DEPARTMENT OF
Professional &
Financial Regulation
STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF LICENSING AND REGISTRATION

THE STATE OF COMPETITION IN THE MAINE WORKERS' COMPENSATION MARKET

Prepared by the Staff of the Maine Bureau of Insurance
December 14, 2009

John E. Baldacci
Governor

Anne Head
Commissioner

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Superintendent

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DEPARTMENT OF PROFESSIONAL
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December 21, 2009

Honorable Peter B. Bowman, Chair
Honorable Sharon Anglin Treat, Chair
Joint Standing Committee on Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

RE: Revised Annual Report on the State of Competition in the Maine Worker's Compensation Market

Dear Senator Bowman, Representative Treat, and Honorable Members of the Joint Standing Committee:

Enclosed please find a revised copy of the State of Competition in the Maine Workers' Compensation Market Report from the Superintendent of Insurance. This copy replaces the earlier version that was sent on December 21, 2009.

Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

Mila Kofman
Superintendent

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Executive Summary

Pursuant to 24-A M.R.S.A. § 2383-A the Superintendent of Insurance must report annually to the Governor and the Joint Standing Committee on Insurance and Financial Services on the status of competition in the workers' compensation market. This report examines different measures of market conditions. Workers' compensation insurance in Maine operates in an open competitive rating system. Typically, the National Council on Compensation Insurance (NCCI), the state's designated statistical agent, files annually advisory loss costs on behalf of insurers with the Bureau of Insurance. The advisory loss costs, which represent the portion of the rates that account for losses and loss adjustment expenses, must be approved by the Superintendent. Each insurer files for approval factors called loss cost multipliers. These account for company experience, overhead expenses, taxes, contingencies, investment income and profit. The advisory loss costs are multiplied by those factors to form rates for individual insurers. Other rating rules such as experience rating, schedule rating, and premium discounts also affect the ultimate premium amount paid by an individual employer.

On October 1, 2009 NCCI filed with the Bureau for an overall 7.0% decrease in advisory loss costs effective January 1, 2010. The filing was approved by the Bureau. Declining claims frequency since policy year 2000 has contributed to Maine's improved underwriting results. The average indemnity cost per case slightly increased in policy year 2007, the most recent data available. There was also a slight increase in medical benefit costs in policy year 2007; the average medical benefit cost per case has risen significantly since policy year 2000. This development is important because medical benefits constitute 53 percent of the total benefit costs in Maine. Medical costs and services are rising faster than overall inflation, as measured by the Consumer Price Index, and are rising faster than wages.

The decrease in the proposed advisory loss costs is not evenly distributed across all rating classifications. All five industry groups experienced declines, ranging from just under five percent to greater than 10 percent.

Industry Group	Percent Decrease
Miscellaneous	-9.3%
Manufacturing	-5.1%
Office Clerical	-4.8%
Contracting	-10.4%
Goods & Services	-4.9%

The change in loss costs for individual classifications within each group varies depending on the experience within each classification. Some employers will see premium decreases while other employers will see increases.

Maine Employers' Mutual Insurance Company (MEMIC), although they actively compete in the voluntary market, functions as the insurer of last resort in Maine. Although MEMIC's market share has dropped each of the last four years, the workers' compensation insurance market is still very concentrated. Much of the business is written by a small number of companies. There are, however, continued signs that pricing has become more competitive. Some insurers have lowered their rates in hopes of attracting business. Additionally, the number of insurance companies becoming licensed to provide workers' compensation coverage in Maine has been on the increase for several years. Insurers other than MEMIC do not have to offer coverage to employers and can be more selective in choosing which employers to underwrite. In order to become eligible for lower rates, an employer needs to have a history of few or no losses, maintain a safe work environment, be willing to follow loss control recommendations, and strive to prevent and control any future losses.

MEMIC, which writes coverage both competitively and for employers not able to obtain coverage from other sources had a 0.3 percent decrease in market share in 2008. Though the decrease was slight, it marked the fourth straight decrease in market share for MEMIC, with a reduction in market share of four percent since 2004. Twenty eight insurers wrote more than $1 million each in annual premium in 2008; this was one more company writing at that volume of business than in 2007. The top 10 insurance groups wrote 94% of the workers' compensation insurance in the state in 2008, the same as last year. Employers that maintain a safe work environment and control their losses should continue to see insurers competing for their business. New businesses and businesses with unfavorable loss experience have few options available. An insurer's willingness to offer credits and other pricing reductions also may be affected by expected investment returns and other marketing objectives.

Self-insured employers represented over 44% of the overall workers' compensation market in 2008, the third consecutive increase after reaching a low of about 40% in 2005. Self-insurance continues to be a viable alternative to the insurance market for some employers.

I. Introduction and Background

A. Introduction

This report examines different measures of market competition in the Maine workers' compensation insurance market. Among the measures are: 1) the number of insurers providing coverage; 2) insurer market share; 3) changes in market share; 4) ease of entry into and exit out of the workers' compensation insurance market; and 5) comparison of variations in rates.

The tables in this report that show accident year and calendar year loss ratios contain five years of information. Loss ratios are updated each year to account for how costs have developed for claims opened, claims closed and any claims reopened during the year. Other tables and graphs contain up to ten years of information.

The recently approved advisory loss cost filing produced the second largest decrease in loss costs since 1998. The largest decrease of 7.6% in NCCI's loss cost occurred in 2009. According to NCCI, there were seven consecutive decreases in lost-time claims through 2007. The frequency of injuries in Maine continues to decline but at a slower rate than it has in past years, while indemnity costs—a measure of severity—increased slightly. Indemnity costs tend to be higher for older workers, so, as Maine's population ages, this suggests that there may be an increase in indemnity costs in the future. Maine's share of the population between ages 45 and 64 is expected to peak in 2010, although people may work longer due to the economy. Medical costs continue to increase. Forty seven percent of Maine's total benefit costs are for indemnity and 53 percent are for medical.

Although Maine's market has become quite concentrated and MEMIC writes a large volume of business, there are still many insurers writing some workers' compensation coverage in Maine. Insurers, however, are still being conservative in selecting businesses to cover or to renew. An insurer can decide to non-renew business for any reason as long as it provides the policyholder with the statutorily required advance written notice. Self-insurance provides a viable alternative for some Maine employers.

B. Accident Year, Calendar Year and Policy Year Reporting

Workers' compensation is a long-tail line of insurance, meaning payments for claims can continue over a long period of time after the year in which the injury occurred. Thus, amounts to be paid on open claims must be estimated. Insurers collect claim, premium and expense information to calculate financial ratios. This information may be presented on an accident year, calendar year, or a policy year basis. This report primarily shows information on an accident year basis. However, a description of each method and its use in understanding workers' compensation follows:

- Accident year experience matches all losses for injuries occurring during a given 12-month period of time (regardless of when the losses are reported) with all premiums earned during the same period of time (regardless of when the premium was written). The accident year loss ratio shows the percentage of earned premium that is being paid out or expected to be paid out on claims. It enables the establishment of a basic premium reflecting the pure cost of protection. Accident year losses or loss ratios are used to evaluate experience under various laws because claims are tracked by year and can be associated with the law in effect at the time of the injury. This information is projected because claim costs change over time as claims further develop, with the ultimate result determined only after all losses are settled. Therefore, the ratios for each year are updated on an annual basis.

- Calendar year loss ratios match all losses incurred within a given 12-month period (though not necessarily for injuries occurring during that 12-month period) with all premiums earned within the same period of time. Because workers' compensation claims are often paid out over a long period of time, only a small portion of calendar year losses are attributable to premiums earned that year. Many of the losses paid during the current calendar year are for claims occurring in past calendar years. Calendar year loss ratios also reflect aggregate reserve adjustments for past years. For claims expected to cost more, reserves are adjusted upward; for those expected to cost less, reserves are adjusted downward. Calendar year incurred losses are used primarily for financial reporting. Once calculated for a given period, calendar year experience never changes.

- Policy year experience segregates all premiums and losses attributed to policies having an inception or a renewal date within a given 12-month period. The total value of all losses for injuries occurring during the policy year (losses paid plus loss reserves) are assigned to the period regardless of when they are actually reported. They are matched to the fully developed earned premium for those same policies. The written premium will develop into earned premium for those policies. The ultimate incurred loss result cannot be finalized until all losses are settled. It takes time for the losses to develop, so it takes about two years before the information is useful. This data is used to determine advisory loss costs.

C. The Underwriting Cycle

Insurance tends to go through underwriting cycles, successive periods of increasing or diminishing competition and increasing or decreasing premiums. These cycles are important factors in the short-term performance of the insurance industry. Hard markets are periods in which there is less capacity and competition and fewer insurers willing to write business. Soft markets are periods of increased competition identified by more capacity to write business, falling rates, and growing loss ratios, which can result in insurer operating losses. This can eventually force loss ratios to critical levels, causing insurers to raise their rates and be more selective in writing business. Insurer profitability and surplus eventually recover. This situation, in time, spurs another round of price-cutting, perpetuating the cycle.

In the late 1980s and early 1990s, the Maine's workers' compensation insurance market was hard. From the mid-1990s until about 2000, the market was considered soft. After 2000 insurance markets generally became less competitive, and this trend increased following the September 11, 2001 attacks. Over the last several years, the Maine market hardened as insurers tightened their underwriting standards and reduced premium credits. However, recent signs are that the Maine market is softening. More insurers have become licensed to write workers' compensation insurance and some have reduced their rates.

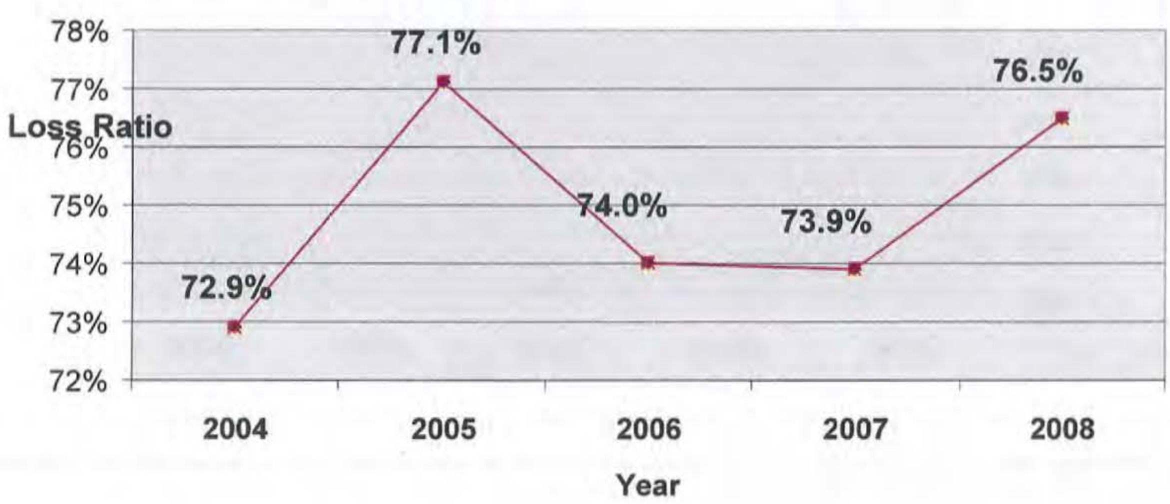
II. Recent Experience

A. Accident Year Loss and Loss Adjustment Expense Ratios

The accident year loss ratio shows the percent of earned premium used to fund losses and their settlement. Loss ratios that exceed 100% mean that insurers are paying out more in benefits than they collect in premiums. A decrease in these loss ratios over time may reflect increased rates, improved loss experience, or changes in reserve (i.e., the amount of money expected to be paid out on claims). Conversely, an increase in the loss ratios may reflect decreased rates or worsening loss experience. The loss ratio does not include insurers' general expenses, taxes and contingencies, profit or investment income.

Exhibit I shows the accident year loss ratios for the most recent five years available. Loss ratios in this report are based on more mature data and may not match the loss ratios for the same years in prior reports. Claim costs and loss adjustment expenses for prior years are further developed, so the loss ratios reflect more recent estimates of what the claims will ultimately cost. The accident year loss ratio has ranged from about 73% to slightly over 77% for the past five years. The 2008 loss ratio was 76.5%, indicating that $76.50 is expected to be paid out for losses and loss adjustment expenses for every $100 earned in premium.

Exhibit I. Accident Year Loss and Loss Adjustment Expense Ratios



Source: National Council on Compensation Insurance

B. Calendar Year and Accident Year Loss Ratios

Calendar year loss ratios compare losses incurred with premium earned in the same year (although only a small portion of the losses are attributable to premiums earned that year). Calendar year loss ratios reflect payments and reserve adjustments (changes to estimated ultimate cost) on all claims during a specific year, including those adjustments from prior injury years. While calendar year data is relatively easy to compile and is useful in evaluating the financial condition of an insurance company, accident year data is more useful in evaluating the claim experience during a particular period because it better matches premium and loss information. In addition, the accident year experience is not distorted by reserve adjustments on claims that occurred in prior periods, possibly under a different law. These ratios do not include amounts paid by insurers for sales, general expenses and taxes, nor do they reflect investment income. The movement of the calendar year loss ratios from below to above the accident year loss ratios may reflect increases in reserves on prior accident years.

Exhibit II shows calendar year and accident year loss ratios. The calendar year loss ratio of 77.9% in 2004 was the highest in the period of 2004-2008. Since that time it dropped to 70.3% in 2008, which was about the same as in 2005 when it was at a low of 69.1%. The accident year loss ratio has stayed within a four or five percent band over the period of 2004-2008, ranging from a high of 77.1% to a low of 72.9%. In 2008 it was 76.5%.

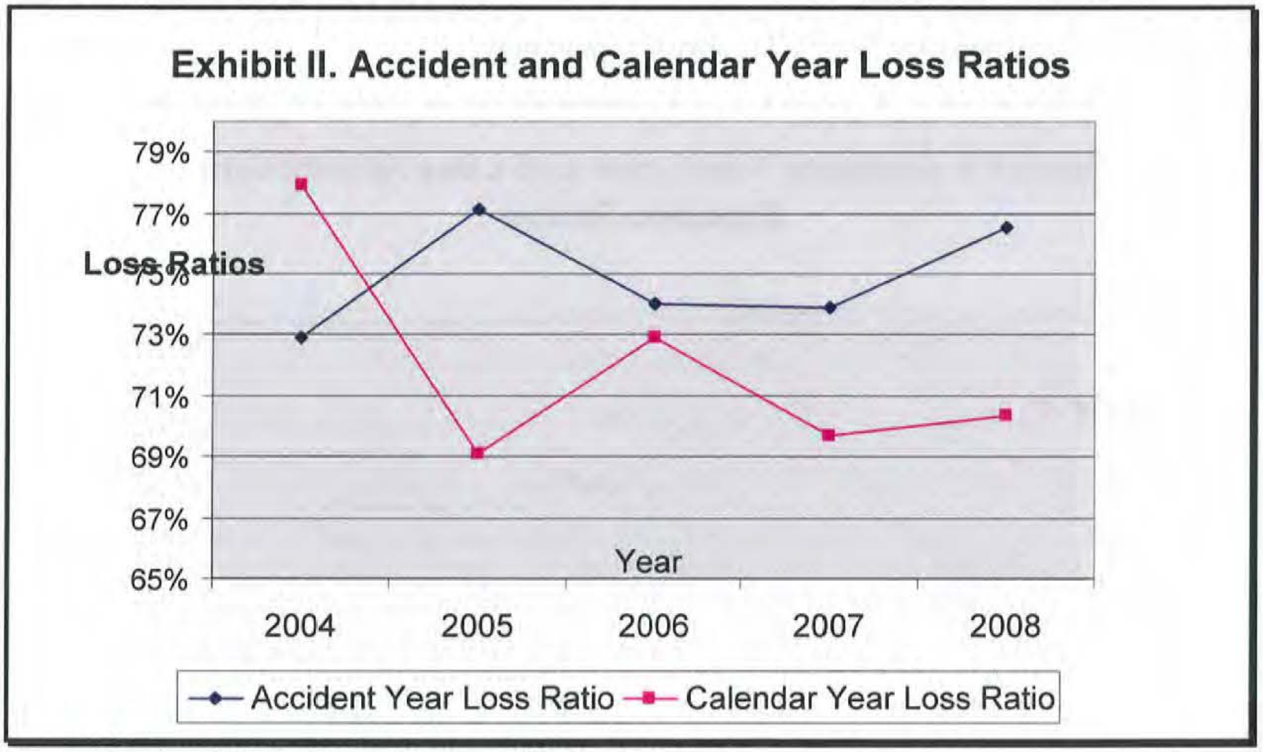


Exhibit II. Accident and Calendar Year Loss Ratios

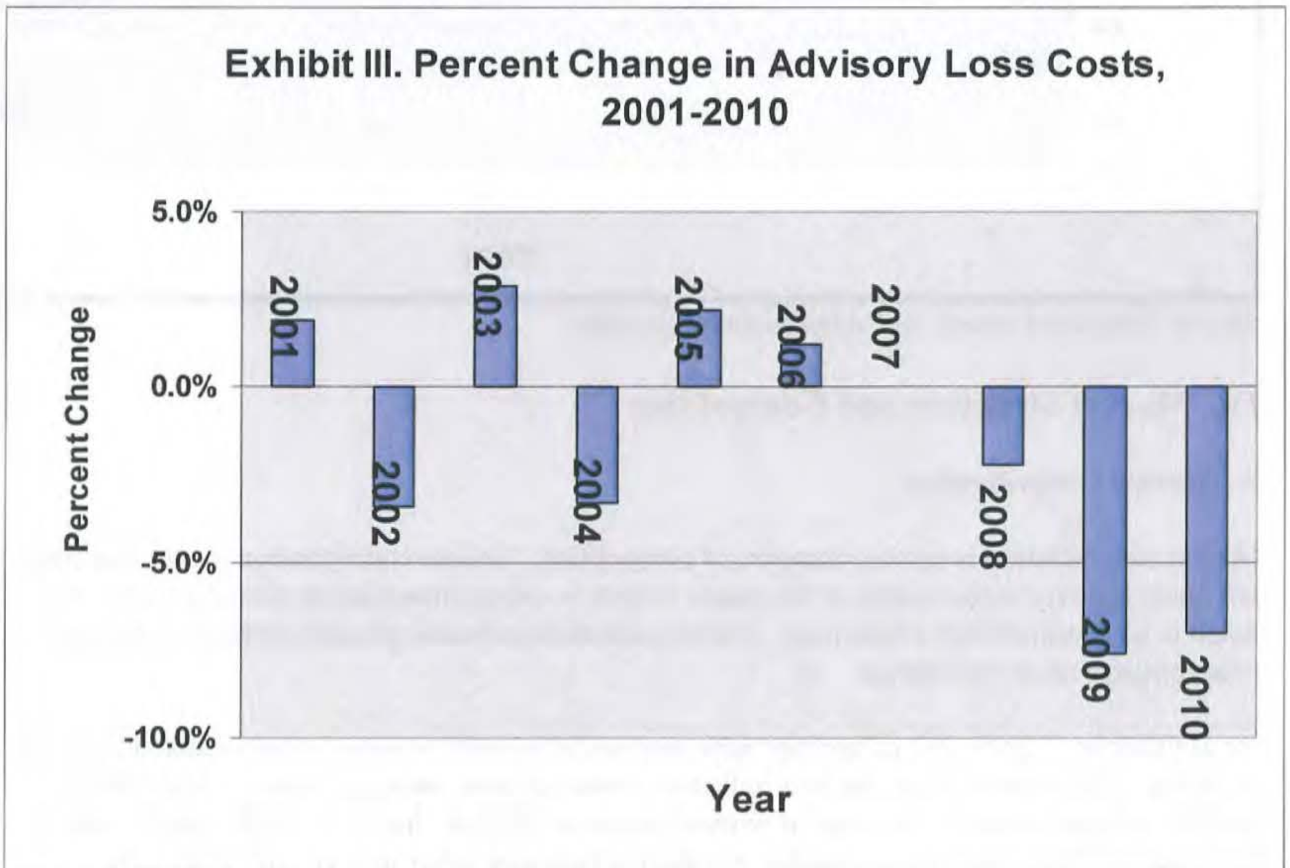
Source: National Council on Compensation Insurance

III. Losses in Workers' Compensation

A. Changes in Advisory Loss Costs

The National Council on Compensation Insurance (NCCI) files advisory loss costs on behalf of workers' compensation carriers. Advisory loss costs reflect the portion of the rate that applies to losses and loss adjustment expenses. Advisory loss costs do not account for what insurers pay for general expenses, taxes and contingencies, nor do they account for profits and investment income. Under Maine's competitive rating law, each insurance carrier determines what to load into premium to cover those items.

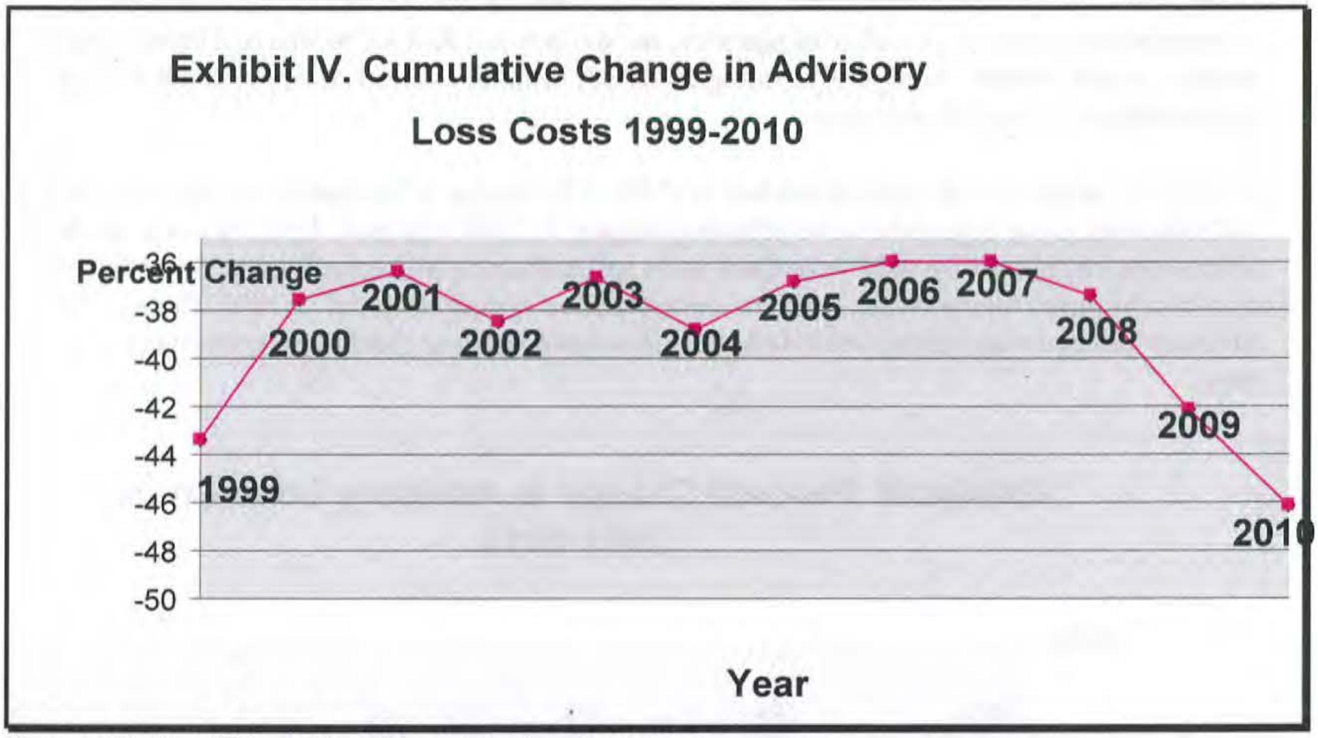
In 2009, the advisory loss costs decreased by 7.6%. The Bureau of Insurance recently approved a 7.0% decrease in advisory loss costs effective January 1, 2010. Advisory loss costs will be about sixteen percent lower than they were three years ago and nearly 46 percent lower than when the most recent major reform of the workers' compensation system occurred in 1993. Changes in the advisory loss costs tend to lag behind changes in actual experience and to precede changes in rates.



Source: National Council on Compensation Insurance

B. Cumulative Changes in Advisory Loss Costs

Exhibit IV shows the cumulative changes in loss costs over the past twelve years. After three years of increases or no change, the advisory loss costs declined during the past three years, with this year's decline being the second largest decline in twelve years.



Source: National Council on Compensation Insurance

IV. Market Structure and Competition

A. Market Concentration

Market concentration is another measure of competition. Greater concentration means that there are fewer insurers in the market or insurance written is concentrated among fewer insurers. The result is less competition. Conversely, less concentration indicates greater competition because more insurers are in the market.

As of October 1, 2009, 292 companies were authorized to write workers' compensation coverage in Maine. This number is not the best indicator of market concentration because some insurers have no written premium. In terms of written premium, MEMIC has 61% of the insured market. Although MEMIC has been successful in retaining business, other insurers are selectively increasing their market share. The following table shows the number of carriers by premium level for those carriers writing workers' compensation insurance in 2008. The number of carriers writing greater than $1 million dollars in written premium has increased by one but the number of insurers writing more than $10,000 in premium decreased by nine.

Table I: Number of Companies by Level of Written Premium--2008	
Amount of Written Premium	Number of Companies At That Level
>$10,000	111
>$100,000	79
>$1,000,000	28

Source: Annual Statements Filed with the Bureau of Insurance. Total written premium for 2008 was approximately $223 million.

Looking only at market concentration does not give a complete picture of market competition. A discussion of self-insurance, found in the Alternative Risk Markets section, gives a more balanced perspective.

B. Herfindahl Hirschman Index

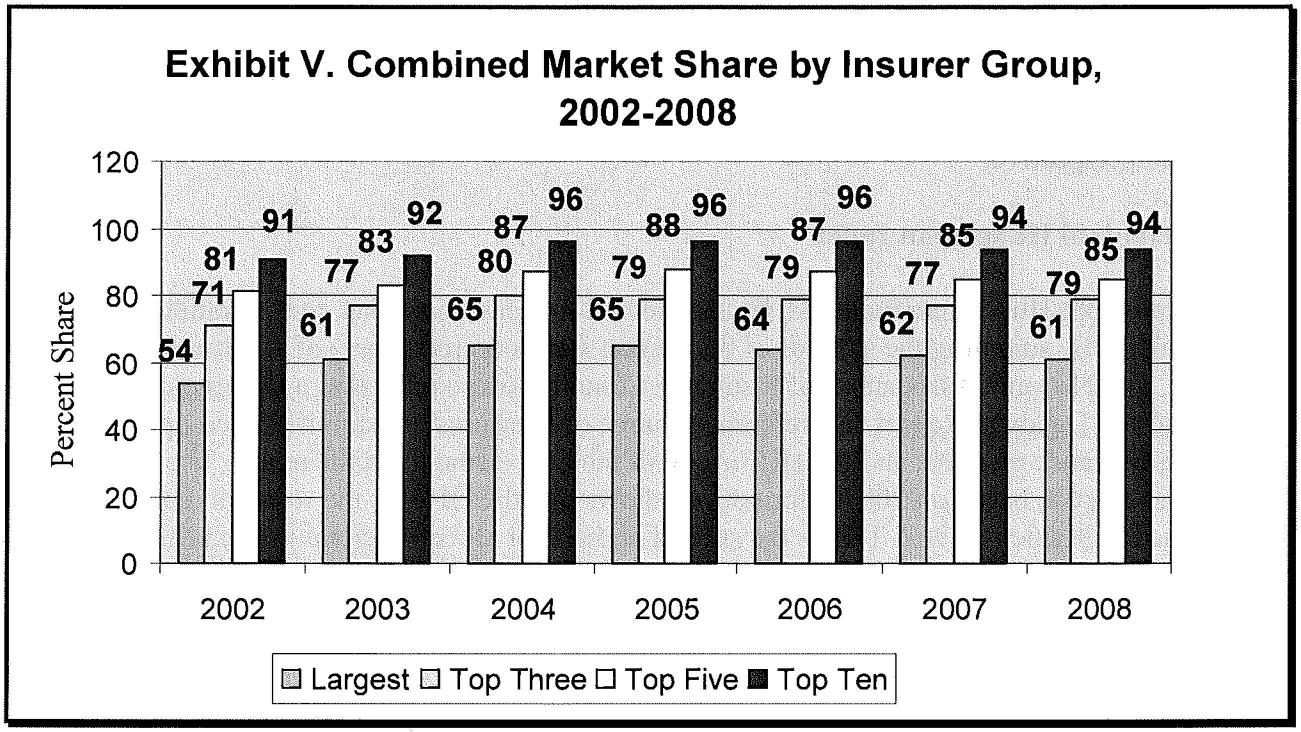
The Herfindahl-Hirschman Index (HHI) is a method to measure market concentration. The HHI is calculated by summing the squares of the market shares (percentages) of all groups in the market. The National Association of Insurance Commissioners publishes a Commercial Lines Competition Database Report as a reference source of measures to examine the competitiveness of state insurance markets, and the HHI is one of the data elements in the report. The 2008 Database Report, based on 2007 information, shows that the HHI for the workers' compensation insurance in Maine is 3,962. This is the second highest for all commercial lines in Maine behind medical malpractice which is 4,311. All other commercial lines were between 407 and 809. As mentioned in the Database Report, there is no precise point at which the HHI indicates that a market or industry is so concentrated that competition is restricted. The U.S. Department of Justice's guideline for corporate mergers uses 1800 to indicate highly concentrated markets and the range from 1000 to 1800 to indicate moderately concentrated markets. A market with an HHI below 1000 is considered not concentrated. Applying the HHI to the Maine's workers' compensation market might not be a helpful gauge of this market for two reasons. First, the Maine legislature created an employer owned mutual insurer created to replace a highly concentrated residual market where other insurers were reluctant to write actively in this state. Second, the market has a high percentage of employers self-insured individually or in a group.

Source: NAIC 2007 Commercial Lines Competition Database Report.

C. Combined Market Share

An insurance group is a carrier or group of carriers under common ownership. Exhibit V illustrates the percent market share of the largest commercial insurance group, in terms of written premium, as well as the percent market share for the top three, top five and top 10 insurer groups. Maine Employers' Mutual Insurance Company (MEMIC) has the largest market share. Its share has ranged between 61 and 65 percent for the last six years.

The market share of the top 5 and the top 10 insurer groups remained the same in 2008 as it did in 2007, with shares of 85 and 94 consecutively. Groups outside of the top 10 groups accounted for only 6% of the workers' compensation premium in Maine. In terms of premium dollars, MEMIC wrote under $137 million in premium in 2008, more than $10 million less than in 2007 and nearly $24 million less than a few years ago. The top three groups, including MEMIC, wrote over $175 million in business, about $9 million less than in 2007. The top five groups had over $189 million in written premium, which is $16 million less than in 2007. The top 10 groups wrote nearly $209 million in premium in 2008, over $17 million less than in 2007. The remaining insurance groups had written premium totaling over $14 million.



Source: Annual Statements Filed with the Bureau of Insurance

D. Number of Carriers in the Maine Insurance Market

The number of carriers in the workers' compensation market has increased throughout the 11 year period shown in the table below. The number of carriers who may file rates and be eligible to write workers' compensation coverage has increased by more than 56 percent since 1998. There currently are no significant barriers to entry.

Table II: Entry and Exit of Workers' Compensation Carriers, 1999-2009					
Year	**Number of Carriers**	**Number Entering**	**Number Exiting**	**Net Change (Number)**	**Net Change (Percent)**
2009	292	10	0	10	3.6
2008	282	13	4	9	3.3
2007	273	11	5	6	2.3
2006	267	14	4	10	3.9
2005	257	4	1	3	1.1
2004	254	5	2	3	1.2
2003	251	11	1	10	4.2
2002	241	15	2	13	5.7
2001	228	24	6	18	8.6
2000	210	12	0	12	6.1
1999	198	11	0	11	5.9

Source: Maine Bureau of Insurance Records.

Notes: Based upon the number of carriers licensed to transact workers' compensation insurance as of October 1 of each year. Beginning in 2001, the number exiting the market includes companies under suspension.

E. Percent Market Share of the Top Insurance Groups

Table III shows market share by insurance group from 2002-2008. Information by group is more relevant when assessing competition because carriers in a group are under common control and are not likely to compete with one another.

Table III. Percent Market Share for Top Insurance Groups, By Amount of Written Premium, 2002-2008							
Insurance Group	**2008 Share**	**2007 Share**	**2006 Share**	**2005 Share**	**2004 Share**	**2003 Share**	**2002 Share**
Maine Employers' Mutual	61.3	61.6	63.6	64.8	65.4	61.5	54.4
Liberty Mutual Group	11.0	8.8	9.2	8.4	9.4	9.6	10.4
WR Berkeley Corp.	6.1	6.3	6.1	5.6	5.4	5.8	6.5
Hartford Fire & Casualty	3.7	3.6	3.3	3.8	1.9	2.0	3.1
American International Group	2.8	5.2	4.9	5.1	4.1	3.3	0.2
Travelers Group	2.7	2.2	1.9	1.6	2.3	1.3	1.7
Guard Insurance Group	1.8	2.0	2.3	2.1	2.0	1.8	1.2
The Hanover Ins Corp.	1.8	1.7	2.1	1.9	1.7	1.6	2.6
Zurich Insurance Group	1.2	1.3	0.9	0.6	1.7	1.6	2.6
CNA Insurance Group	1.2	1.2	1.1	1.1	1.2	1.5	1.1

Source: Annual Statements Filed with the Bureau of Insurance

F. Percent Market Share of the Top Insurance Companies

Table IV shows the percent of market share for the top carriers for each calendar year from 2002 through 2008. Every year since 2002 MEMIC has had more than 60 percent of the market; however, its market share has decreased each of the past four years. For the fifth straight year, none of the other carriers attained a five percent market share. The top ten companies combined write over 77 percent of the business. All carriers outside of the top ten had less than a one percent market share.

Table IV. Percent Market Share for Top Insurance Carriers, By Amount of Written Premium, 2002-2008

Insurance Carrier	2008 Share	2007 Share	2006 Share	2005 Share	2004 Share	2003 Share	2002 Share
Maine Employers' Mutual	61.3	61.6	63.6	64.8	65.3	61.5	54.4
Acadia Insurance Company	4.2	4.5	4.5	4.3	4.4	5.3	6.0
Liberty Insurance Corp.	2.7	2.1	2.5	1.7	1.1	1.4	1.2
Netherlands	2.1	1.4	0.9	0.3	0.2	0.2	0.4
Excelsior Insurance Co.	1.4	1.4	1.2	1.0	0.9	0.7	0.8
Firemen's Ins Co of Wash DC	1.3	1.3	1.1	0.9	0.7	0.6	0.0
Twin City Fire Ins Co.	1.2	1.4	1.6	2.0	0.9	0.9	0.6
Amguard Insurance Company	1.1	1.1	0.9	0.5	0.3	0.3	0.4
Hartford Ins Co of the Midwest	1.0	0.9	0.5	0.4	0.2	0.1	0.1
Peerless Insurance Company	1.0	1.0	1.6	2.2	2.3	2.3	2.3

Source: Annual Statements Filed with the Bureau of Insurance

V. Differences in Rates and Factors Affecting Rates

A. Rate Differentials

There is a wide range of potential rates for workers' compensation policyholders, but most employers are not able to get the lowest rates. Insurers are selective in accepting risks for the lower-priced plans. Their underwriting is based on such factors as prior-claims history, safety programs and classifications. An indication that the current workers' compensation market may not be fully price competitive is the distribution of policyholders among companies with different loss cost multipliers or among a single company with multiple rating tiers. The Bureau of Insurance surveyed the top ten insurance groups and all of the companies in those insurance groups. We asked for the number of policyholders and the amount of written premium for in-force policies in Maine within each of their rating tiers. The carriers that responded accounted for nearly 94% of the market and nearly $209 million in written premium in Maine for calendar year 2008. The results show that over 68 percent of policyholders are written at rates equivalent to Maine Employers' Mutual Insurance Company's (MEMIC) Standard Rating tier. Over 24 percent are written at rates lower than MEMIC's Standard Rating tier. Over seven percent of policyholders have policies written at rates that are above MEMIC's Standard Rating tier.

Possible reasons for policyholders accepting rates higher than MEMIC's Standard Rating tier are: 1) an insurer, other than MEMIC, provides workers' compensation coverage, although it might not otherwise, because it provides coverage for other lines of insurance and the insurer provides a good overall package to the insured; 2) an insurer, other than MEMIC, charges a higher rate but offers enough credits to lower the overall premium; and 3) the insured would have been placed in MEMIC's High Risk Rating tier because of its poor loss history.

Percent of Reported Policyholders At, Above or Below MEMIC's Standard Rating Tier Rates		
Rate Comparison	**2009 Percent**	**2008 Percent**
Below MEMIC Standard Rate	24.34%	23.48%
At MEMIC Standard Rate	68.43%	68.21%
Above MEMIC Standard Rate	7.22%	8.31%

Note: Based upon the results of a survey conducted by the Bureau of Insurance. Respondents included carriers in the top 10 insurance groups in Maine.

B. Additional Factors Affecting Premiums

Some employers have other options available that may affect the premiums they pay for workers' compensation insurance. However, these options are available only if the insurer offers them. While they might lower an employer's premium, they also carry some risk of greater exposure.

Employers should carefully analyze certain options, such as retrospective rating (retros) and large deductible policies, before deciding on them. Below is a description of each:

- **Tiered rating** means that an insurer has more than one loss cost multiplier to use, based on where a potential insured falls in its underwriting criteria. Tiered rating may apply to groups of insurers that have different loss cost multipliers for different companies in the group. Our records indicate that over 77 percent of insurers either have different loss cost multipliers on file or are part of a group that does.

- **Scheduled rating** allows an insurer to consider other factors that may not be reflected in an employer's experience rating when determining an individual employer's premium for the employer. Such factors include safety plans, medical facilities, safety devices and premises are considered and can result in a change in premium of up to 25 percent. Over 76 percent of insurers with filed rates in Maine have received approval to utilize scheduled rating.

- **Small deductible plans** must be offered by insurers. These include medical benefit deductibles in the amounts of $250 per occurrence for non-experience rated accounts and either $250 or $500 per occurrence for experience rated accounts. Insurers must also offer deductibles of either $1,000 or $5,000 per claim for indemnity benefits. Payments are initially made by the insurer and then reimbursed by the employer. Each insurer files the percentage reductions applicable to employers who elect to have small deductibles plans and the amount of reduction varies by insurer.

- **Managed Care Credits** are credits offered by insurers to employers who use managed care plans. Less than 10 percent of insurers offer managed care credits.

- **Dividend Plans** provide a return premium to the insured after the policy expires if losses are lower than average. Premiums are not increased if losses are greater than average. Because losses may still be open for several years after policy expiration, dividends will usually be paid periodically with adjustments for any changes in the amount of incurred losses. Dividends are not guaranteed. On September 22, 2009, MEMIC declared a dividend of $10,000,000. Employers who held policies with MEMIC for a full year, with a term beginning in 2006, will be eligible to receive the dividend which will be paid in November to over 20,000 policyholders. MEMIC will have returned more than $110 million back to policyholders in the form of capital returns and dividends since 1998.

- **Retrospective rating** means that an employer's final premium is a direct function of its loss experience for that policy period. If an employer controls its losses, it receives a reduced premium; conversely, if the employer has a bad loss experience, it receives an increased premium. Retrospective rating utilizes minimum and maximum amounts for a policy and is typically written for larger, sophisticated employers.

- **Large deductible plans** are for employers who agree to pay a deductible that can be in excess of $100,000 per claim. The law requires that the insurer pay all losses associated with this type of policy and then bill the deductible amounts to the insured employer. The advantage of this product is a discount for assuming some of the risk. It is an alternative to self-insurance.

- **Loss Free Credits** may be given to employers who have had no losses for specified periods of time. At MEMIC, loss free credits may be received by non-experience rated accounts. As of 8/31/2009, 67% of non-experience rated accounts -- 9,618 policyholders -- receive loss free credits of between eight and 25 percent. This represents a three percent increase over last year at the same time and represents 49 percent of all MEMIC policyholders.

- **Terrorism Risk Insurance Act** (TRIA) is a federal program to protect consumers and insurers by addressing market disruptions and ensuring the continued availability and affordability of insurance for terrorism risk. Under TRIA, the federal government shares the cost of terrorist attacks with the insurance industry. Federal payments in extreme events help eliminate the insolvency risk for the insurance industry. Terrorism coverage is a separate step in determining workers' compensation premium and, like state-required workers' compensation coverage, is a charge based upon payroll for federal terrorism coverage. Acts of terrorism cannot be excluded in workers' compensation and since September 2001 reinsurance contracts have excluded coverage for terrorist acts. In 2007 the Terrorism Risk Insurance Revision and Extension Act was approved and redefined terrorism to include domestic and foreign terrorism.

Insurers in Maine's top 10 groups reported that over $42 in credits was provided for every $1 in debits. This was nearly $17 less than a year ago. Over 16.1 million in dividends were paid out in

2008, over a half million dollars more than in 2007. MEMIC accounted for over 92 percent of the dividends issued. The amount of credits in the top 10 groups in 2008 rose over $1.5 million above 2007 and the amount of debits increased by nearly $0.6 million.

VI. Alternative Risk Markets

A. Percent of Overall Market Held by Self-Insured Employers

Self-insurance plays an important role in Maine's workers' compensation market. Self-insured employers pay for losses with their own resources rather than by purchasing insurance. They may, however, choose or be required by the Bureau of Insurance to purchase insurance for losses that exceed a certain limit. One advantage of being self-insured is better cash flow. Employers who self-insure anticipate that they would be better off not paying premiums. They are likely to have active programs in safety training and injury prevention. In 2008, nearly 45 percent of Maine's total workers' compensation insurance market, as measured by standard premium, consisted of self-insured employers and groups. This is the highest level in nine years.

The estimated standard premium for individual self-insurance is determined by multiplying the advisory loss cost by a factor of 1.2, as specified in statute then multiplying that figure by the payroll amount, dividing the result by 100 and then applying experience modification. As advisory loss costs, and therefore rates, decline, so does the estimated standard premium. Group self-insurers determine their own rates subject to review by the Bureau of Insurance.

Table VI: Estimated Standard Premium for Self-Insured Employers and Percent of the Workers' Compensation Market Held by Self-Insurers, 1998-2008

Year	Estimated Standard Premium	Percent of Workers' Comp. Market (in annual standard premium)
2008	$179,280,965	44.6
2007	$174,830,526	42.1
2006	$167,535,911	40.9
2005	$167,278,509	40.3
2004	$171,662,347	41.7
2003	$182,379,567	43.1
2002	$167,803,123	43.0
2001	$159,548,698	43.9
2000	$126,096,312	42.1
1999	$116,028,759	45.4
1998	$120,799,841	49.0

Source: Annual Statements Filed with the Bureau of Insurance.

Notes:

1. Estimated standard premium figures are as of December 31.
2. The percent of the workers' compensation market held by self-insured employers is calculated by taking the estimated standard premium for self-insured employers, dividing it by the sum of

the estimated standard premium for self-insured employers and the written premium in the regular insurance market, and then multiplying that figure by 100.

B. Number of Self-Insured Employers and Groups

As of October 1, 2009 there were 19 self-insured groups representing approximately 1,459 employers. This is virtually the same as in 2008. However, the number of individually self-insured employers decreased by over 17 percent in the past year and is nearly 50 percent lower than it was in 1999.

Table VII: Number of Self-Insured Groups, Employers in Groups, and Individually Self-Insured Employers 1999-2009

Year	# of Self-Insured Groups	# of Employers In Groups	# of Individually Self-Insured Employers
2009	19	1459	58
2008	19	1,461	70
2007	19	1,478	70
2006	20	1,437	71
2005	20	1,416	80
2004	20	1,417	86
2003	19	1,351	91
2002	19	1,235	98
2001	19	1,281	92
2000	19	1,247	98
1999	20	N/A	115

Source: Bureau of Insurance Records

Notes:
1. For the purposes of self-insurance, affiliated employers are considered separate employers. N/A indicates that the information is not available.
2. The number of individually self-insured employers and self-insured group information beginning in 2001 is as of October 1 of the year listed. Figures for years 2000 and before are as of the beginning of the year listed.

VII. A Look Nationally

A. Manufacturing Industry and Office and Clerical Operations

Each year Actuarial and Technical Solutions, Inc. (ATS) collects information from states which is used in a publication entitled, "Workers' Compensation State Rankings--Manufacturing Industry Costs and Statutory Benefit Provisions." Until 2005, the study ranked workers' compensation in the manufacturing sector only. In response to inquiries about the cost of workers' compensation in other sectors, ATS began publishing information on office and clerical employees. This includes classes such as accountants, engineers, school professionals, attorneys and other office and clerical employees.

In the 2008 study, Maine ranked 32nd in workers' compensation average statutory benefit provisions (excluding medical benefits). Our rank in 2007 was 25th. According to ATS, the reason for the change in rank was that healing period costs for non-scheduled permanent partial impairment benefits were not reflected in their previous report findings. All fifty states were ranked. A lower rank indicates lower statutory benefits. In addition to statutory benefit provisions, states were ranked by comparative cost for both office and clerical operations and for manufacturing. In 2008, Maine ranked 35th in office and clerical and 30th in manufacturing. We were ranked 36th and 29th respectively in 2007. This means that our comparative costs improved one position in office and clerical and fell one position in manufacturing.

B. Oregon Workers' Compensation Premium Rate Ranking

In another study, conducted bi-annually by the State of Oregon, Maine ranked 6th in terms of 2008 workers' compensation premium rates for all industries. In this study, a lower rank indicates higher premium rates. In the 2006 study, Maine ranked 8th overall and in the 2004 study, Maine also ranked 13th. This study focused on 50 classifications based on their relative importance as measured by their share of losses in Oregon. Results are reported for all 50 states and for the District of Columbia.

C. Average Loss Costs by State Based Upon Maine's Payroll Distribution

NCCI developed a spreadsheet which shows the average loss cost for Maine compared to the average loss cost for other states based upon Maine's payroll distribution. Maine had the seventh highest average loss costs of the 36 states and the District of Columbia reporting information to NCCI.

State	Average Loss Cost	Rank
Montana	$3.21	1
Illinois	$2.25	2
Alaska	$2.02	3
Oklahoma	$1.93	4
Alabama	$1.82	5
New Hampshire	$1.81	6
Maine	**$1.79**	**7**
Connecticut	$1.77	8
Kentucky	$1.72	9
Vermont	$1.71	10
North Carolina	$1.62	11
South Carolina	$1.60	12
Georgia	$1.57	13
Tennessee	$1.52	14
South Dakota	$1.46	15
Nevada	$1.45	16
Nebraska	$1.43	17
Iowa	$1.38	18
Arizona	$1.37	19
Rhode Island	$1.37	20
Oregon	$1.36	21
Idaho	$1.31	22
Louisiana	$1.30	23
West Virginia	$1.29	24
Missouri	$1.28	25
New Mexico	$1.28	26
Kansas	$1.27	27
Maryland	$1.27	28
Colorado	$1.26	29
Mississippi	$1.24	30
Florida	$1.13	31
Hawaii	$1.03	32
Utah	$1.00	33
Virginia	$0.98	34
Indiana	$0.86	35
D.C.	$0.85	36
Arkansas	$0.78	37

Note: Average loss cost does not include expense and profit loading and is an average using all payroll. The actual average for an employer will depend on the type of business and payroll mix. The relatively high total payroll and relatively low loss cost for the clerical classification causes the statewide average to be lower.