

## APPENDIX IV

### I. DEFINITIONS

The definitions in the Agreement apply to this Appendix unless otherwise indicated herein.

**Experienced agent** means a person, licensed by the State in which the person does business under contract with a Company or its affiliate to sell and service eligible crop insurance contracts, and who has: (1) previously sold or serviced an eligible crop insurance contract; (2) completed one full calendar year of sales and service; and (3) completed all training requirements for a new agent and has completed and is current on certification requirements as may be required by FCIC.

**Experienced loss adjuster** means a person who has: (1) previously adjusted claims for losses on an eligible crop insurance contract; (2) completed one calendar year of loss adjustment, and (3) completed the training requirements for a new loss adjuster and has completed and is current on certifications requirements as may be required by FCIC.

**FSA** has the same meaning as the term “Farm Service Agency” in section 1 of the Basic Provisions.

**“Field inspections”** means a visit to the policyholder’s farming operation for the purpose of making findings necessary to determine eligibility, compliance with program terms and conditions, the correct premium and any indemnity, prevented planting or replant payment, whether agents and loss adjusters have complied with all applicable procedures and include, but are not limited to, reviews for preliminary and final loss adjustment, pre-harvest or growing season inspection, and pre-acceptance inspections, the verification of adequate records, a determination that the reported practice is being carried out in accordance with good farming practices, a determination of whether the crop has been replanted, or to evaluate agent or loss adjuster conduct or the circumstances of a loss.

**“File review”** means a review of documents contained in a policyholder’s file maintained by the Company or an affiliate to verify that the information to support that a claim’s approval or denial is appropriate and accurate based on information required to be obtained under the applicable procedures and that supporting documents, including actuarial materials, have been properly used in document completion.

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**Inspection** means the examination as applicable of the insured crop, the information or data recorded on documents submitted to establish the premium, liability, indemnity or prevented planting or replant payment or any other information that may be necessary to determine whether the crop insurance contract constitutes an "eligible crop insurance contract" or the agent or loss adjuster has complied with procedures. At a minimum, the review process entails the verification of the information or data to determine whether the information was timely submitted and accurate.

**New agent** means a person, licensed by the State in which the person does business under contract with Company or an affiliate to sell and service eligible crop insurance contracts on behalf of the Company, who has not: (1) previously sold or serviced an eligible crop insurance contract; or (2) completed one full calendar year of sales and service.

**New loss adjuster** means a person who has not: (1) previously adjusted claims for losses on an eligible crop insurance contract; or (2) completed one full calendar year of loss adjustment.

**Verification** means the determination of whether information submitted is true and accurate through independent means in accordance with procedures. With respect to certifications, asking the provider of the information whether the information is true and accurate does not constitute verification. Information from independent third parties or independent documentation must be obtained.

## II. TRAINING OF AGENTS, LOSS ADJUSTERS, AND OTHER PERSONNEL

### A. GENERAL COMPANY RESPONSIBILITIES

In general, the Company is responsible for:

- (1) Identifying and documenting the training needs of the employees, agents, agency employees, loss adjusters and contractor that act on behalf of the Company with respect to the applicable procedures and requirements associated with selling and servicing eligible crop insurance contracts.
- (2) Training all persons identified in paragraph (1) in a timely manner so that program delivery, participation, and operation will not be adversely affected.
- (3) Maintaining and retaining data required by section II.A.8. of the Agreement electronically, or by hard copy, in order to adequately evaluate the historical performance of such persons.
- (4) Conducting other training that may be required by FCIC. Nothing in these requirements precludes the Company from providing training that exceeds these requirements.

### B. SALES TRAINING CURRICULUM AND REQUIREMENTS

- (1) Training curriculum developed by the Company must include those eligible crop insurance contracts which the Company indicates in Appendix II it will be selling or servicing in the State, and include at a minimum (for new agents and applicable employees, comprehensive information on all of the following, and for experienced agents and applicable employees, comprehensive information on updates or changes in the following), sufficient information to make such persons proficient in:

- (a) The meaning of the terms and conditions of the Common Crop Insurance Policy, Basic Provisions and applicable Crop Provisions, published at 7 C.F.R. part 457, and the other available plans of insurance such as the Group Risk Plan published at 7 C.F.R. part 407, and the revenue insurance plans, pilot programs, and other plans of insurance found on FCIC’s website at www.rma.usda.gov, and any changes thereto;
  - (b) All applicable endorsements, Special Provisions and options and any changes thereto;
  - (c) The benefits and differences between the applicable plans of insurance specified in subparagraph (a);
  - (d) The actuarial documents and their usage;
  - (e) The requirements in the procedures applicable to the sales and service of eligible crop insurance contracts and any changes thereto;
  - (f) How to properly fill out and submit all applicable forms, documents, notices and reports;
  - (g) The requirements under applicable Federal civil rights statutes and methods to encourage program participation, including participation of limited resource, women, minority, and under served producers or in under served areas;
  - (h) The benefits of the available risk management products and applicability and suitability to farming conditions and operations in the relevant area;
  - (i) How to recognize anomalies in reported information and common indicators of misrepresentation, fraud, waste or abuse, the process to report such to the Company, and appropriate actions to be taken when anomalies or evidence of misrepresentation, fraud, waste or abuse exist; and
  - (j) Other requirements as may be determined by FCIC.
- (2) Before the Company may permit persons identified in subsection A. to sell or service any eligible crop insurance contract:
- (a) The new agent or other applicable person (including any other person who solicits or otherwise promotes crop insurance sales on behalf of the Company) must participate in a structured training program of at least 12 hours on all of the items listed in paragraph (1).
  - (b) The experienced agent or other applicable person must annually complete at

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least 3 hours of structured training, on updates or changes specifically related to the items listed in paragraph (1), or that are identified by FCIC or the Company as deficient during the quality control reviews or processing of the sales related documents.

- (c) All agents and other applicable person must pass a basic competency test before they can sell or service an eligible crop insurance contract (all results must be maintained by each Company in accordance with section II.A.8.a. and IV.G. of the Agreement). Basic competency tests must specifically relate to the items listed in paragraph (1) and determine the proficiency of the person who completed the required training to sell and service eligible crop insurance contracts. Additionally, the Company must review the test results and document follow-up training initiatives for any area of identified weakness on the part of any one or more persons.
- (d) All agents and applicable persons must retake and pass the basic competency test every three years.
- (e) If the agent or other applicable person was not employed by or did not contract with the Company in previous years, the Company must obtain and have available upon request, documentation that the agent or other applicable person has passed the basic competency test within the past 3 years with another AIP.

#### C. LOSS ADJUSTMENT TRAINING CURRICULUM AND REQUIREMENTS

- (1) Training curriculum developed by the Company must include those eligible crop insurance contracts which the Company indicates in Appendix II it will be selling or servicing in the State, and include at a minimum (for new loss adjusters or applicable employees, all of the following and for experienced loss adjusters or applicable employees, updates and changes), sufficient information to make such persons proficient in:
  - (a) The items listed in subsections B.(1)(a), (b), (c), (d), (f), (i), and (j);
  - (b) The requirements in the procedures applicable to adjustment of claims for eligible crop insurance contracts and any changes thereto;
  - (c) How to properly verify the accuracy of the information contained on applicable forms, documents, notices and reports;
  - (d) How to properly determine the amount of production to be used for the purposes of determining losses;
  - (e) The requirements under applicable Federal civil rights statutes; and

- (f) Other requirements as may be determined by FCIC.
- (2) Before the Company may permit persons identified in section II.A. to adjust or sign any claim for any eligible crop insurance contract:
- (a) The new loss adjuster or other applicable person must participate in a structured training program of at least 60 hours on all of the items listed in paragraph (1) (including at least 24 hours of classroom training).
  - (b) The experienced loss adjuster or other applicable person must annually complete at least 18 hours of structured training (including at least 6 hours of classroom training), on updates or changes specifically related to the areas listed in paragraph (1) or that are identified by FCIC or the Company as deficient during the quality control reviews or processing of the sales related documents.
  - (c) All loss adjusters and other applicable persons must pass a basic competency test (all results must be maintained by each Company in accordance with section II.A.8.a. and IV.G. of the Agreement). Basic competency tests must specifically relate to the areas listed in paragraph (1) and determine the proficiency of the persons who completed the required training to accurately and correctly determine the amount of the loss and verify applicable information. Additionally, the Company must review the test results and document follow-up training initiatives for any area of identified weakness on the part of any one or more new loss adjusters or experienced loss adjusters.
  - (d) All loss adjusters and other applicable persons must retake and pass the competency test every three years.
  - (e) The Company must obtain and have available upon request, documentation for any loss adjuster or other applicable persons that has passed the basic competency test within the past 3 years with another AIP to fulfill the requirements of this paragraph.

### III. QUALITY CONTROL GUIDELINES

#### A. GENERAL COMPANY RESPONSIBILITIES

In general, the Company is responsible for:

- (1) Conducting all quality control reviews required under this section through objective and unbiased persons, who were not involved in establishing the guarantee or adjusting the loss, or in the sales or supervision of sales for the eligible crop insurance contract reviewed.

- (2) Verifying the information provided by the policyholder, agent, and loss adjuster is true and accurate through means, including, but not limited to, interviews, field inspections, file reviews, and obtaining production or other records from third parties.
- (3) Verifying that the information was provided timely.
- (4) Verifying that the crop insurance contract constitutes an eligible crop insurance contract.
- (5) Implementing procedures for detecting and reporting any instance of fraud, waste, and abuse by policyholders, employees or affiliates.
- (6) Correcting applicable monetary or actual production history discrepancies as required by FCIC and timely process such corrections to reconcile monthly accounting and statistical reports to reflect corrections, consistent with section II.C.3. of the Agreement.

(7) ~~Implementing administrative procedures to resolve and correct errors and assure accurate premium and loss determinations.~~

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- (8) Maintaining loss files containing adequate supporting documentation, loss adjuster reports or any other necessary evidence to support the payment or denial of claims, including the actions taken to verify the applicable information.
- (9) Notifying FCIC of suspected fraud, waste or abuse in accordance with section IV of this Appendix and assisting FCIC in subsequent investigations.
- (10) Establishing a process to respond to policyholder complaints received directly from the public, state insurance departments, or complaints referred to the Company by FCIC or by the Company to FCIC, documenting the complaint and actions taken by the Company in response, and providing such documentation to FCIC upon request.
- (11) Following procedures related to companion eligible crop insurance contracts in force for other persons sharing in the crop.
- (12) Retaining all documents obtained in the course of the reviews conducted and all completed forms as required by the Agreement.
- (13) Providing an outline of the plan the Company will use in carrying out its quality control program with the Plan of Operation. The quality control plan must include:
  - (a) The names and titles of the persons who will have oversight responsibilities for the reviews required under this section.

- (b) The types of reviews conducted (random sampling, FCIC designated, discretionary, etc.) and the time period when such eligible crop insurance contracts will be selected for each review.
- (c) A complete description of the process to be followed by the reviewers for conducting each of the reviews required under this section.

- (14) Conducting such other reviews (including monitoring programs) as may be determined necessary by FCIC to protect program integrity.
- (15) Taking such actions as directed by FCIC to correct systemic, procedural, or other problems revealed by the quality control reviews.
- (16) Preparing and providing to FCIC, in a form determined by FCIC, not later than April 30 following each crop year (first report will be due April 30, 2006), an annual summary report detailing the results of the quality control program that will, at a minimum:

- (a) For eligible crop insurance contracts which did not have discrepancies or incorrect information detected: Identify by contract number and crop, the name and title of the person who conducted the review for the respective eligible crop insurance contract, the date the review was completed, and the type of review conducted.

- (b) For eligible crop insurance contracts which had discrepancies or incorrect information: Identify by contract number and crop, the name and title of the person who conducted the review for the respective eligible crop insurance contract, the date the review was completed and the type of review conducted, the type of discrepancy or incorrect information detected, the monetary effect or the effect on the APH, and the corrective action taken.

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- (c) Include other relevant quality control information that may be required by FCIC (e.g., error rates).

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- (d) Such other information as may be required by FCIC.

- (17) At the request of FCIC, provide copies of documentation completed by the reviewers for any of the reviews required under this section.

- (18) Reviewing claims in excess of \$100,000 and reporting the results to FCIC in the annual report.

- (a) The review will consist of an examination of the information pertaining to the guarantee and loss, including the results of field inspections, to

determine whether the claim can be substantiated. The Company must document the verification of the reported information pertaining to the claim and the sources used for verification.

- (b) If the review reveals errors in the claim, the Company must correct the claim or deny the claim.

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## B. FCIC RESPONSIBILITIES

- (1) FCIC will evaluate the Company's annual report to assess its compliance with this Appendix.
- (2) FCIC will conduct periodic compliance evaluations of the Company's quality control programs to determine compliance with the requirements of this Appendix, assess the effectiveness of the systems, and the accuracy of the Company's conclusions with regard to the quality control reviews conducted under this section.
- (3) FCIC will conduct periodic evaluations or reviews of the operations of the Company or its affiliates relating to the Federal crop insurance program.

## C. SPECIFIC REVIEW REQUIREMENTS

The Company is required to conduct the following reviews on a crop year basis unless otherwise specified herein.

- (1) Program Reviews.
  - (a) Review the anomalies identified by FCIC, or its designee, that suggest abnormal or unusual underwriting or loss performance and conduct reviews of eligible crop insurance contracts for which the anomalies appear, not to exceed 3 percent of indemnified eligible crop insurance contracts for the crop year, unless information from the review or other information received by FCIC leads FCIC to require the Company review additional contracts to address particular program integrity concerns.
  - (b) Review eligible crop insurance contracts identified in subparagraph (a) in order to determine whether or not such contracts are in compliance with all applicable program requirements. Eligible crop insurance contracts may be selected based on various underwriting or loss criteria, but the Company will perform a review to determine if the information used to establish coverage and pay claims is complete and accurate.
  - (c) A review will be considered acceptable if there is sufficient documentation to determine the accuracy of the original underwriting or claim information and may include field inspections, file reviews, and



obtaining documentation from third parties as necessary.

(2) APH Tolerance Reviews

(a) As provided in subparagraph (b), the Company must conduct reviews for those Category B and C eligible crop insurance contracts, as specified in the procedures, with a unit having a newly certified yield equal to or greater than 150 percent of the prior years' approved APH yield, if the database contains 3 or more years of actual records, for the crop year certified that have been identified by FCIC.

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(b) The Company must review a minimum of 10 percent of crop insurance units (including required CIH Excessive and Maximum Yield reviews) meeting the criterion in subparagraph (a). During the review process, the Company will:

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- (i) Review the production reports and yields certified on a crop basis;
- (ii) Review all units for each crop year wherein the actual yields were certified for the selected crop (For example, if the policyholder certified actual yields for the 2 most recent crop years on the current production report, all units for both years will be reviewed);
- (iii) Obtain acceptable records, as defined in procedures, from the policyholder to determine the accuracy of the certified yields and the established unit structures;
- (iv) If the supporting records furnished are questionable, obtain the information from other sources such as grain dealers, processors, and first handlers of the commodity to verify the validity of the records and certifications;
- (v) Recalculate the yield for each unit based on the acceptable records provided by the policyholder or obtained from other sources;
- (vi) Revise production reports when the calculated yield varies by more than allowable tolerances (Approved APH tolerances and the procedures for correcting APH errors and erroneous yield certifications are contained in the procedures);
- (vii) Verify the policyholder's status as a new producer, as defined in procedures; and
- (viii) Correct any incorrect transitional yield.

(3) Conflict of Interest Reviews

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- (a) The Company must conduct inspections for eligible crop insurance contract claims of persons directly associated with the Federal crop insurance program (i.e., employees or affiliates of the Company or employees of FCIC).
- (b) The Company must notify in writing its employees and affiliates who are involved in the sale, service, or delivery of eligible crop insurance contracts, loss adjustment of eligible crop insurance contracts, or the supervision of either, of the rules regarding conflicts of interest contained in the Agreement and applicable procedure.
- (c) Applicable employees and affiliates will be required each year to submit a signed statement that verifies awareness of the conflict of interest rules and an agreement to abide by them.
- (d) In addition to the requirement in (c), and in accordance with the requirements of section IV.F.4.h. of the Agreement, applicable employees and affiliates must annually disclose the required information by the applicable acreage reporting date. Such disclosure must include the name of the policyholder or person with a substantial beneficial interest in the policyholder, and the type of relationship.
- (e) If the applicable employee or affiliate enters into a business, financial legal or familial relationship with the policyholder after the annual disclosure, the applicable employee or affiliate must disclose the information required in subparagraph (d) within 15 days of the entering the relationship.
- (f) The Company must evaluate the business, financial or legal relationship to determine whether the applicable employee or affiliate is in violation of section IV.F.4.d. of the Agreement or whether a conflict of interest review is necessary to determine if such violation has occurred. At a minimum, such reviews will be necessary when:
  - i. The applicable employee or affiliate has a familial relationship with the policyholder or a person with a substantial interest in the policyholder; or
  - ii. The business, financial relationship or legal relationship with the policyholder has the potential to produce an incentive to create or inflate a loss because the applicable employee or affiliate, or a relative of the employee or affiliate, is entitled to a portion of the proceeds of the crop or the crop insurance payment or would otherwise receive a benefit from the policyholder based on the existence of crop insurance and their relationship.

- (g) If a conflict of interest review is necessary, it will consist of a inspection for the eligible crop insurance contracts for which the conflict of interest exists.

(4) Simplified Claims Reviews

If the Company elects to use the Simplified Claims Process approved by FCIC, the Company must conduct inspections in accordance with procedures.

(5) Consecutive Loss Adjuster Reviews

In accordance with section IV.F.4.c. of the Agreement, the Company must conduct reviews on not less than 15 percent of the claims identified by FCIC to determine whether or not the claims are in compliance with all applicable program requirements.

#### IV. REPORTING SUSPECTED MISREPRESENTATION, FRAUD, WASTE, AND ABUSE

##### A. COMPANY RESPONSIBILITIES

In all cases where the Company or its affiliates reasonably suspects misrepresentation, fraud, waste or abuse based on any evidence, including but not limited to, losses, production or yields that deviate significantly from other producers in the area, unverifiable harvested production, personal knowledge that contradicts any information provided by the policyholder or any other person who provides information with respect to the eligible crop insurance contract, the Company must:

- (1) Immediately review, document, and report to FCIC such cases.
- (2) Forward all information and documents in the possession of the Company regarding the suspected misrepresentation, fraud, waste or abuse to the appropriate FCIC compliance office for the area.
- (3) If the Company's review does not find adequate evidence to support a conclusion that a misrepresentation, fraud or waste and abuse has occurred, maintain all documents relating to the complaint and any actions taken in accordance with section IV.G. of the Agreement.
- (4) Conduct a follow-up review on the policyholder in the crop year immediately following the year in which the suspected wrongdoing occurred.

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##### B. FCIC RESPONSIBILITIES

- (1) FCIC compliance field offices will monitor reports and findings of misrepresentation, fraud, waste or abuse and assist the Company in conducting inquiries to the extent possible.
- (2) In cases of actual or suspected fraud, FCIC will refer the information to the Office of Inspector General (OIG) for action.
- (3) FCIC compliance field offices will notify the Company of the actions deemed necessary by the OIG.
- (4) If the OIG declines investigation, the FCIC compliance field office will determine whether administrative action is appropriate and will notify the Company of the actions taken.

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## V. LARGE CLAIMS REVIEWS

- A. The Company must immediately notify FCIC of a potential claim on an eligible crop insurance contract, which is likely to exceed \$500,000, or such other amounts as determined by FCIC, and the production losses under such claim are likely to exceed such amount.
- B. FCIC may, at its option, review or determine the losses for potential claims that are equal to or greater than the amount specified in subsection A. FCIC reserves the right to select any potential claim for review or to participate in the loss determination. Within 3 business days of notice by the Company of a potential claim under this subsection, FCIC will notify the Company whether it will review or participate in the loss determination.
- C. If FCIC elects to review a potential claim, the Company is required to provide a copy of all documents associated with the claim as specified by FCIC.
- D. If FCIC elects to participate in the loss determination, the Company must notify FCIC of and give FCIC the opportunity to participate in all aspects of the loss adjustment process, including field inspections.
- E. If there is a dispute between FCIC and the Company with respect to FCIC's determination of a loss under this subsection, the Company will pay the claim in accordance with FCIC's approval, but retains the right to dispute FCIC's actions in accordance with the administrative appeals procedures found in 7 C.F.R. part 400.169.
- F. With respect to any claim where FCIC participates in the loss determination, or revises, modifies or corrects any claim for loss under this subsection, any dispute by the eligible producer regarding the amount of the claim must be brought against FCIC.