers, including the IWIF, should be held to maintaining high actuarial standards for workers' compensation rates and rating plans.

We would also recommend that the MIA require the study to be completed by an independent actuarial firm, experienced in workers compensation matters, without significant business ties in Maryland.

On behalf of our members, I would like to thank you for allowing us the opportunity to provide comments. We welcome any questions or comments you might have. Please contact me, if we can provide any additional information.

Regards,

Richard Stokes, Esq.
Regional Manager and Counsel

APPENDIX XIII

NFIB
The Voice of Small Business®

MARYLAND

Comments from the National Federation of Independent Business
Before the Maryland Insurance Administration
December 10, 2008

We wish to make the following comments at this time:

1. At the November meeting of the Oversight Committee on Workers Compensation there appeared to be a strong consensus that Maryland is in a good place with respect to the workers' compensation system as a whole.

2. The health of IWIF is important to small business and I suspect just as important to other workers' compensation insurers as well. They are not just any insurer – they are the insurer of last resort. Although solvency oversight is key, over regulating and/or requiring IWIF's participation in NCCI is unnecessary, costly, and ultimately could impact the workers' compensation rates of small businesses across the state.

3. IWIF must maintain its ratemaking flexibility – more importantly now during this difficult economic time.

4. The issue of new MIA oversight and NCCI affiliation for IWIF is not new to the Maryland General Assembly. These initiatives are often supported by other workers' compensation insurance companies who tend to push for changes in waves based on the market.

5. NFIB is consistent. IWIF is critical to our members. It is working and any changes to their ratemaking flexibility, organization, and regulatory requirements should be taken with great care with the key consideration given to the impact any changes would make on premiums to the small business community in Maryland.

NFIB will review the Maryland Insurance Administration's final study and comment in full when the study is complete.

National Federation of Independent Business – MARYLAND
176 Main Street, Suite A • Annapolis, MD 21401 • 410-267-0335 • Fax 410-990-9503 • www.NFIB.com/MD

APPENDIX XIV

MARYLAND INSURANCE ADMINISTRATION

PUBLIC HEARING TO STUDY THE INJURED WORKERS' INSURANCE FUND

December 10, 2008

Kenneth A. Stoller
Senior Counsel
American Insurance Association

Good morning. My name is Ken Stoller, and I am Senior Counsel for the American Insurance Association (AIA). I appreciate the opportunity to discuss the impact of subjecting IWIF to the same legal provisions governing rate making and other aspects of the business of insurance that are applicable to private insurers.

AIA's members write workers' compensation insurance in Maryland and throughout the nation. We therefore have both a national perspective and a strong interest in an insurance regulatory system that applies uniform and consistent standards in all states.

AIA believes that all workers' compensation state funds, including IWIF, should be regulated on the same basis as private insurers. This means, first and foremost, that IWIF should be subject to the rating law applicable to the private market, and should provide its data to NCCI, the rate making organization. This position is not motivated by any opposition to IWIF, but rather by the private market's inherent interest in ensuring IWIF's financial soundness, given that IWIF serves as the residual market and is now a member of the guaranty fund.

Where other state funds (such as those in Minnesota, Montana and Oklahoma) have not been regulated on the same basis as private insurers, problems have arisen that not only compromised the solvency of those state funds, but also negatively impacted the private market. Applying the rating law to IWIF will ensure that rates are adequate for the risks being undertaken.

Maryland is virtually the only state fund that (1) is not required to report loss data to NCCI or use NCCI experience ratings, or (2) may not use NCCI rates or loss costs. While state funds in New York and Rhode are exempt from certain aspects of their states' rating laws, New York's state fund has adopted the rate manual, rating plans and classifications applicable to private insurers; and Rhode Island's state fund participates in the ratemaking system and provides its loss data to NCCI. NCCI's presentation explains the anticipated benefits of IWIF's provision of loss data, both to the aggregate loss cost level indication and studies of the health of Maryland's workers' compensation system.

AIA's belief that IWIF should be subject to the same laws as private insurers extends to general regulatory oversight and payment of the premium tax. While IWIF is subject to certain provisions of the Insurance Article and may be examined by the Insurance Commissioner, the Commissioner's jurisdiction is limited to provisions governing impaired entities and risk based capital. Also, while IWIF is appropriately exempt from the payment of federal income tax, due to its status as the residual market, it is exempt from the premium tax paid by private insurers. We do not believe there is a reasonable justification for this exemption.

In summary, AIA recommends that – for the greater protection of both IWIF and the private market – IWIF be subject to the same rating, regulatory oversight and premium tax provisions applicable to the private market. I appreciate the invitation to share our views on these issues, and I welcome any questions.

APPENDIX XV

Property & Casualty Insurance Guaranty Corporation

TO: Ralph S. Tyler, Insurance Commissioner
P. Randi Johnson, Associate Commissioner

FROM: W. Minor Carter

DATE: December 10, 2008

RE: Public Hearing to Study the Injured Workers' Insurance Fund

I. The Property & Casualty Insurance Guaranty Corporation

The Property & Casualty Insurance Guaranty Corporation ("the Corporation") was established in 1971by Maryland statute (Insurance Code, Subtitle 9, Sections 301 through 315) with the purpose of protecting policyholders and claimants when an insurance company becomes insolvent. Section 9-302 of the Code sets forth the purposes of the Corporation: first, to provide a mechanism for the prompt payment of covered claims and avoid financial loss to residents of the State who are claimants or policyholders of an insolvent insurer; and, second, to provide for the assessment of the cost of payments of covered claims and protection among insurers.

The Corporation is divided into four separate insurance accounts: title insurance, motor vehicle insurance, workers' compensation, and all other insurance. The Corporation assesses each member insurer in the proportion that the direct written premiums of the member insurer on the kind of insurance written by the insurer has to the total direct written premiums. An assessment may not be in an amount greater than 2% of that insurer's net direct written premiums for the preceding calendar year.

If the Corporation does not have sufficient funds to make all necessary payments for an insolvent insurer from that account, the funds available shall be prorated and the unpaid part shall be paid as soon as funds are available. If this occurs, some claimants or policyholders will not be paid immediately and, in fact, not for some time.

An insurer shall recoup assessments by including in its rates and premiums an amount sufficient to recoup the assessment over a period of time not less than 3 years.

The Corporation is independent from the State.

The Corporation has handled 75 insolvencies since its inception in 1971 and has paid approximately $200,000,000 for claims payments and expenses. Only three, all small domestic insurers, of the 75 insolvencies are Maryland domestic insurers: Eastern Indemnity, Grangers Mutual, and Maryland Indemnity.

Through strong and effective legislation passed by the General Assembly and implemented by the Governor and the Maryland Insurance Administration, a number of companies that were considered to be endangered did not become insolvent. This strong intervention by the Maryland Insurance Administration saved insureds and the insurance industry from severe disruption.

II. Present situation

The Injured Workers' Insurance Fund ("IWIF") was created as the Maryland State Accident Fund ("Fund") as part of the 1914 Workers' Compensation Act. The Fund was charged with guaranteeing coverage for all Maryland businesses. In the 1940s, the Fund became a separate entity, renamed the Injured Workers' Insurance Fund, and placed under the regulation of the Department of Licensing, Labor, and Regulation. Under uncodified language, IWIF became a member of the Corporation in 2008 upon the successful completion of a financial examination conducted in 2005.

IWIF, in its role as guaranteeing a market to Maryland businesses, is the insurer of last resort for those businesses that are unable to find insurance in the standard market, and, as such, has an essential role in Maryland. In addition, IWIF also is a competitive writer in the standard market.

As the largest writer of workers' compensation insurance in Maryland (IWIF claims to write 28% of the workers' compensation premium in Maryland and one of five Maryland businesses), it is by far the largest writer of workers' compensation insurance in Maryland and, therefore, the largest member of the Corporation's workers' compensation account.

III. Recommendations

The Corporation strongly recommends that the Insurance Code to be amended to provide that IWIF be regulated by all applicable statutes and regulations in the same manner as all other workers' compensation insurers by the Maryland Insurance Administration

The lack of regulation of transparency and regulation of IWIF's rates and premiums is of great concern since the major cause of insolvencies has been inadequate rates. This concern is only heightened by two factors: first, IWIF has extended its underwriting basis far beyond the original intention of being Maryland's workers' compensation insurer of last resort; and, second, <u>IWIF has expanded coverage for those many Maryland employers who pursue business opportunities in areas beyond Maryland's borders. The latter expansion is of particular concern since it is unclear, at best, if IWIF is a member of any guaranty fund other than Maryland given it is a member of the Corporation only by legislative mandate.</u>

An insolvency by IWIF would obviously require the maximum assessment for every workers' compensation writer in the State for the foreseeable future. The result of such a insolvency would have multiple effects:

1. For policyholders and claimants, it would mean diminished and delayed payments since there would not be sufficient funds to pay claims either in full or immediately.

2. In addition, workers' compensation rates would be increased as the other workers' compensation carriers increased their rates to recoup the assessment.

3. Since the assessments would be going forward for a number of years, the viability of the workers' compensation market would be affected since insurers may leave the Maryland market. This would mean fewer insurers to pay the necessary assessments for payments to claimants and policyholders.

The property & casualty insurance industry has been unique during this time of financial upheaval and difficulties for companies in the U.S. financial markets. The property & casualty insurance companies have remained healthy because of comprehensive state regulation.

An estimate of the impact of a possible IWIF insolvency based on an analysis of the continuing insolvency of the Reliance Insurance Company is attached.

W. Minor Carter
Office: 410-269-7954
Cell: 410-991-0374

Analysis of Potential IWIF Insolvency
Based on Reliance Insurance Company

It is important to recognize that every insolvency is different owing to different books of business and different financial conditions. This analysis is simply an attempt to demonstrate one scenario of the impact of an IWIF insolvency. Clearly such an insolvency would be a major event and this example is a possible scenario of such an insolvency.

An analysis comparing premiums to claims payments will give an estimate of the number of files an insolvency can generate. The premium comparisons used for this analysis are based on the insolvency of the Reliance Company ("Reliance").

Since Reliance's Order of Liquidation in October 2001, Reliance Insurance Company in Liquidation has generated 960 workers' compensation claims to date for the Corporation. It is important to note that workers' compensation claims are not paid in a lump sum but over the course of the injury, thus they may extend over a period of years. Prior to its insolvency, Reliance's net direct written premiums in Maryland were $1,468,802.

Based on IWIF's 2007 net direct written premiums of $257,481,645 and Reliance's ratio of claims to premium, it would project to 168,393 based on 654 files per million dollars of direct written premiums. This amount of files would be a greater number of files than the Corporation has handled since its inception in 1971.

To predict the assessment feasibility of an insolvency of this size, an estimate was made utilizing the payment history of the Reliance insolvency. For the first five years, the Corporation paid $17,894,826 for claims and administrative costs. By dividing that amount by five, a yearly estimate of $3,578,965. To determine an annual cost per file, the yearly estimate is divided by the 960 (number of Reliance files) resulting in an estimate of $3,728 per file per year.

If this figure were to be applicable to an IWIF insolvency, by multiplying the figure of $3,728 per file per year by the estimated 168,393 IWIF number of files (rather than the Reliance number of 960), creates costs that are astronomical to the Corporation. Simple arithmetic also demonstrates the cost of an IWIF insolvency: over a quarter of the annual workers' compensation claims in Maryland would be paid by assessments of the other three quarters of the workers' compensation insurers.

APPENDIX XVI

Maryland
Association
of Counties,
Incorporated
169 Conduit Street
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www.mdcounties.org

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DEC 11 2008
MARYLAND INSURANCE
ADMINISTRATION

December 9, 2008

P. Randi Johnson
Associate Commissioner, Property and Casualty
Maryland Insurance Administration
525 St. Paul Street
Baltimore, MD 21202

Dear Ms. Johnson:

The Maryland Association of Counties (MACo) appreciates the invitation to comment on potential policy changes regarding the Injured Workers Insurance Fund (IWIF). MACo did not take an active position on the legislation from the 2008 legislative session (SB 679) but a number of county governments do employ IWIF for various coverages.

At this time, we do not have a formal position on the contemplated changes to IWIF's oversight. Counties depend on a competitive and responsive market for their insurance coverage, and particularly for worker's compensation, a substantial number find the IWIF offerings to be an attractive offering. While we do not yet feel we possess a clear understanding of what new oversight might cause in terms of rates or offerings, in difficult economic times it would be a great hardship for counties to suffer substantial premium increases or service diminution resulting from policy changes. As you contemplate potential changes to the oversight of IWIF, we hope you can keep the best interests of the county community in mind, and be wary of policy changes that may be detrimental to institutional IWIF customers like local governments.

We thank you for the opportunity to comment, and will continue to follow the progress of your own study and recommendations.

Regards,

Michael Sanderson
Legislative Director

cc: Ralph S. Tyler, Commissioner
Kimberly Robinson, Director of Government Relations
Dave Diehl, Chief Administrator, Property and Casualty

APPENDIX XVII

Nationwide®
On Your Side®

Mark A. Berven, CPCU, AIC
Regional Vice President
Mid Atlantic Regional Operations
Nationwide Insurance

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DEC 12 2008
MARYLAND INSURANCE ADMINISTRATION

December 9, 2008

Ms. P. Randi Johnson
Associate Commissioner for Property & Casualty
Maryland Insurance Administration
525 St. Paul Place
Baltimore, Maryland 21202

Dear Ms. Johnson:

I am the Regional Vice-President of the Mid Atlantic Regional Operations of Nationwide Insurance (Nationwide), which includes the State of Maryland. Nationwide writes some Workers' Compensation insurance in Maryland as part of managing its book of business; however, it does not focus heavily on Workers' Compensation as a separate line of business. My comments are in response to the notice of hearing issued on November 26, 2008 by the Maryland Insurance Administration (MIA) for a hearing on December 10, 2008 regarding the regulatory authority of the MIA over the Injured Workers' Insurance Fund (IWIF).

In making the following comments, Nationwide intends no negative inference, direct or indirect, as to the current management of the Injured Workers' Insurance Fund, its financial condition, or its general business practices. Nationwide's focus is on the public policy question of whether IWIF should be regulated in the same manner as all other Workers' Compensation insurers operating in the state and on the need to reform certain structural inequities in the current statutory, regulatory, and taxation scheme currently governing IWIF.

The Injured Workers' Insurance Fund (IWIF) was originally created in 1914 as the State Accident Fund. It was intended to operate as a state-created insurer of last resort for the Workers' Compensation market after the implementation of Workers' Compensation in the State of Maryland a few years before; however, IWIF has operated more and more as a competitor in that insurance market, especially in the past 30 years, and now has a market share of around 30% of the Workers' Compensation insurance market in Maryland.

The Injured Workers' Insurance Fund has, in fact, fulfilled its statutory purpose as an insurer of last resort with success partly because of certain inherent advantages over the private market that were built into the law governing its operation. As a matter of public policy, it is understandable that the state would initially wish to give it every reasonable advantage to accomplish its goal of insurer of last resort.

However, these advantages also account for much of IWIF's success in increasing its marketshare in the private market. Nationwide is concerned that the regulatory and tax advantages enjoyed by IWIF are no longer needed and have allowed it to unfairly compete with the private sector, and, in effect, make the State of Maryland a competitor in the insurance market without being subject to the same rules as private enterprise.

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Nationwide Insurance
Nationwide Financial

Nationwide feels that the current statutory scheme regulating IWIF allows IWIF to compete unfairly in the private marketplace because its operations are free of the regulatory, statutory, and tax burdens faced by its competitors, in turn, allowing IWIF to undercut the private sector's pricing through what is, in fact, a subsidized rate. Nationwide is specifically concerned about the following:

Lack of full rate and solvency regulation

Workers' Compensation is a long-tail line that is difficult to underwrite profitably in the long term. Most of the significant insolvencies in the property and casualty industry in the past decade have been property and casualty insurers. One of the primary purposes of the state insurance regulatory system is to carefully monitor insurers for solvency; to do so, regulators have extensive oversight over rates (to ensure that they are adequate for the risk assumed) and over the investment of the company surplus and capital (to ensure that the company's financial resources are maintained in a manner that will ensure claims will be paid in the future).

Originally, IWIF was regulated under the Labor and Employment Article. This, in effect, bypassed the Insurance Commissioner as a regulator of the largest Workers' Compensation writer in the state and left it almost without any state oversight, other than legislative audits conducted periodically by the Legislative Auditor of the State of Maryland.

To partially remedy this unhappy situation, the General Assembly in 2000 placed a minimal amount of regulatory oversight in the hands of the Insurance Commissioner. Most of these reforms dealt with the authority of the Maryland Insurance Administration (MIA) to conduct certain financial examinations and the gradual increase in financial strength of IWIF to enable them to meet the RBC (risk-based capital) requirements under the Insurance Code. In 2008, the General Assembly gave the MIA further regulatory authority over IWIF and allowed the MIA to take certain actions regarding solvency; however, the expansion of authority did not extend to rate regulation. Instead, the MIA was requested to examine the impact on IWIF of such rate regulation during 2008.

It is important for the MIA to be able to monitor that the rates charged by any insurer are not inadequate (i.e. ensure the insurer's long-term ability to pay its claims), excessive, or unfairly discriminatory. In addition, the regulation of rates provides a measure of transparency to the MIA, the legislature, and the market itself as the rate filings themselves become public documents once they are filed (and, in some cases, approved). Often, rate filings become engines of competition as competitors seek to improve their own rates in order to attract new customers. The filing of rates and their review by the MIA is undeniably a regulatory burden to both companies and the MIA, but it is one shared by all insurers except IWIF; it is also the expression by the State of Maryland of its public policy balance of regulatory oversight and the free market. Even residual carriers other than IWIF are subject to rate regulation (the Maryland Automobile Insurance Fund, Medical Mutual, Legal Mutual, and the Joint Insurance Association). Therefore, there is no reason under the currently constituted regulatory system for IWIF to be exempt from rate regulation.

IWIF has argued that being subject to rate regulation by the MIA would cost it over $1 million in added expenses in order to comply. Assuming that IWIF's figures are correct, Nationwide contends that this is a poor reason to not be subject to proper regulation. Every insurer other than IWIF is subject to the same rules and the same expenses (roughly proportionate to marketshare); these expenses are a cost of doing business. When an organization controls around 30% of a market, the cost will be significant and can be passed on to its policyholders; however, given IWIF's marketshare, the cost may be easier to absorb in whole or in part and may not necessarily result in large premium increases to its customers.

Exemption of IWIF from Premium Tax and Regulatory Assessment

In order to operate in the state, every private insurer, including MAIF (the Maryland Automobile Insurance Fund) pays a 2% tax on gross premium as well as a regulatory assessment separate from the premium tax that is dedicated to fund the MIA. IWIF is exempt from these taxes. This means that IWIF has at least a 2% income advantage over the private industry before any losses, loss adjustment expenses, other taxes, or overhead are factored into income. While the exemption may have made sense when IWIF was first created almost 100 years ago, it makes no sense now when IWIF has a dominant position in the market and when the State is facing a drastic decline in other revenues.

IWIF Membership in Guaranty Fund

As a corollary of the 2000 legislation, IWIF was made a member of the Property and Casualty Insurance Guaranty Association (PCIGC), a state-created, industry-financed guaranty fund that ensures payment of policies issued by insolvent insurers. That membership would take place after an examination of IWIF satisfied the MIA that IWIF met certain solvency standards.

Nationwide believes that IWIF should be treated in the same manner as any other insurer and, to the extent that membership in the PCIGC is required of all other insurers in order to operate in the State of Maryland, such membership should be required of IWIF as well. However, all other member companies (including MAIF) are allowed into the guaranty system because each is subject to ALL regulatory requirements of the Insurance Code. These requirements encompass not only that companies have enough money on hand to pay claims (solvency regulation), but that companies are charging enough rate for a product to assure their continued financial stability (all other things being equal).

If a Workers' Compensation insurer should become insolvent, the PCIGC uses the insolvent insurers' assets to pay outstanding claims made by policyholders of that insurer. To the extent that the assets are insufficient, each insurer belonging to the PCIGC Workers' Compensation account is assessed up to 2% of its total premium (this is in addition to the premium tax) in order to make up the difference. If an insurer other than IWIF became insolvent, IWIF would share in these payments; however, should IWIF become impaired, all other carriers would have to cover its liabilities. As Workers' Compensation is a long-tailed line where claims can take many years to be finally paid out, the impairment of a company the size of IWIF would be extremely problematic. In order to minimize even a remote chance of such an occurrence, full compliance by IWIF with all MIA regulatory requirements, including rate regulation, is essential.

In summary, Nationwide believes that it is not good public policy to allow an insurer, especially one with a marketshare as large as IWIF's, to operate in the state without being subject to ALL requirements of the Insurance Code that are applicable to other carriers in the same line of business. In these turbulent financial times, policyholders must be assured that every company that operates in the state is subject to the same stringent requirements as every other competitor. In addition, the State of Maryland, private industry, and IWIF will be best served by a regulatory system that is fully transparent and does not give any unfair advantage to a particular business entity. A fully competitive Workers' Compensation market serviced by fully regulated insurers should, in the long term, provide the best product, at the lowest price, to the most people.

On behalf of Nationwide, I thank you for the opportunity to comment on this matter. Should you have any further questions, please do not hesitate to contact me or Lars Kristiansen (443.994.4319).

Sincerely,

Mark Bewen

APPENDIX XVIII

ATTACHMENT A

- An outline of the Insurance Article with the key provisions from which IWIF is exempted in bold type.

Title 1. Definitions. General Provisions.

Title 2. The Maryland Insurance Administration

Subtitle 1. Organization of Administration; General Powers and Duties of Commissioner.

Subtitle 2. Enforcement.
This entire subtitle now applies to IWIF.

§ 2-201 Enforcement of article.
Authorizes the Commissioner to bring an action "in a court of competent jurisdiction" to enforce the article or an order issued by the Commissioner under this article.

§ 2-202 Discrimination in underwriting and rate-setting practices.
Provides that Commissioner has exclusive jurisdiction in rate setting and underwriting practices, except that the Human Relations Commission has concurrent jurisdiction over alleged discrimination based on race, creed color, or national origin.

§2-203 Oaths, witnesses, and subpoenas.
Authorizes the Commissioner or other authorized persons to administer oaths and issue subpoenas.

§ 2-204 Orders and notices.
Sets forth requirements for orders or notices issued by the Commissioner.

§ 2-205 Analysis or examinations of insurers, rating organizations, and health maintenance organizations.
Allows the Commissioner whenever he "considers it advisable . . . to analyze or examine the affairs, transactions, accounts, records, and assets of each authorized insurer. . ."

§ 2-206 Examinations of insurance producers, managers, and others.
Authorizes the Commissioner, "[w]hen advisable to determine compliance with this article . . . [to] examine the accounts, records, documents, and transactions that relate to the insurance affairs or proposed insurance affairs of insurance producers, agents, persons contractually authorized to manage or control an insurer," etc. Note that prior to the enactment of SB 679, this provision did not apply to IWIF.

§ 2-207 Conduct of Examinations.
Governs how examinations of insurers shall be conducted and requires that "[e]ach person that is examined and its

officers, employees, agents, and representatives . . ." to "produce and make freely available to the Commissioner or an examiner the accounts, records, documents, files, information, assets, and matters that are in possession or control of the person and relate to the subject of the examination."

§ 2-208 Expense of examinations.

§ 2-209 Reports of examinations and investigations.

§ 2-210 Hearings.

Authorizes the Commissioner to hold hearings "that the Commissioner considers necessary for any purpose under this article" and requires a hearing if required by any provision of the Insurance Article, or, upon ". . . written demand by a person aggrieved by an act or threatened act of, or failure to act by the Commissioner, or by any report, regulation, or order of the Commissioner, except an order to hold a hearing or an order resulting from a hearing."

Provides that hearings shall be governed by the Administrative Procedure Act.

§ 2-211 Notice of Hearing.

§ 2-212 Stay of order or proposed action.

§ 2-213 Hearing procedure.

§ 2-214 Order resulting from hearing.

§ 2-215 Judicial review.

Authorizes a party to a hearing or person aggrieved by an order resulting from a hearing or a refusal of the Commissioner to grant a hearing to seek judicial review.

Subtitle 3. Consumer Education and Advocacy Program.

This subtitle establishes the Consumer Education and Advocacy Program and does not specifically apply to insurers.

Subtitle 4. Insurance Fraud Division.

This subtitle establishes the Insurance Fraud Division of the Administration.

Subtitle 5. Insurance Regulation Assessment.

This subtitle refers to assessments fees which each insurer is required to pay. Like the taxes provided for in Title 6, IWIF is exempt from payment of these fees.

Title 3. Kinds of Insurance.

This title defines and regulates stock insurers and mutual insurers, reciprocal insurers, and surplus lines insurers.

Title 4. General Requirements for Insurers.

None of the general requirements of Title 4 apply to IWIF, with the exceptions of 4-115 (Home Office; Location of Accounting Records and Assets), 4-116 (Annual and Interim Statements; Audited Financial Reports), 4-118 (Qualified Independent Certified Public Adjusters), and Title 4, Subtitle 3, which governs risk based capital standards for insurers.

Subtitle 1. Certificates of Authority

§ 4-101	**Certificate of Authority Required.**
§ 4-102	**Qualifications of Insurers.**
§ 4-103	**Capital and surplus requirements – In general.**
§ 4-104	**Capital stock requirements.**
§ 4-105	**Surplus assets or funds required.**
§ 4-106	**Deposit of securities.**
§ 4-107	**Service of Process.**
§ 4-108	**Applications for initial certificate of authority.**
§ 4-109	**Issuance or disapproval of initial certificate of authority.**
§ 4-110	**Contents of certificate of authority.**
§ 4-111	**Scope of certificate of authority.**
§ 4-112	**Term and renewal of certificate of authority.**
§ 4-113	**Denials, refusals to renew, suspensions, and revocations. Authorizes the Commissioner to deny, refuse to renew, suspend, or revoke a certificate of authority for a**

number of reasons, including insolvency, untrustworthy management, engaging in bad faith transactions, refusing to be examined by the Commissioner, and violating any provision of the Insurance Article. In addition to suspension, refusal to renew, or revocation, or as an alternative to those, the Commissioner may impose a penalty of not less than $100 but not more than $125,000 for each violation and may require the insurer to make restitution to any person who has suffered financial injury as a result of the violation of the article.

§ 4-114 **Cease and desist orders.**

Authorizes the Commissioner, without notice and before hearing, to issue an order requiring an insurer to "immediately cease and desist from writing insurance in the State if it appears . . . (1) that the insurer is (i) conducting its business and affairs in a manner that threatens to make it insolvent or that is hazardous to its policyholders, creditors, or the general public; or (ii) engaged in an act, practice, or transaction that constitutes grounds making the insurer subject to conservation or liquidation proceedings; and (2) irreparable loss and injury to the property and business of the insurer or the general public has occurred or may occur unless the Commissioner acts immediately.

*§ 4-115 Home office; location of accounting records and assets. (this does apply to IWIF)

*§ 4-116 Annual and interim statements; audited financial report. (this does apply to IWIF)

§ 4-117 **Notice to third party claimant of payment to attorney.**

This provision requires that at the time an insurer makes a payment authorized by a claimant's attorney of $2000 or more for an individual which is sent to the individual's attorney, the insurer must provide written notice of the payment to the claimant by regular mail.

*§ 4-118 Qualified independent certified public accounts. (this does apply to IWIF).

Subtitle 2. Unauthorized insurers.

This subtitle applies to insurers and other persons not authorized to do business in the State. Because IWIF is authorized to do business in the State, this subtitle would not be applicable to IWIF.

Subtitle 3. Risk Based Capital Standards for Insurers.

This subtitle applies in its entirety to IWIF, subject to the provisions of 10-125(d) of the Labor and Employment Article.

§ 4-301	Definitions.
§ 4-302	Public policy. States that it is the public policy of the state to require that an insurer ". . . maintain minimum RBC levels derived from the risk based capital requirements contained in this subtitle and the attendant formulas, schedules, and instructions, and . . . additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the insurance business and not accounted for or only partially measured by the risk based capital requirements contained in this subtitle."
§ 4-303	RBC reports. Requires insurers to file reports reflecting its RBC levels as of the end of the immediately preceding calendar year.
§ 4-304	Risk based capital requirements. (b) specifies how a property and casualty insurer's risk based capital shall be determined.
§ 4-305	Company action level event. Establishes criteria for a company action level event and, when there is such an event, requires the company to submit a company action plan. Also establishes a "regulatory action level event" when the Commissioner has notified an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory. In this case, the company has a right to a hearing.
§ 4-306	Regulatory action level event. Establishes criteria for a regulatory action level event and authorizes the Commissioner to take certain actions, including, after an examination or analysis performed under this section, issuing a corrective order.
§ 4-307	Authorized control level event. Establishes criteria for an authorized control level event and authorizes action by the Commissioner, including those actions authorized by § 4-306(b) or placing the insurer under conservation, rehabilitation, or liquidation, as authorized by Title 9.
§ 4-308	Mandatory control level event. Establishes criteria for a mandatory control level event and authorizes the Commissioner to take action.
§ 4-309	Challenges by insurer.

	Allows the insurer to challenge certain determinations made by the Commissioner and to request a confidential hearing.
§ 4-310	Confidentiality of RBC reports and plans.
§ 4-311	Supplement to other laws; regulations; exemptions.
§ 4-312	Foreign insurers.
§ 4-313	Liability.
§ 4-314	Effective date of notices.

Subtitle 4 - Disclosure Requirements for Insurers.

This Subtitle this applies to insurers, as specified, but is does not apply to IWIF.

§ 4-401	Reporting of medical malpractice claims or actions. (not applicable to P&C carriers)
§ 4-402	Inspection of medical files on applicants and claimants. (applies only to medical records compiled by insurers under policies of health insurance or life insurance).
§ 4-403	**Disclosure of insured's medical records. (prohibits an insurer or an insurance service organization whose functions include the collection of medical data from disclosure of medical records except under certain circumstances.)**
§ 4-404	Disclosure of medical examination results by life insurer. (not applicable to P&C carriers)
§ 4-405	Additional reporting requirements; regulations; confidentiality. (applies to medical malpractice insurers.)

Title 5. Assets, Liabilities, Reserves, and Investments of Insurers.

This Title governs the manner in which the financial condition of an insurer is measured, and contains a description of how assets and liabilities should be valued, sets forth what reserves are necessary, prohibits certain types of investments and addresses reinsurance. As per § 10-125(2)(ii) of the Labor and Employment Article, IWIF is subject to Subtitles 1, 2, 4, and 9. IWIF's investments also must be authorized by Title 5, Subtitle 6, as per LE k 10-122(a), but the LE § 10-104 does not give the Commissioner express authority to enforce that provision.

Subtitle 1. Risk Based Capital Standards for Insurers)

Subtitle 2. Reserves.

Subtitle 3. Standard Valuation law.

This subtitle is not applicable to property and casualty insurers

Subtitle 4. Valuation of Investments.

Subtitle 5. Investments of Life Insurers. (only applicable to life insurers)

Subtitle 6. Investments of Insurers Other than Life Insurers.

IWIF's investments must be in accordance with this section, but this subtitle is not listed as one which the Commissioner may enforce with respect to IWIF.

§ 5-601	**Scope of Subtitle.** **Applies to all domestic insurers other than life insurers.**
§ 5-602	Investments of foreign or alien insurers.
§ 5-603	**Date when eligibility of investment determined.**
§ 5-604	**Authorization of investments and loans.**
§ 5-605	**Prohibited investments and loans.**
§ 5-606	**Limitation on amount of investments.**
§ 5-607	**Investment requirements.**
§ 5-608	**Classes of reserve investments.**
§ 5-506	**Unlawfully acquired investments.**

Subtitle 7. Administration of Deposits.

Although this subtitle is not applicable to IWIF, it is primarily concerned with the deposit of monies required for an insurer to maintain a certificate of authority (not applicable to IWIF) or for deposits required under the Article, such as those required by Title 6, Subtitle 3a

Subtitle 8. Trusteed Assets of Alien Insurers.

This subtitle is concerned with alien insurers, and would not apply to domestic companies such as IWIF.

Subtitle 9. Reinsurance.

This subtitle does apply to IWIF.

Subtitle 10. Limitation of Risk.

This subtitle does not apply to workers' compensation carriers.

Title 6. Taxes and Fees.

This title requires that insurers pay certain taxes and fees. This does not apply to IWIF. Because Title 6 is concerned primarily with the generation of revenue, the exemption of IWIF from Title 6 is likely not related to "consumer protections and financial soundness."

However, one could also argue that the generation of revenue serves the consumer protection mission of the Administration by allowing it sufficient funds for a staff to administer the Insurance Article.

Title 7. Maryland Insurance Acquisitions Disclosure and Control Act.

Subtitle 7 is concerned with such issues as the controlling of insurance companies and acquisitions of such companies. It applies, except where specifically provided, to authorized insurers.

Subtitle 1. Definitions; General Provisions.

§ 7-101	Definitions.
§ 7-102	Legislative findings; statement of policy
§ 7-103	Scope of title Applies to "authorized insurers" except where otherwise provided.
§ 7-104	Presumption of control.
§ 7-105	Standards for reasonableness of assets and surplus as regards policyholders.
§ 7-106	Confidentiality.
§ 7-107	Right to hearing and appeal.
§ 7-108	Powers, remedies, procedures, and penalties additional to others.
§ 7-109	Conflict with other laws.

Subtitle 2. Acquisitions and Investments – In General.

§ 7-201	Authority to acquire subsidiary.
§ 7-202	Limitations on investments in subsidiaries.
§ 7-203	Disposal of investments when control ends.

Subtitle 3. Acquisition of Control of Domestic Insurer or Insurance Holding Company.

Because this subtitle deals with assuming control of other commercial companies, I assume that it would have no applicability to IWIF.

Subtitle 4. Acquisition of Control of Insurer.

This subtitle applies to any acquisition, agreement, arrangement, activity, including the acquisition of voting securities or assets, bulk reinsurance, and merger, that results in a person acquiring directly or indirectly, the control of an authorized insurer.

Because IWIF is controlled by a Board appointed by the Governor, I assume that this subtitle would not be of concern with respect to IWIF.

Subtitle 5. Acquisition of Health Service Plan.

Subtitle 6. Registration of Insurers in Insurance Holding Company Systems.

This subtitle applies to insurers which are members of insurance holding companies, which IWIF is not.

Subtitle 7. Transactions Within Insurance Holding Company Systems.

For the same reasons as with Subtitle 6, this subtitle would not be applicable to IWIF.

Title 8. Entitles That Act As Insurers.

This title is applicable to broker controlled business and managing general agents, and therefore, this title does not pertain to consumer protection or solvency of property and casualty insurers.

Title 9. Impaired Entitles. (This entire title applies to IWIF and may be enforced by the Commissioner).

Title 9 authorizes the Commissioner to initiate delinquency proceedings in the circuit court in a number of circumstances, including where solvency is impaired, the management of an insurer is untrustworthy . . . etc.
Note that any action taken against IWIF by the Commissioner for any of the reasons outlined in Title 9 must be done in a delinquency proceeding in the circuit court. Because IWIF does not have a certificate of authority, the Commissioner may address certain concerns delineated in Title 9 (untrustworthy management, solvency problems, etc.) by issuing an order at the administrative level, but, if IWIF does not comply, the Commissioner must enforce such an order in a judicial proceeding.

Title 10. Regulation of Insurance Professionals.

Most of these requirements apply to producers, rather than to insurers. However, I have highlighted areas in which insurers are subject to regulation in connection with appointments or acts of producers.

§ 10-101	Definitions.
§ 10-102	Scope of subtitle. (applies to "all types of insurers")
§ 10-103	License required.
§ 10-104	Qualifications of Individual Applicants – Insurance other than life and health.
§ 10-105	Same – Life and heath insurance and annuities.
§ 10-106	Qualifications of business entity.
§ 10-107	Examinations – In General.

§ 10-108	Same – Insurance other than life and health insurance and annuities.
§ 10-109	Same – Life and health insurance and annuities
§ 10-110	Advisory boards.
§ 10-111	Applications for license.
§ 10-112	Issuance of license.
§ 10-113	Scope of licenses.
§ 10-114	Conducting business as a limited liability company, partnership, or corporation.
§ 10-115	Term and renewal of license.
§ 10-116	Continuing education.
§ 10-116.1	Reinstatement of license.
§ 10-117	Changes to license.
§ 10-118	**Appointments and terminations.** **Requires insurers to maintain a producer register and to notify the Commissioner when there is a termination of an appointment, employment, contract, or other business relationship with an insurance producer.**
§ 10-119	Forms for use in licensing nonresident agents and brokers (repealed)
§ 10-120	Temporary licenses.
§ 10-121	Title insurance producers.
§ 10-122	Limited lines licenses – Sellers of transportation tickets.
§ 10-123	Same – Motor vehicle insurance.
§ 10-124	Same – Employees of health maintenance organizations.
§ 10-125	Same – Attorneys and law firms engaged in title insurance work.
§ 10-126	Denials, suspensions, revocations, and refusals to renew or reinstate; penalties.
§ 10-127	**Cancellation of policy if premiums paid to insurance producer.** **Provides that an insurer may not cancel a policy for nonpayment of premium if the premium due on the policy has been paid to the insurance producer.**
§ 10-128	Signature or countersignature of policies.
§ 10-128.1	Regulations regarding maintenance of records.
§ 10-129	Misrepresentation as independent insurance producer.
§ 10-130	**Commission only to licensed insurance producer.** **Prohibits payment of commission, fee, reward, or other consideration of soliciting, selling or**

	negotiating insurance policy to any person other than a licensed producer.
§ 10-130.1	General penalty. (provides for penalties criminal penalties for violations of certain statutes, including § 10-130)
§ 10-132	Violations by title insurance producers.

Title 10, Subtitle 2. Advisors
(applies to insurance advisors).

Title 10, Subtitle 3. Bail Bondsman.
(applies to bail bondsmen).

Title 10, Subtitle 4. Public Adjusters.
(applies to persons who provide advice regarding fire insurance or allied lines of insurance.)

Title 10. Subtitle 5. Vehicle Damage Adjusters and Appraisers
(applies to persons who perform adjustments or appraisals for claims for loss or damage covered by motor vehicle insurance policies.)

Title 10, Subtitle 6. Motor Vehicle Rental Companies.
(applies to any person in the business of providing motor vehicles under rental agreements for 180 days or less)

Title 11. Insurance Rating Law.

IWIF is exempt from the Commissioner's regulation with respect to its rates. Thus, none of the provisions in Title 11 are applicable to IWIF. With respect to IWIF, "premium rates" are determined by the Board of the Fund. *See* LE § 10-130.

Title 12. Policy Forms and Provisions.

Subtitle 1. General Provisions.
All of the general provisions of the Subtitle 1 are applicable to IWIF.

§ 12-101	Scope of title.
§ 12-102	Standard provisions.
§ 12-103	Validity and construction of noncomplying conditions or provisions.
§ 12-104	Validity and effect of limitations periods.
§ 12-105	Waiver of policy provisions or defenses by insurers.
§ 12-106	Binders or contracts for temporary insurance.
§ 12-107	Simplified policies of insurance.

Subtitle 2. Life and Health Insurance and Annuities.

This Subtitle does not apply to property and casualty insurers.

Subtitle 3. Property and Motor Vehicle Liability Insurance.

This subtitle applies only to property and motor vehicle liability insurance, but does not apply to workers' compensation insurers.

Title 13. Credit Life, Health, and Involuntary Unemployment Benefit Insurance.

This title does not apply to IWIF or other workers' compensation insurers.

Title 14. Entities That Act as Health Insurers.

This title does not apply to property and casualty insurers.

Title 15. Health Insurance.

This title applies only to health insurance, not property & casualty insurers.

Title 16. Life Insurance and Annuities.

This title does not apply to property & casualty insurers.

Title 17. Group Life Insurance.

This title does not apply to property & casualty insurers.

Title 18. Long Term Care Insurance.

This title does not apply to property & casualty insurers.

Title 19. Property and Casualty Insurance

This title applies to all property and casualty insurers as specified. The only provisions of Title 19 to which IWIF is subject are found in Title 19, Subtitle 4, which is specific to workers' compensation carriers, exception for § 19-403, from which IWIF is exempt.

Subtitle 1. General Provisions – IWIF is not specifically subject to these general provisions

§ 19-101 Applicability of other laws.
Provides, in pertinent part, that "in addition to any requirement of this article and to the extent not inconsistent with this article, a workers' compensation insurance policy

is subject to Titles 9 and 10 of the Labor and Employment Article.

§ 19-102 **Provisions in liability policies for payment of loss and bankruptcy of insured.**

Provides that a liability insurance policy may not require the insured to pay for liability or loss under the policy.

Also, requires that each liability insurance policy issued in the State contain a provision which states that the bankruptcy or insolvency if the insured does not release the insurer from liability and allows an injured party unable to collect a judgment against the insured to initiate an action directly against the insured's insurer.

§ 19-103 Immunity of charitable institution. (pertains to tort immunity of charitable institutions)

§ 19-104 Health care malpractice insurance. (not relevant to property and casualty insurers)

§ 19-104.1 (Repealed)

§ 19-105 Liability coverage – For individuals assisting fire and rescue departments and companies. (only governs insurers that provide "general liability insurance," not workers' compensation insurers)

§ 19-106 Same– For family day care providers (applies to insurers issuing motor vehicle insurance)

§ 19-107 **Refusals to issue or renew insurance because of location. (applies to all motor vehicle, property, and casualty insurance and requires, if the insurer plans to refuse to underwrite based upon the location of a risk, that the insurer file a geographic designation of the area where business will be refused to be issued. The designation must have an objective basis and not be arbitrary or unreasonable.**

§ 19-108 Issuance of vehicle liability policies on assessable basis. (only applies to motor vehicle policies)

§ 19-109 Subrogation of medical expense payments prohibited. (only applies to insurers issuing a policy or contract of bodily injury liability insurance on a motor vehicle garaged in the state)

§ 19-110 **Disclaimers of coverage on liability policies. (prohibits an insurer from disclaiming coverage based upon the insured's failure to cooperate or to give notice only if the insurer establishes by a preponderance of the evidence that the lack of cooperation resulted in actual prejudice to the insurer.)**

§ 19-111	Limitation on preventing recovery for property loss. (only applies to property loss resulting from a fire or hazard under an extended coverage endorsement.)
§ 19-112	**Request by bulletin. (this provision allows the Commissioner to request data from property and casualty insurers by issuing a bulletin.)**
§ 19-113	**Settlement of claims. (governs settlement of claims under a liability insurance policy for minors or persons in loco parentis – this would apply to property & casualty insurers, including workers' compensation insurers.)**
§ 19-114	Deductibles in medical malpractice policies. (only applies to medical malpractice policies.)

Subtitle 2. Homeowner's Insurance Policies (only applies to homeowners', not other property & casualty insurers)

Subtitle 3. Fire Insurance Application Act. (only applies to fire insurance)

Subtitle 4. Workers' Compensation Insurance

All of these provisions apply to IWIF, except for § 19-403.

§19-401	Repealed.
§ 19-402	Workers' compensation insurance policies – Requirements.
§ 19-403	**Same – Setting premium rates.**
§ 19-404	Same – Deductibles
§ 19-405	Same – Renewals
§ 19-406	Same – Cancellations by insurer.

Subtitle 5 – Motor Vehicle Insurance – Primary Coverage (this subtitle only applies to motor vehicle insurance.)

Subtitle 6. Insurance Pools

This subtitle authorizes insurance pools for property and casualty insurance.

Subtitle 7. Lead Hazard Coverage for Rental Property. (only applies to insurers providing coverage for rental properties.)

Subtitle 8. Maryland Health Care Provider Rate Stabilization Fund. (applies to medical professional liability insurers, not any other property and casualty insurers)

Title 20. Maryland Automobile Insurance Fund.

This title governs the Maryland Automobile Insurance Fund and is not applicable to other property and casualty insurers.

Title 21. Surety Insurance.

This title governs licensing and authority of surety insurers and is not applicable to property and casualty insurers.

Title 22. Title Insurance.

This title governs premiums, disclosures, and deposits of trust monies by title insurers only.

Title 23 Premium Financing

This title provides for registration of premium finance companies and governs premium finance agreements. Although most of the provisions relate specifically to premium finance companies and premium finance agreements, there are certain provisions which set forth specific requirements for insurers selling a policy which is the subject of a premium finance agreement.

Subtitle 1. Definitions. General Provisions.

§ 23-101 Definitions
§ 23-102 Scope of title.
§ 23-103 Investigations and examinations.

Subtitle 2. Registration.

§ 23-201 Registration required.
§ 23-202 Financial requirements.
§ 23-203 Applications for registration.
§ 23-204 Issuance or denial of registration.
§ 23-205 Term and renewal of registration.
§ 23-206 Change of information.
§ 23-207 Records.
§ 23-208 Denials, suspensions, revocations, and refusals to renew; penalties.
§ 23-209 Surrender of registration.
§ 23-210 Effect of revocation, suspension, or surrender.

Subtitle 3. Requirements for premium finance agreements.

§ 23-301 Requirements for premium finance agreements.
§ 23-301.1 Additional inclusions.
§ 23-302 Copies of premium finance agreements.

	Requires that a copy of each premium finance agreement shall be given to the agency issuing the policy or to the insurers involved.
§ 23-302.1	**Financing additional premium.** **(b) prohibits an insurer from delaying cancellation of a policy "for the sole purpose of applying premiums on deposit to any additional premium."**
§ 23-302.2	**Notice of Additional premium.** **Provides that: "[i]f an insurer receives notice of a financed insurance premium, the insurer shall, within 10 business days after its calculation, notify the insured, the insurer's producer, and premium finance company of any additional premium arising under the financed policy.**
§ 23-304	Finance charge.
§ 23-305	Initial service fee.
§ 23-306	Delinquency and collection charge.
§ 23-307	Cancellation charge; reinstatement charge.
§ 23-307.1	Electronic payment fee.
§ 23-308	Dishonored check fee.
§ 23-309	Fee for obtaining CLUE report.
§ 23-310	Perfection of premium finance agreement as secured transaction.

Subtitle 4. Cancellation of Insurance Contract Under Power of Attorney.

§ 23-401	**Compliance with statute required.** **This provision prohibits a premium finance company from cancelling a policy pursuant to a power of attorney except as provided in the subtitle.**
§ 23-401.1	Notice to insured.
§ 23-402	Notice of intent to cancel.
§ 23-403	**Cancellation of insurance contract.** **Governs how and when an insurer may cancel a policy at the request of the premium finance company.**
§ 23-403.1	**Effect of dishonored down payment.** **"If an insurer receives notice from an insurance producer or premium finance company, within 15 business days after receipt of the initial down payment for the coverage being financed, that the initial down payment has been dishonored by a financial institution, there is no valid insurance contract or insurance contracts, and the policy shall be voided."**
§ 23-404	**Notice to third parties of cancellation.**

Governs duties of an insurer to provide notice of cancellation to appropriate third parties, including governmental agencies.

§ 23-405 **Return of premium after cancellation.**
Governs how insurer is to return unearned premiums in the event that an insurance contract subject to a premium finance agreement is cancelled.

§ 23-406 Limitation on collection after cancellation.

Subtitle 5. Prohibited Acts; Penalties.

§ 23-501 MAIF add-on coverage as condition of financing premium.
§ 23-502 Splitting fees.
§ 23-503 Inducement to obtain multiple initial service fees.
§ 23-504 Excess charges.
§ 23-505 Failure to pay delinquency and collection charge.

§ 23-505.1 **Commercial automobile, fire, or liability insurance – Discrimination against premium finance company.**
"An insurer that markets through independent insurance producers, as defined in this article may not:
(1) refuse to issue or deny the issuance of a policy because premiums have been advanced by a registered premium finance company not affiliated with this insurer; or
(2) require an insured to use a particular premium finance company or other installment plan."

§ 23-505.2 **Same – Discrimination against premium financing.**

§ 23-506 **Criminal penalty.**
Provides for criminal penalties, in addition to other applicable administrative or civil penalty, for any premium finance company, insurer, or insurance producer that violates the title.

Title 24. State Controlled Mutual Societies.

This title governs state controlled mutual societies, including Medical Mutual Liability Insurance Society of Maryland and Legal Mutual Liability Insurance Society of Maryland, and would have no application to workers' compensation carriers or IWIF.

Title 25. Alternate Market Mechanisms.

This title deals with Risk Retention groups, group self insurance, agricultural group policies, and the Maryland Property Insurance Availability Act and would not be applicable to IWIF or other P&C Insurers.

Title 26. Motor Clubs

This title does not apply to IWIF or other property and casualty insurers.

Title 27. Unfair Trade Practices and Other Prohibited Acts

This title is applicable to IWIF per § 10-125(c)(iii) of the Labor and Employment Article, as well as other property and casualty insurance carriers. Note, however, that the provisions related to unfair claims settlement practices, found in Subtitle 3, do not apply to any workers' compensation carriers. *See* Ins. § 27-302(b)(2).

Subtitle 1. General Provisions.

§ 27-101	Purpose of title.
§ 27-102	Unfair trade practices prohibited.
§ 27-103	Cease and desist orders.
§ 27-104	Procedures for practices not expressly defined.
§ 27-105	Appeal by intervenor.

Subtitle 2. Unfair Methods of Competition and Unfair and Deceptive Practices.

§ 27-201	Defined.
§ 27-202.	Misrepresentations about policies.
§ 27-203	False advertisements about insurance business.
§ 27-204	False statements about insurers.
§ 27-205	False statements of financial condition of insurer.
§ 27-206	Boycott, coercion, and intimidation.
§ 27-207	Stock and contracts as inducement to insurance
§ 27-208	Unfair discrimination – Life insurance, health insurance, and annuities.
§ 27-209	Rebates – Life insurance, health insurance, and annuities
§ 27-210	Effect of §§ 27-208 and 27-209.
§27-211	Use of insurance as inducement.
§ 27-212	Rebates and unfair discrimination – Insurance other than life insurance, health insurance, and annuities.
§ 27-213	Twisting prohibited.
§27-214	Coerced or tie-in sale.
§ 27-215	Interlocking ownership or management.
§ 27-216	Improper premiums and charges
§ 27-217	Group insurance.
§ 27-218	Burial insurance benefits.
§ 27-219	Misrepresentation as insurer.
§ 27-220	Maryland Children's Health Program
§ 27-221	Prohibition against reunderwriting.

Subtitle 3. Unfair Claims Settlement Practices

Although this subtitle applies to property and casualty insurers generally, it does not apply to workers' compensation insurers. *See* Ins. § 27-302(b)(2). Thus, just as is the case with other workers' compensation insurers, the Commissioner does not have regulatory authority over IWIF's claim settlement practices.

Subtitle 4. Fraudulent Insurance Acts.

§ 27-401	Definitions.
§ 27-402	Scope of subtitle.
§ 27-403	Failure to return premiums; false or misleading claims.
§ 27-404	Doing business with unlicensed persons. (this prohibits an insurer, including IWIF, from paying a commission to an unlicensed person – the applicability of this subtitle might address the concern about so would address the concern about 10-130 not being applicable.)
§ 27-405	Unlicensed insurance producers or adjusters.
§ 27-406	False applications and statements; unregulated insurers.
§ 27-407	Solicitation.
§ 27-407.1	Intentional motor vehicle accident.
§ 27-408	Penalties. Provides that a person that violates § 27-407 or any provision of the subtitle in which the claim or subject of fraud has a value of $300 or more is guilty of a felony and may be liable for restitution, a fine, or imprisonment. If the value of the fraud or claim is less than $300, the person is guilty of a misdemeanor.

Subtitle 5. Discrimination

§ 27-501	Discrimination in underwriting. Prohibits discrimination in underwriting and provides that an insurer may not cancel or refuse to underwrite or renew a risk except by application of underwriting standards which are not discriminatory and reasonably related to the insurer's economic and business practices.
§ 27-502	Discrimination in surety insurance.
§ 27-503	Agreements with or refusal to accept business from insurance producer.
§ 27-504	Discrimination based on domestic violence.
§ 27-505	Violations; judicial review. Upon a finding of a violation of §§ 27-501, 27-503, or 27-504, the Commissioner may order the insurer to accept the risk or accept the business.

Subtitle 6. Cancellations, Non-renewals, Premium Increases, and Reductions in coverage.

§ 27-601	Definitions. Note that except where specified, "commercial insurance" does not include workers' compensation insurance.
§ 27-601.1	Transfers of policy holders between insurers within same insurance holding company system as renewal. (only applies to personal insurance and private passenger motor vehicle insurance.).
§ 27-602	Cancellation or non-renewal of policies (applies only to personal insurance.)
§ 27-603	Notice of right to replace commercial insurance following cancellation or nonrenewal. (applies only to policies of commercial insurance, which, as per § 27-601, does not include workers' compensation insurance.)
§ 27-604	Statement of actual reason for cancellation or refusal to renew of policy. (applies only to policies of personal insurance and insurance issued under the Maryland Property Insurance Availability Act.)
§ 27-605	Statement of actual reason for cancellation or refusal to renew commercial insurance (does no apply to workers' compensation insurance.)
§ 27-606	Cancellation or nonrenewal of policies – Required notices (this governs insurer planning to withdraw from a line of business.)
§ 27-607	Notice of amount of renewal and expiring policy premiums. (applies only to policies of personal insurance and insurance issued under the Maryland Property Insurance Availability Act.)
§ 27-608	Premium increase of 20% or more for commercial insurance. This provision does apply to workers' compensation insurance. It requires 45 days' notice of where the renewal premium is increasing 20% or more, but does not require the notice in situations in which the increase is due to a change in certain circumstances, such as an increase in the units of exposure, application of an experience rating plan, etc.
§ 27-609	Exclusion of named driver. (applies only to private passenger motor vehicle liability insurance.)
§ 27-610	Notice of renewal premium due. (applies only to policies of personal insurance and private passenger motor vehicle liability insurance policies subject to § 27-613.)
§ 27-611	Notice of effect of failure to renew or replace motor vehicle insurance. (applies to motor vehicle insurance being nonrenewed as a result of nonpayment of renewal premium.)

§ 27-612	Liability of insurer for coverage. Provides that if an insurer fails to provide with §§ 27-602, 27-603, 27-604, 27-605, 27-606, 27-607, 27-608, 27-610, or 27-613, the insurer is liable to the applicant for the coverage that was requested.
§ 27-613	Motor vehicle liability insurance policies. Governs cancellation, nonrenewals, or reduction in coverage for motor vehicle liability insurance policies.
§ 27-614	Private passenger motor vehicle liability insurance policies – Premium increase (does not apply to workers' compensation carriers.)

Subtitle 8. Reporting and Preventing Insurance Fraud.

§ 27-801.	Definitions.
§ 27-802	Reporting suspected insurance fraud.
§ 27-803	Insurance antifraud plan.
§ 27-804	Antifraud plans for viatical settlement providers.
§ 27-805	Required disclosure statements. This subtitle requires that claims forms contain a disclosure warning that insurance fraud is a crime.
§ 27-806.	**Penalty. Provides that the penalty for a violation of this subtitle is as provided in §§ 4-113 and 4-114.**

Subtitle 9. Miscellaneous Provisions.

§ 27-901	Credit life or disability insurance premiums.
§ 27-902	Motor vehicle insurance – Effect of age or physical handicap or disability.
§ 27-903	Premium notice to indicate kind of coverage. (requires that an insurer that submits to its policyholder a notice of initial or renewal premium due shall indicate the kind of insurance coverage for which the policyholder is being charged.)
§ 27-904	Annuity contracts – Increased Social Security payments.
§ 27-905	Motor vehicle liability insurance – Billing statements.
§ 27-906	Same – Warranty for aftermarket crash parts.
§ 27-907	Private passenger motor vehicle insurance – Discount in rate.
§ 27-908	Abrogated.
§ 27-909	Use of genetic tests. This provision seems primarily focused on health insurers; however, workers' compensation insurers are not expressly excluded. In pertinent part, this provision prohibits an insurer from releasing identifiable genetic information or the results of any genetic test to any person who is not an employee of

	the insurer or a participating health care provider without prior written authorization.
§ 27-910	Discrimination by health network. (applies only to group health networks)
§ 27-911	Change of insurance producer of record. Governs changes to insurance producers of record requires an insurer to accept and honor a request by a policyholder for a change of insurance producer of record within 30 working days after receipt of the request.
§ 27-912	Transfer of policies. Provides that an insurer that accepts a transfer of insurance business of a group of policyholders from an independent insurance producer may treat the policies transferred as renewals and not new policies for underwriting purposes.
§ 27-913	Discrimination in specified diseases or diagnoses prohibited.
§ 27-914	Collection of racial and ethnic data; nondiscrimination. This provision applies only to health insurers, nonprofit health services plans, and health maintenance organizations.

Subtitle 10. Property and Casualty Insurance – First-Party Claims.

This subtitle governs first party claims which have been denied in an absence of good faith. Claims under workers' compensation liability policies are third-party claims; therefore, this section is not applicable to any workers' compensation insurer.

Title 28. Holocaust Victims Insurance Act

This title applies to any form of life, accident, health, annuities, property, casualty, education or dowry insurance authorized in Maryland between 1929 and 1945, and provides for the claims of Holocaust victims to be documented and reviewed in a special way. Also authorizes the insurer to report to the Governor or General Assembly regarding claims filed by Holocaust victims.
It is my understanding that IWIF was established in 1914, so conceivably, there could be policies subject to this subtitle.

Title 29. Interstate Insurance Product Regulation Compact.

Pursuant to Title 29, Maryland is a member of the Interstate Insurance Product Regulation Compact. This title does not specifically address the regulation of insurers.

Attached hereto is an outline of the entire insurance article. For each title and subtitle, I have specified the areas of regulation to which IWIF is subject and the areas from which it is exempt from regulation. Provisions in bold type are those from which IWIF is exempt, but which arguably relate to consumer protection protections and/or financial soundness, which are the areas of regulation the MIA has been ordered to study. In certain areas, I have explained the significance of a statutory provision which is applicable to IWIF in order to distinguish or compare other portions of the Article to which IWIF is subject.

ATTACHMENT B

- A summary of the provisions of the Insurance Article which are applicable to other property and casualty insurers, but from which IWIF is exempt.

SUMMARY OF PROVISIONS WHICH DO NOT APPLY TO IWIF

The following provisions potentially relate to consumer protection and financial soundness and do not apply to IWIF.

§ 4-101	Certificate of Authority Required.
§ 4-102	Qualifications of Insurers.
§ 4-103	Capital and surplus requirements – In general.
§ 4-104	Capital stock requirements.
§ 4-105	Surplus assets or funds required.
§ 4-106	Deposit of securities.
§ 4-107	Service of Process.
§ 4-108	Applications for initial certificate of authority.
§ 4-109	Issuance or disapproval of initial certificate of authority.
§ 4-110	Contents of certificate of authority.
§ 4-111	Scope of certificate of authority.
§ 4-112	Term and renewal of certificate of authority.
§ 4-113	Denials, refusals to renew, suspensions, and revocations. Authorizes the Commissioner to deny, refuse to renew, suspend, or revoke a certificate of authority for a number of reasons, including insolvency, untrustworthy management, engaging in bad faith transactions, refusing to be examined by the Commissioner, and violating any provision of the Insurance Article. In addition to suspension, refusal to renew, or revocation, or as an alternative to those, the Commissioner may impose a penalty of not less than \$100 but not more than \$125,000 for each violation and may require the insurer to make restitution to any person who has suffered financial injury as a result of the violation of the article.
§ 4-114	Cease and desist orders. Authorizes the Commissioner, without notice and before hearing, to issue an order requiring an insurer to "immediately cease and desist from writing insurance in the State if it appears . . . (1) that the insurer is (i) conducting its business and affairs in a manner that threatens to make it insolvent or that is hazardous to its policyholders, creditors, or the general public; or (ii) engaged in an act, practice, or transaction that constitutes grounds making the insurer subject to conservation or liquidation proceedings; and (2) irreparable loss and injury to the property and business of the

	insurer or the general public has occurred or may occur unless the Commissioner acts immediately.
§ 4-403	Prohibits disclosure of insured's medical records. (prohibits an insurer or an insurance service organization whose functions include the collection of medical data from disclosure of medical records except under certain circumstances.)

Title 5, Subtitle 6. Investments of Insurers Other than Life Insurers.

IWIF's investments must be in accordance with this section, but this subtitle is not listed as one which the Commissioner may enforce with respect to IWIF.

§ 5-601	Scope of Subtitle. Applies to all domestic insurers other than life insurers.
§ 5-602	Investments of foreign or alien insurers.
§ 5-603	Date when eligibility of investment determined.
§ 5-604	Authorization of investments and loans.
§ 5-605	Prohibited investments and loans.
§ 5-606	Limitation on amount of investments.
§ 5-607	Investment requirements.
§ 5-608	Classes of reserve investments.
§ 5-506	Unlawfully acquired investments.

Title 6. Taxes and Fees.

This title requires that insurers pay certain taxes and fees. This does not apply to IWIF. Because Title 6 is concerned primarily with the generation of revenue, the exemption of IWIF from Title 6 is likely not related to "consumer protections and financial soundness."

Title 10. Regulation of Insurance Professionals.

Most of these requirements apply to producers, rather than to insurers. However, I have highlighted areas in which insurers are subject to regulation in connection with appointments or acts of producers.

§ 10-118	Appointments and terminations. Requires insurers to maintain a producer register and to notify the Commissioner when there is a termination of an appointment, employment, contract, or other business relationship with an insurance producer.

§ 10-127	Cancellation of policy if premiums paid to insurance producer. Provides that an insurer may not cancel a policy for nonpayment of premium if the premium due on the policy has been paid to the insurance producer.
§ 10-130	Commission only to licensed insurance producer. Prohibits payment of commission, fee, reward, or other consideration of soliciting, selling or negotiating insurance policy to any person other than a licensed producer.
§ 10-130.1	General penalty. (provides for penalties criminal penalties for violations of certain statutes, including § 10-130)

Title 11. Insurance Rating Law.

IWIF is exempt from the Commissioner's regulation with respect to its rates. Thus, none of the provisions in Title 11 are applicable to IWIF. With respect to IWIF, "premium rates" are determined by the Board of the Fund. See LE § 10-130.

Title 19. Property and Casualty Insurance.

§ 19-101	Applicability of other laws. Provides, in pertinent part, that "in addition to any requirement of this article and to the extent not inconsistent with this article, a workers' compensation insurance policy is subject to Titles 9 and 10 of the Labor and Employment Article.
§ 19-102	Provisions in liability policies for payment of loss and bankruptcy of insured. Provides that a liability insurance policy may not require the insured to pay for liability or loss under the policy. Also, requires that each liability insurance policy issued in the State contain a provision which states that the bankruptcy or insolvency if the insured does not release the insurer from liability and allows an injured party unable to collect a judgment against the insured to initiate an action directly against the insured's insurer.
§ 19-107	Refusals to issue or renew insurance because of location. (applies to all motor vehicle, property, and casualty insurance and requires, if the insurer plans

to refuse to underwrite based upon the location of a risk, that the insurer file a geographic designation of the area where business will be refused to be issued. The designation must have an objective basis and not be arbitrary or unreasonable.

§ 19-110 Disclaimers of coverage on liability policies. (prohibits an insurer from disclaiming coverage based upon the insured's failure to cooperate or to give notice only if the insurer establishes by a preponderance of the evidence that the lack of cooperation resulted in actual prejudice to the insurer.)

§ 19-112 Request by bulletin. (this provision allows the Commissioner to request data from property and casualty insurers by issuing a bulletin.)

§ 19-113 Settlement of claims. (governs settlement of claims under a liability insurance policy for minors or persons in loco parentis – this would apply to property & casualty insurers, including workers' compensation insurers.)

Subtitle 4. Workers' Compensation Insurance

§ 19-403 Same – Setting premium rates.

Title 23. Premium Financing.

§ 23-302 Copies of premium finance agreements.
Requires that a copy of each premium finance agreement shall be given to the agency issuing the policy or to the insurers involved.

§ 23-302.1 Financing additional premium.
(b) prohibits an insurer from delaying cancellation of a policy "for the sole purpose of applying premiums on deposit to any additional premium."

§ 23-302.2 Notice of Additional premium.
Provides that: "[i]f an insurer receives notice of a financed insurance premium, the insurer shall, within 10 business days after its calculation, notify the insured, the insurer's producer, and premium finance company of any additional premium arising under the financed policy.

Subtitle 4. Cancellation of Insurance Contract Under Power of Attorney.

§ 23-401 Compliance with statute required.

This provision prohibits a premium finance company from cancelling a policy pursuant to a power of attorney except as provided in the subtitle.

§ 23-403 Cancellation of insurance contract.

Governs how and when an insurer may cancel a policy at the request of the premium finance company.

§ 23-403.1 Effect of dishonored down payment.

"If an insurer receives notice from an insurance producer or premium finance company, within 15 business days after receipt of the initial down payment for the coverage being financed, that the initial down payment has been dishonored by a financial institution, there is no valid insurance contract or insurance contracts, and the policy shall be voided."

§ 23-404 Notice to third parties of cancellation.

Governs duties of an insurer to provide notice of cancellation to appropriate third parties, including governmental agencies.

§ 23-405 Return of premium after cancellation.

Governs how insurer is to return unearned premiums in the event that an insurance contract subject to a premium finance agreement is cancelled.

§ 23-406 Limitation on collection after cancellation.

Subtitle 5. Prohibited Acts; Penalties.

§ 23-505.1 Commercial automobile, fire, or liability insurance – Discrimination against premium finance company.

"An insurer that markets through independent insurance producers, as defined in this article may not: (1) refuse to issue or deny the issuance of a policy because premiums have been advanced by a registered premium finance company not affiliated with this insurer; or

(2) require an insured to use a particular premium finance company or other installment plan."

§ 23-505.2 Same – Discrimination against premium financing.

§ 23-506 Criminal penalty.

Provides for criminal penalties, in addition to other applicable administrative or civil penalty, for any premium finance company, insurer, or insurance producer that violates the title.

Title 28. Holocaust Victims Insurance Act

This title applies to any form of life, accident, health, annuities, property, casualty, education or dowry insurance authorized in Maryland between 1929 and 1945, and provides for the claims of Holocaust victims to be documented and reviewed in a special way. Also authorizes the insurer to report to the Governor or General Assembly regarding claims filed by Holocaust victims.