



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

One South Station • Boston, MA 02110-2208  
(617) 521-7794 • FAX (617) 521-7475  
TTY/TDD (617) 521-7490  
<http://www.mass.gov/doi>

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

DANIEL O'CONNELL  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

DANIEL C. CRANE  
DIRECTOR

NONNIE S. BURNES  
COMMISSIONER OF INSURANCE

**DECISION AND ORDER**  
**IN THE MATTER OF THE ACQUISITION OF CONTROL OF**  
**FIRST ALLMERICA FINANCIAL LIFE INSURANCE COMPANY**  
**DOCKET NO. F2008-04**

---

**I. Introduction**

Commonwealth Annuity and Life Insurance Company (“CwA”) and its ultimate controlling entity, The Goldman Sachs Group, Inc. (“GSGroup”) (collectively known as the “Applicants”), seek approval of their proposed acquisition of control of First Allmerica Financial Life Insurance Company (“FAFLIC”) pursuant to M. G. L. c. 175, § 206B (“§ 206B”) and 211 Code Mass. Regs. § 7.00 (1996) (“CMR 7.00”).

**A. The Applicants**

GSGroup, a Delaware corporation, is an investment banking, securities and investment management firm that provides a wide range of services worldwide to a substantial and diversified client base. Founded in 1869, the firm is headquartered in New York City and maintains offices in London, Frankfurt, Tokyo, Hong Kong and other major financial centers around the world, including Boston. The activities of GSGroup are divided into three segments: 1) Investment Banking; 2) Trading and Principal Investments; and 3) Asset Management and Securities Services. GSGroup also conducts various insurance business

activities through its Reinsurance Group, including reinsurance of blocks of life insurance and annuities for U.S. life insurance companies.<sup>1</sup>

CwA, a Massachusetts-domiciled life insurance company located in Southborough, Massachusetts, is a wholly-owned subsidiary of GSGroup and is part of GSGroup's Reinsurance Group. As of December 31, 2007, CwA's admitted assets were in excess of \$9.65 billion and its surplus was \$458.8 million. For the year ending December 31, 2007, CwA's revenue was \$794.3 million and its earnings were \$58.2 million.

Prior to September 1, 2006, CwA was known as Allmerica Financial Life Insurance and Annuity Company. On December 30, 2005, GSGroup acquired CwA pursuant to a stock purchase agreement between GSGroup and The Hanover Group ("THG") (then known as Allmerica Financial Corporation) dated August 22, 2005. This transaction was approved by the Massachusetts Commissioner of Insurance (the "Commissioner").<sup>2</sup>

#### B. The Proposed Acquired Domestic Insurer

FAFLIC, a stock insurance company incorporated in Massachusetts and a wholly-owned subsidiary of THG, is located in Worcester, Massachusetts. FAFLIC is the former State Mutual Life Assurance Company, which demutualized in 1995. It is rated "B+" by A.M. Best Company.<sup>3</sup> The FAFLIC business consists of a closed block of participating life insurance, group payout annuities, group health insurance and a small block of special risk reinsurance pools. FAFLIC reinsured its variable life and annuity business to CwA and its universal life business to John Hancock. FAFLIC is no longer marketing any life or annuity business, and these blocks have been closed to new business for a number of years.<sup>4</sup>

---

<sup>1</sup> These companies include: Columbia Capital Life Reinsurance Company, a South Carolina life insurance company, Charleston Capital Reinsurance, L.L.C., a South Carolina captive insurance company and Arrow Reinsurance Company, Limited, a Bermuda insurance company.

<sup>2</sup> *In the Matter of The Acquisition of Control of Allmerica Financial Life Insurance and Annuity Company By The Goldman Sachs Group, Inc.*, Docket No. F2005-01(December 28, 2005).

<sup>3</sup> Letter dated December 18, 2008 from J. Kendall Huber, THG, to the Division of Insurance.

<sup>4</sup> *Actuarial Appraisal of First Allmerica Financial Life Insurance Company as of September 30, 2007* at page 1, Milliman, Inc., Chicago.

FAFLIC's parent company, THG, is a Delaware corporation and also is located in Worcester, Massachusetts.

### C. Massachusetts Division of Insurance Working Group

The Commissioner designated a Working Group of staff members of the Massachusetts Division of Insurance (the "Division") to review and evaluate the proposed transaction on behalf of policyholders and the insuring public. The Working Group for this matter was headed by Robert G. Dynan, the Division's Deputy Commissioner of Financial Analysis, and consisted of representatives from the Financial Surveillance, Financial Examination and Legal Units of the Division.<sup>5</sup>

### D. The Proposed Transaction

Pursuant to the conditions set forth in the Stock Purchase Agreement ("the Agreement") dated July 30, 2008, CwA proposes to acquire control of FAFLIC by purchasing 100% of its capital stock consisting of 500,001 shares of Common Stock issued and outstanding (the "Acquisition"). Consideration is a cash payment of approximately \$105 million and a dividend of approximately \$150 million to be paid by FAFLIC to THG immediately prior to closing.<sup>6</sup> The Acquisition is part of CwA's strategy to grow and diversify its business through the acquisition of in-force closed blocks of life insurance and annuity business in order to generate additional scale and earnings. CwA also seeks this Acquisition for licensing purposes. FAFLIC is licensed in New York, while CwA is not. The Acquisition will enhance CwA's flexibility in structuring transactions and will provide it with a 50-state presence. The proposed transaction also will re-unite FAFLIC with CwA, affiliates of each other until the above-mentioned acquisition of CwA by GSGGroup from THG in December

---

<sup>5</sup> Mr. Dynan testified on the first day of the hearings. Mr. Robert Macullar, Supervising Examiner and the Manager of Company Licensing in the Financial Surveillance Section at the Division and a member of the Working Group, represented the Division on the second day of the hearings due to Mr. Dynan's absence.

<sup>6</sup> The dividend amount may vary slightly since it is based on a formula involving FAFLIC's capital surplus account. Any changes in surplus from September 30<sup>th</sup> to the time of the closing might impact the dividend (offset by increase or decrease in capital contribution is factored). The purchase price is also predicated on FAFLIC's capital surplus at the time of closing. The parties expect the price to remain stable; however, the assets that are backing the surplus are priced at market value a day or two before the closing. Any fluctuation in those assets might impact the purchase price in a relatively modest amount.

2005. Following the consummation of the Acquisition, FAFLIC will be a wholly owned direct subsidiary of CwA and a wholly owned indirect subsidiary of GSGroup.

## **II. Procedural History**

In accordance with § 206B and CMR 7.00, on August 8, 2008 the Applicants submitted to the Division Form A, “Statement Regarding Acquisition of Control or Merger With A Domestic Insurer, First Allmerica Financial Life Insurance Company,” with accompanying exhibits.<sup>7</sup> Acknowledgement of receipt of the submission was made by the Division on August 18, 2008. On November 6, 2008, the Applicants filed “Amendment No. 1 to Form A” to supplement their original submission. On November 10, 2008, the Division notified the Applicants that its review of the Form A was completed. The Commissioner issued a Notice of Public Hearing for December 2, 2008 on November 10, 2008.<sup>8</sup> The Notice was posted on the Division’s website as of November 12, 2008 and also was sent directly to individuals who requested notification of Division proceedings. The Notice informed the public that information about the Acquisition was available for inspection at the Division and offered the opportunity for any person whose statutory interests may be affected by the proceeding, or to whom the Notice was sent, to submit to the Division a written Notice of Intent to Participate at the hearing by November 24, 2008. The Notice identified November 28, 2008 as the close of discovery. No person or entity filed a Notice of Intent to Participate, or sought discovery in the proposed transaction. The Notice of Hearing, submitted by the Applicants, appeared on November 14, 2008 in *The Worcester Telegram and Gazette* and *The Boston Globe* newspapers.

---

<sup>7</sup>*Form A* is a statement that fully describes the parties and the transaction and includes supporting information and documentation required under § 206B and CMR 7.00 (i.e. financial statements, contracts, material changes in business or corporate structure or management, tender offers, solicitation materials, details of the consideration).

<sup>8</sup> Pursuant to § 206B (d) (1), the Commissioner must approve the proposed transaction if the requirements of the statute are met. The statute requires the Commissioner to hold a public hearing at which “the person filing the statement, the insurer, any person to whom notice of the hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, offer oral and written arguments in connection therewith, and . . . conduct discovery proceedings . . . “ § 206B (d) (2).

The Commissioner appointed Susan L. Donegan and Deputy Commissioner and General Counsel Elisabeth A. Ditomassi to sit as Hearing Officers for the Public Hearing. Neither Hearing Officer participated in the Working Group's analysis of the Acquisition.

The Public Hearing commenced on December 2, 2008 at 10:02 a.m. at the Division. Hearing Officer Donegan asked any member of the public who wished to comment on the record to identify themselves. No one responded.

Mr. Peter S. Rice of Dewey & LeBoeuf, entered his appearance on behalf of the Applicants and requested a brief recess, which was granted. At 11:38 a.m. the hearing reconvened and Mr. Rice called two witnesses. The first witness, Mr. Michael A. Reardon, President and Chief Executive Officer of CwA, testified as to the terms and conditions of the proposed Acquisition and CwA's qualifications to acquire control of FAFLIC. The second witness was Ms. Manda D'Agata. She is the Managing Director of Goldman Sachs & Co. (principal subsidiary of GSGroup), the Treasurer of Goldman Sachs's North American business operations and will be a director of FAFLIC if the transaction is approved. Her testimony described the business of GSGroup and the actions the company has taken in response to current global economic conditions.

Following testimony from the Applicants, Mr. J. Kendall Huber, Senior Vice-President and General Counsel of THG and Assistant First Secretary of FAFLIC, testified. He commented on the various transactions between THG and FAFLIC pursuant to a Restructuring Agreement made in connection with the Stock Purchase Agreement and spoke to the proposed transaction generally.

Finally, Mr. Dynan was sworn to provide testimony on behalf of the Working Group but requested that the hearing be continued. The Hearing Officers took notice of the fact that during the morning of December 2, 2008 (prior to the hearing), the financial news reported that GSGroup was facing a loss of \$2 billion for the fourth quarter. Mr. Dynan stated that since GSGroup is the parent company of CwA and soon-to-be indirect parent company of FAFLIC, this new information about GSGroup's financial status prompted the need for further analysis by the Working Group in order to determine whether there might be any negative consequences relevant to the proposed Acquisition. Mr. Rice stated that the

financial information sought by Mr. Dynan and the Working Group would be available on December 16, 2008, when GSGroup released its earnings report. The Applicants did not oppose Mr. Dynan's request for an adjournment and indicated their desire to fully cooperate with the Working Group. They requested that the hearing reconvene as soon as practicable after December 16<sup>th</sup> since they needed the proposed transaction to be completed on January 2, 2009. After discussion with all the parties, the Hearing Officers granted the continuance to December 22, 2008.<sup>9</sup> They allotted leeway for the Working Group to request additional time for analysis, if necessary.

On December 16, 2008, GSGroup issued its earnings report for the year and for the quarter that ended on November 28, 2008. GSGroup posted a fourth quarter net loss of \$2.12 billion.

The Public Hearing resumed on December 24, 2008 at 10:00 a.m.<sup>10</sup> Hearing Officer Donegan asked whether there were any people in the audience, other than the parties, who wished to comment on the record. No one came forward. Mr. Rice then called Mr. Nicholas von Moltke to testify. Mr. von Moltke is the Managing Director of Goldman Sachs & Co. and Co-Head of the Life and Annuity business with the Goldman Sachs Reinsurance Group. He also is a Director of CwA. Mr. von Moltke addressed the GSGroup earnings report and its potential impact on the proposed Acquisition. He stated that despite the financial report, GSGroup continues to be well capitalized and would not jeopardize the financial stability of FAFLIC or its policyholders.

Mr. Macullar then testified on behalf of the Division's Working Group regarding its view of the proposed Acquisition. He said that the Working Group had reviewed the Form A, including the Stock Purchase Agreement, dated July 30, 2008, by and between CwA and THG Group, entered into as the result of the proposed acquisition of FAFLIC by CwA by its direct and ultimate parent, GSGroup, and all other exhibits, schedules, appendices and amendments. He addressed each of the seven standards articulated in § 206B (individually

---

<sup>9</sup> Before adjournment, Hearing Officer Ditomassi asked whether there was anyone in the audience, not related to the parties, requiring direct notice of the rescheduled hearing. No one identified themselves.

<sup>10</sup> On December 19, 2008, Mr. Dynan of the Working Group requested that the Hearing Officers reschedule the hearing from December 22, 2008 to December 24, 2008 to allow the Working Group more time to review the supplemental information submitted by the Applicants.

discussed in the following section) and testified that the Acquisition met all of those requirements.<sup>11</sup>

Lastly, Mr. Huber testified again and spoke about market expectations and the belief that the Acquisition is favorable for both policyholders and FAFLIC. The hearing was then adjourned and the docket was closed.

### **III. Analysis of Proposed Transaction**

#### **A. Statutory Standard**

The Commissioner shall approve the proposed transaction unless she finds that such approval would result in any of the conditions set forth in subsections (i) through (vii) of § 206B (d) (1). These conditions, and the testimony relevant to these conditions, are as follows:

- 1) after the change of control, the domestic insurer . . . would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed**

Section 206B (d) (1) (i) requires the domestic insurer, post-acquisition, to be able to satisfy the same licensing requirements as required for the writing of the lines of insurance currently written by the insurer. The Applicants currently satisfy the requirements for licenses to write insurance in Massachusetts. Mr. Reardon testified that there was no expectation “that the proposed Acquisition will in any manner adversely impact FAFLIC's ability to satisfy the requirements for the issuance of a license to write the lines of business for which it is presently licensed. FAFLIC meets Massachusetts statutory standards for capital and surplus and the experience of FAFLIC's proposed management satisfies any reasonable standard the Division might apply. FAFLIC has complied and will continue to comply with all Massachusetts licensing standards following the consummation of the Acquisition.”

---

<sup>11</sup> Mr. Macullar confirmed, at the inquiry of Hearing Officer Ditomassi, that Mr. Dynan, the lead of the Working Group, was in agreement with Mr. Macullar's testimony and the Working Group's recommendation.

**2) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this commonwealth or tend to create a monopoly therein**

Section 206B (d) (1) (ii) requires that the Acquisition neither lessen competition nor create a monopoly in the Massachusetts insurance market. Mr. Reardon testified that “FAFLIC is currently not engaging in new sales activity. It is simply running off its existing book of business and therefore does not currently compete in insurance in Massachusetts.”

**3) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders**

Section 206B (d) (1) (iii) requires that any acquiring company be in sufficiently sound financial condition such that the Acquisition does not jeopardize the financial stability of the domestic insurers or prejudice the interests of policyholders. Mr. Reardon testified that “as of December 31, 2007, Commonwealth's admitted assets were over \$9.65 billion and its surplus was \$458.8 million. For the year ending December 31, 2007, Commonwealth's revenue was \$794.3 million and its earnings were \$58.2 million. Commonwealth is rated A- by A.M Best, A- by S&P, and A2 by Moody's. As of September 30, 2008, Commonwealth's surplus was modestly lower, at approximately \$441 million. However, Commonwealth's surplus is still at a prudent level, in relation to its liabilities. Therefore, the financial condition of Commonwealth will not jeopardize the financial stability of FAFLIC or its policyholders.”

Hearing Officer Donegan asked Mr. Reardon to comment on CwA's subprime mortgage-related risk exposure. Mr. Reardon explained that CwA was not a significant investor in the subprime mortgage market. Its subprime holdings are small and immaterial in relation to its entire investment portfolio. Hearing Officer Ditomassi asked whether there had been any change in CwA's financial condition in the time between the first day of the hearing and the second, adjourned day. Mr. Reardon replied that there had been no change. CwA reported a statutory surplus of \$441 million at the end of September and was anticipating a surplus at the end of the year that was not materially different.

On September 21, 2008, GSGroup registered as a Bank Holding Company, subject to regulation by the Board of Governors of the U.S. Federal Reserve System. This change was made, in part, to address concerns with regard to its structure as a stand-alone investment-bank. A stand-alone investment bank may confront additional difficulties in the current financial marketplace. On October 13, 2008, GSGroup agreed to participate in the U.S. Treasury Department's Trouble Asset Relief Program/Capital Purchase Program ("TARP") and agreed to sell to the Treasury for a purchase price of \$10 billion preferred stocks, and warrants to purchase common stock, in accordance with the terms of the Capital Purchase Program.

Ms. D'Agata and Mr. von Moltke presented positive views of GSGroup's financial stability despite the recent fourth quarter negative net revenues of \$1.58 billion and a net loss of \$2.12 billion. Mr. von Moltke indicated that GSGroup reported net revenues of \$22.22 billion and net earnings of \$2.32 billion for the year ending November 28, 2008.

GSGroup's total capital was \$232.59 billion and common shareholders' equity was \$47.90 billion. This is an increase from the \$45.6 billion in shareholders' equity as of August 29, 2008. GSGroup's Tier 1 ratio also increased to 15.6% as of November 28, from 11.6% as of August 29, 2008.<sup>12</sup> This increase reflects the \$20.75 billion in new equity capital GSGroup raised during the fourth quarter.<sup>13</sup>

Mr. Rice asked Mr. von Moltke whether he had any reason to question his view of GSGroup's financial stability based on its recent earnings report. Mr. von Moltke answered that he did not. He did not consider any recent changes in ratings to be material to GSGroup's ability to acquire FAFLIC and he stated that GSGroup continues to be well

---

<sup>12</sup> GSGroup, as mentioned previously, is now a bank holding company. Tier 1 ratio refers to the capital adequacy of a bank expressed as Tier 1 (core) capital divided by total risk-weighted assets.

<sup>13</sup> September 29, 2008, GSGroup raised \$5.75 billion through a public offering. October 1, 2008, GSGroup issued shares of Preferred Stock and warrants to Berkshire Hathaway and affiliates for aggregate proceeds of \$5.00 billion. October 28, 2008, under U.S. Treasury's TARP Program, GSGroup issue 10.0 million shares of Series H Preferred Stock and a ten year warrant for common shares to the U.S. Treasury for aggregate proceeds of \$10.00 billion. *The Goldman Sachs Group Inc. Earnings Report Summary* issued December 16, 2008 at page 5.

capitalized.<sup>14</sup> Mr. von Moltke further noted that GSGroup's stock price closed at \$75.20 per share on December 23, 2008, representing an increase of over 10% since the release of the earnings report.

CwA, GSGroup and certain affiliates of GSGroup anticipate entering into a number of inter-affiliate agreements with or for the benefit of FAFLIC immediately upon or shortly after the closing of the proposed Acquisition.<sup>15</sup> One of these agreements addresses the current Keepwell Agreement<sup>16</sup> between GSGroup and the Commissioner, dated January 31, 2006, relating to the financial condition of CwA (part of the previous acquisition, *See n. 2*). GSGroup has submitted a proposed Amended Keepwell Agreement to the Commissioner. The amended agreement pledges capital contributions either to CwA and/or FAFLIC up to a maximum of \$350 million in the aggregate, as may be required to maintain either or both companies' Risk Based Capital Ratios at one hundred percent of the Company Action Level risk based capital amount.

On the first day of the hearing, Mr. Huber presented testimony relating to a Restructuring Agreement between THG and FAFLIC. Some of the transactions in the Restructuring Agreement are designed to assist FAFLIC in establishing a stronger asset sheet for the proposed Acquisition.<sup>17</sup> In particular, Mr. Huber explained that THG or its affiliates will

---

<sup>14</sup> Moody's Investor Service changed its long term debt rating of GSGroup to A1 and Standard & Poor's changed its long and short term debt ratings of GSGroup to A/A-1 (from the ratings of Aa3 and AA-/A-1+, respectively).

<sup>15</sup> The ancillary transactions are contained in the Form A and address various aspects of the business plans for FAFLIC. They require prior approval by the Commissioner under M. G. L. c. 175, § 20 and M. G. L. c. 175, § 206C and have been filed with the Division separately. While these transactions are not formally pending before the Hearing Officers, they are interrelated, material and contingent upon the approval of the Acquisition. The Working Group reviewed the filings as part of its evaluation. Mr. Macullar indicated that "we would be in a position to approve those transactions" since the Working Group "noted no matters that would lead to an adverse determination under Section 206C or Section 20." The filings include, *inter alia*, coinsurance, administrative services, tax and investor services agreements.

<sup>16</sup> A *keepwell agreement* is a contract between a parent company and a third party in which the parent company agrees to cause a subsidiary to maintain certain minimum financial ratios or net worth. This arrangement arises to protect the integrity of a prospective financial deal between the subsidiary and the third party. Allan H. Pessin and Joseph A Ross, *More Words of Wall Street* 148 (Dow-Jones Irwin 1986).

<sup>17</sup> Similar to the ancillary transactions mentioned in n.14, THG and FAFLIC have also filed related agreements and requests with the Division including the Restructuring Agreement and various coinsurance agreements between

purchase certain investment assets from FAFLIC in exchange for certain investment-grade bonds. He further mentioned that THG would continue to manage the businesses that have been discontinued but have an extended run-off period. THG and FAFLIC have also agreed to novate or commute certain contracts to further reduce FAFLIC's risk. In the event of ratings downgrades of THG, a trust for the benefit of FAFLIC will be established to secure FAFLIC's net liabilities under the coinsurance agreements. Lastly, Mr. Huber indicated that THG has agreed to assume certain contingent liabilities and obligations of FAFLIC; in particular, existing and future litigation.

Hearing Officer Ditomassi questioned Mr. Macullar as to whether the Working Group had reviewed the GSGroup financial information released on December 16, 2008. He testified that they had. Ms. Ditomassi then asked if there was any "reason to believe that the financial condition of the acquiring party could jeopardize the financial stability of the insurer or prejudice the interests of its policyholders?" Mr. Macullar responded by explaining that the Working Group (including Mr. Dynan) met on the morning of December 22, 2008, specifically to discuss the matter. It was the Working Group's opinion that there was "not a concern" about GSGroup's financial stability with respect to the proposed Acquisition.

**4) the terms of the offer, request, invitation, agreement or acquisition referred to in the said subsection (a) are unfair and unreasonable to the policyholders of the insurer**

Section 206B (d) (1) (iv) requires that the terms of the offer or agreement of acquisition not be unfair or unreasonable to policyholders of the domestic insurers. Mr. Reardon testified that "total consideration to Hanover will consist of a cash payment from Commonwealth to Hanover in an amount expected to be approximately \$105 million and, subject to the approval by the Commissioner of a filing made by Hanover, a dividend of approximately \$150 million to be paid by FAFLIC to Hanover immediately prior to closing. . .

Consideration will come from Commonwealth's existing funds. The purchase price was

---

them. A request for the Commissioner to approve the payment of an extraordinary dividend by FAFLIC to THG pursuant to M. G. L. c. 175, § 206C (e) and (r) also is pending.

determined on an arms' length basis in consultation with advisors of the parties, which was informed, in part, by an actuarial appraisal of FAFLIC, as of September 30, 2007, conducted for Hanover by Milliman, Inc.”

- 5) **the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest**

Section 206B (d) (1) (v) requires that the acquiring party not be contemplating any material changes in its business that would be unfair and unreasonable to policyholders, or otherwise would not be in the public interest. According to Mr. Reardon’s testimony, “[p]olicyholders' contract benefits will be unchanged and services to policyholders will continue to be provided on a consistent basis. FAFLIC's policyholders will benefit from the fact that FAFLIC will have a financially strong parent company that is committed to the life insurance business, with experience in risk and asset management.” Neither CwA nor GSGroup plan to make any major change to FAFLIC's business or corporate structure. Mr. Huber explained that FAFLIC and CwA already use the same third party administrator so that policyholder services will not be disrupted.

Hearing Officer Ditomassi asked the parties to comment on the rationale behind the decision to “reunite” the formerly affiliated companies and why they perceived this as a positive event. Mr. Reardon explained that there currently exists a number of reinsurance agreements between the two companies (variable annuity business and variable life business). He claimed that by reuniting the two entities, efficiencies in financial reporting and regulatory filings are possible. Also by bringing FAFLIC and CwA back together, CwA no longer requires an unaffiliated third party to manage reinsurance agreements. Lastly, Mr. Reardon underscored the desire to have a 50-state presence through FAFLIC’s New York license.

- 6) the competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and of the public to permit the merger or other acquisition of control**

Section 206B (d) (1) (vi) requires that the competence, experience and integrity of those who will control the operations of the domestic insurers subsequent to the Acquisition be of a sufficient level so as not to be prejudicial or contrary to the interests of the policyholders and the insuring public. Mr. Reardon testified that FAFLIC operations will be controlled on a day-to-day basis by a management team that includes the senior people from CwA.<sup>18</sup> Mr. Huber explained that over the past three years, CwA has “managed the variable business very competently, probably as well as anyone else in the business, given the very volatile times that we are facing now, and we have every confidence that the manner that they operate this business will be of the highest benefit, will benefit the policyholders. We believe that policyholders will benefit from a likely upgrade by A.M. Best in time, and from the prudent management of capital demonstrated by Commonwealth, as well as from Commonwealth’s growing and diversified life and annuity business.”

- 7) the acquisition is likely to be hazardous or prejudicial to the insurance buying public**

Finally, § 206B (d) (1) (vii) requires that the Acquisition not be hazardous or prejudicial to the insurance buying public. Mr. Reardon testified that “FAFLIC is closed to new sales. However, to the extent that this standard applies to policies currently in-force, as I have described, after the close of the Acquisition, FAFLIC will be very well capitalized and prudently managed by an experienced management team and serviced by an experienced third party administrator. Therefore, the proposed transaction will not be hazardous or prejudicial to the insurance buying public.”

---

<sup>18</sup> Mr. Reardon was the president of FAFLIC when the two companies separated in 2005. He again will become President and CEO of FAFLIC following the close of the Acquisition.

Mr. Macullar testified that “[a]fter an extensive review of the proposed Acquisition in light of the above standards, the Working Group noted no matters that would lead to an adverse determination on any of the above standards.”

## **B. Findings**

Based on the testimony presented at the hearing, including the Working Group’s recommendation, and our independent review of the Form A and its related documents, we find no obstacles under § 206B (d) (1) (i)-(vii) to approval of the proposed Acquisition.

**IV. Conclusion**

Based on the findings and analysis stated above, the Proposed Acquisition of Control of First Allmerica Financial Life Insurance Company complies with the requirements of M. G. L. c. 175, § 206B and is not prejudicial to the policyholders or to the insuring public. The Acquisition is APPROVED.

**SO ORDERED.**

December 30, 2008

---

Susan L. Donegan  
Presiding Officer

---

Elisabeth A. Ditomassi,  
Deputy Commissioner and General Counsel  
and Hearing Officer

Affirmed:

---

Nonnie S. Burnes  
Commissioner of Insurance