

**THE COMMONWEALTH OF MASSACHUSETTS**

**OFFICE OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION**

**Division of Insurance**

*Report on the Market Conduct Examination of*

*Boston Mutual Life Insurance Company*

*Canton, Massachusetts*

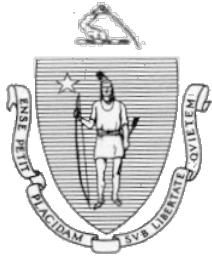
*For the Period January 1, 2011 through December 31, 2011*

**NAIC COMPANY CODE: 61476**

**EMPLOYERS ID NUMBER: 04-1106240**

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

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November 13, 2014

Honorable Joseph G. Murphy  
Commissioner of Insurance  
Commonwealth of Massachusetts  
Division of Insurance  
1000 Washington Street, Suite 810  
Boston, Massachusetts 02118-6200

Dear Commissioner Murphy:

Pursuant to your instructions and in accordance with Massachusetts General Laws, Chapter 175, § 4, a comprehensive examination has been made of the market conduct affairs of

**BOSTON MUTUAL LIFE INSURANCE COMPANY**

at their home offices located at:

120 Royall Street  
Canton, MA 02021

The following report thereon is respectfully submitted.

## **SCOPE OF EXAMINATION**

The Massachusetts Division of Insurance (the “Division”) conducted a comprehensive market conduct examination (“examination”) of Boston Mutual Life Insurance Company (“Boston Mutual” or “the Company”) for the period January 1, 2011 through December 31, 2011. The examination was called pursuant to authority in Massachusetts General Laws Chapter (“M.G.L. c. 175, 4”). The examination was conducted under the direction, management and control of the market conduct examination staff of the Division. Representatives from the firm of Risk & Regulatory Consulting, LLC (“RRC” or “the Examiners”) were engaged to complete the examination.

During the examination period, the Company sold individual accident, individual life, group disability income, group critical illness and group life policies.

## EXAMINATION APPROACH

A tailored examination approach was developed using the guidance and standards of the *2011 NAIC Market Regulation Handbook* (“the Handbook”), the examination standards of the Division, the Commonwealth of Massachusetts’ insurance laws, regulations and bulletins, and selected Federal laws and regulations. All procedures were performed under the supervision of the market conduct examination staff of the Division, including procedures more efficiently addressed in the Division’s separate financial examination of the Company. For those objectives, RRC and the market conduct examination staff used procedures performed by the Division’s financial examination staff to the extent deemed appropriate to ensure that the market conduct objectives were adequately addressed.

The operational areas that were reviewed under this examination include Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating and claims. This examination report describes the procedures performed in these operational areas and the results of those procedures.

In addition to the processes and procedures guidance in the Handbook, the examination included an assessment of the Company’s related internal controls. While the Handbook approach is designed to detect incidents of deficiency through transaction testing, the internal control assessment provides an understanding of the key controls that the Company’s management uses to operate their business and to meet key business objectives, including complying with applicable laws and regulations related to market conduct activities.

The internal controls assessment is comprised of three significant steps: (a) identifying controls; (b) determining whether the control has been reasonably designed to accomplish its intended purpose in mitigating the risk; and (c) verifying that the control is functioning as intended (i.e., review or testing of the controls). The effectiveness of the internal controls was considered when determining sample sizes for transaction testing. The form of this examination report is “Report by Test,” as described in Chapter 15, Section A of the Handbook.

The Division considers a “finding” to be a violation of Massachusetts insurance laws, regulations or bulletins. An “observation” is defined as a departure from an industry best practice. The Division

recommends that Company management evaluate any “finding” or “observation” for applicability to other jurisdictions. All unacceptable or non-compliant practices may not have been discovered or noted in this report. Failure to identify unacceptable or non-compliant business practices does not constitute acceptance of such practices. When applicable, corrective actions should be taken in all jurisdictions. The Company shall report to the Division any such corrective actions taken.

## **EXECUTIVE SUMMARY**

This summary of the examination of the Company is intended to provide a high-level overview of the examination results highlighting where recommendations were made or required actions were noted. The body of the report provides details of the scope of the examination, the examination approach, internal controls for each standard, review and test procedures conducted, findings and observations, recommendations and required actions and, if applicable, subsequent Company actions. Company managerial and supervisory personnel from each operational area should review the examination report for results relating to their specific area.

The following is a summary of all findings and observations, along with related required actions and recommendations and, if applicable, subsequent Company actions noted in this examination. All s, regulations and bulletins cited in this report may be viewed on the Division's website at [www.mass.gov/doi](http://www.mass.gov/doi).

The examination resulted in no recommendations or required actions with regard to Complaint Handling. The examination indicated that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in the examination. Further, the tested Company practices appear to meet industry best practices in this area.

## **Summary**

Based upon the procedures performed in this examination, RRC has reviewed and tested Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims in accordance with the standards as set forth in the *2011 NAIC Market Regulation Handbook*, the examination standards of the Division, and the Commonwealth of Massachusetts' insurance laws, regulations and bulletins. The Division has made recommendations or has set forth required actions to address various concerns in the areas of operations and management; marketing and sales; producer licensing; policyholder services; underwriting and rating; and claims.



The comprehensive market conduct examination resulted in the following required actions or recommendations:

## **SECTION I – COMPANY OPERATIONS AND MANAGEMENT**

### **STANDARD I-13**

*Findings:* The Examiners could not determine the Company's compliance with M.G.L. c. 175I, § 4, which requires the Company to provide a notice of information practices at the time of application regarding the Critical Illness and Tower Disability Short Form Applications. Those applications do not contain an acknowledgement that the producer provided the applicant with a Privacy Notice at the time of application. Upon addressing these issues with the Company, it was discovered that the Company was in the process of revising the Critical Illness application so that it will contain the required acknowledgement.

*Observations:* Based upon the testing of the life and accident new business files, applicants acknowledged on the application that he or she received the Privacy Notice. Also, the Examiners noted that the Company has procedures for providing the Privacy Notice annually to policyholders.

*Required Actions:* The Company shall revise and file their Critical Illness Application and Tower Disability Short Form Application by June 30, 2015 to include an acknowledgement that the producer provided the applicant with a Privacy Notice at the time of application.

## **SECTION III – MARKETING AND SALES**

### **STANDARD III-1**

*Findings:* None

*Observations:* In four of the five instances, the Submission Review form was not completed in its entirety in compliance with Company advertising review procedures.

*Recommendations:* The Company should implement procedures to perform periodic assessments of the review process to assure that Company procedures are being followed.

### STANDARD III-2

Findings: None.

Observations: In two of the five items tested, the Examiners found no evidence that the training material was reviewed and approved by the Company. In one of the five instances, the Examiners found that the training material was approved by the Company however the content of the material included a statement that was untrue about a variable annuity product not manufactured by the Company.

Recommendations: The Company should revise its procedures to only approve training materials that include products that it manufactures or, at a minimum, to require and obtain evidence of prior approval from the other insurance carrier for any content related to its product(s). The Company should implement procedures to perform periodic reviews of the training material review process to reasonably assure that established procedures are being followed.

### STANDARD III-3

Findings: None

Observations: In four of the five items tested, the Examiners found no evidence that the communication was reviewed and approved by the Company. In two of these instances, the communications included product information for other companies. In one instance, the communication (an e-mail blast) offered all producers access to pre-approved “thank you” notes which included investment terminology. The Company, however, does not offer investment products and not all producer recipients may have been licensed to sell investment products. In one instance, the item included information on updates to replacement regulations.

Recommendations: The Company should revise its advertising review procedures to include a formal documented review and approval for newsletters or other communications sent to producers in order to provide reasonable assurance that potential compliance issues are identified and corrected prior to distribution. The Company should implement procedures for the review of materials that reference products manufactured by other carriers to include obtaining evidence of approval for such content by the other carrier or broker dealer prior to distribution, depending on the nature of the communication.

## SECTION V – POLICYHOLDER SERVICES

### STANDARD V-5

Findings: The Company is not in compliance with M.G.L. c. 175, § 110H in that notices were not sent to disability policyholders reaching age 65 informing them that their policy will be cancelled. The Company advised the Examiners that during the period of review there were two impacted policyholders.

Observations: The Company's policy loan provisions allow insureds to request loans verbally and after the premiums have been paid for one year. M.G.L. c.175, § 142 requires that loan requests be made by written application to the Company and only after premiums have been paid for three full years.

With the exception of the above finding, the Company appears to process other policyholder transactions accurately, timely and in accordance with statutory requirements such and policy provisions.

Required Actions: The Company shall revise their disability policy age 65 expiration procedures to comply with M.G.L. c. 175, § 110H.

Recommendations: The Company should review and amend, as appropriate, its policy loan provisions and procedures to ensure compliance with M.G.L. c. 175, § 142.

### STANDARD V-6

Findings: None.

Observations: In 12 of the 20 items reviewed the Examiners were unable to determine in whether the Company was complying with the standard as the Company's documentation was insufficient or incomplete:

- In nine instances the Company advised that the items were currently "pending" and had not yet been resolved but did not provide documentation to support this statement.
- In two instances the Company attempted to locate the beneficiary however the documentation does not demonstrate that Company did this in a timely manner. The Lexis Nexis reports were run six months after the initial comparison was performed in September 2011. The Examiners noted three and five month from the dates those reports were run and the date of the next action by the Company.

- In one instance the Company provided documentation to demonstrate that the claim had been paid in 1997. No explanation was provided for why this item was identified as a claim that was reviewed against the Social Security Death Index during the examination scope period. As such the Company process for matching Company databases against the SSDMF does not appear to be operating as intended.

In addition, the Examiners note the following:

- The Company maintains written procedures; however the Company was not able to provide written procedures in effect for the entire examination period. Procedures provided were dated October 2011, February 6, 2012, and November 14, 2011 respectively.
- The Company's procedure for returned mail requires research through various internal and external databases to locate valid addresses for policyholders. However, the procedure does not indicate whether address change confirmations are mailed, only that mail should be sent to the new address.
- The Company indicated that each third party administrator used by the Company has their own procedures for returned mail, however the Company does not periodically review or monitor this practice. The Company also stated that Internal Audit reviews TPAs, but did not specifically state or provide evidence that returned mail procedures were in scope and audited.

*Recommendations:* The Company should evaluate, for effectiveness, the process in place to match Company databases against the SSDMF including investigating why a paid claim was included in the list of missing policyholders. The Company should maintain copies of historical procedures in order to demonstrate and memorialize protocols in place on any given date. The Company should update its returned mail and address change procedures to include sending address change confirmations to the old and new address to prevent fraudulent address changes. The Company should include a review of TPA returned check procedures as part of their internal audit process to assure that TPA procedures meet Company standards.

STANDARD V-10

Findings: None.

Observations: Based upon review and testing results, the Company appears to have adequate procedures for providing life policyholders with timely annual reports in compliance with Company policies and regulatory requirements. However, the Company does not archive the annual reports sent to policyholders.

Recommendations: The Company should begin archiving the annual reports which will validate compliance with 211 CMR 28.10.

## SECTION VI – UNDERWRITING AND RATING

### STANDARD VI-5

Findings: None.

Observations: The Company has not filed the Privacy Notice, which is sent with the policy and is deemed to be a part of the policy. Except as noted, the Company utilized policy forms, riders, and endorsement forms approved by the Division prior to their use.

Recommendations: The Company should timely file the Privacy Notice with the Division in all future filings.

## SECTION VII – CLAIMS

### STANDARD VII-3

Findings: None.

Observations: In five of the 108 claims tested, the claim form was not date stamped with a received date.

Recommendations: The Company should update their policies and procedures to require that a date stamp be applied to all claim correspondence.

### STANDARD VII-4

Findings: None.

Observations: In two of the 108 claims tested, there was no documentation in the claim file to support that the Company communicated timely with the insured after receiving the claim forms in compliance with M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e).

Recommendations: The Company should update their policies and procedures to require that follow-ups are performed within 30 days as required by statute. The Company should conduct self audits to ensure that the noted follow-ups are being done appropriately.

### STANDARD VII-5

Findings: None.

Observations: In 5 of the 108 claims tested, the Examiners found that the Company did not adequately document the claim files.

Two of the errors related to the following life claims:

- In one instance, the file did not include the policy or the statement of policy loss. In addition, there was no documentation to support that the beneficiary changed her name.
- In one instance, there was no documentation to support the beneficiary changed her name.

Three of the errors related to the following health claims:

- In two of the files, there was no documentation available for review by the Examiners to demonstrate that the Company responded timely to customer correspondence.
- In one instance, the claim file does not clearly document the dates of disability.

The Company includes handwritten notes indicating the date the claim packet was mailed but the Company does not retain a copy of the letter mailed with the packet. Also, in five of the 108 claims tested the claim form was not date stamped with a received date.

*Recommendations:* The Company should retain a copy of the letter mailed with the claim packet. Also, the Company should update their policies and procedures to require that a date stamp be applied to all claim correspondence.

#### STANDARD VII-6

*Findings:* In 15 of the 108 claims tested, the Examiners found that the Company did not adequately document the claim files.

Of the 18 paid life claims tested, the Examiners noted:

- 12 instances where interest was paid from the date the Company was notified rather than 30 days after the insured's death pursuant to M.G.L. c. 175 §119C.
- Of the 12 instances, interest was underpaid on 10 claims and overpaid on two claims.

Of the 68 health claims tested, the 3 findings included:

- In one instance, the Company used an inaccurate disability start date that was two days after the actual procedure date identified in the file by the physician.
- In one instance, the Company applied an incorrect elimination period to the claim. The policy has a 14-day elimination period; however, per the EOB, a 15-day elimination period was applied resulting in an underpayment of benefits.
- In one instance, the Company processed the claim upon receipt of a claim form that was not signed or dated.

*Observations:* The 108 claims reviewed complied with Massachusetts laws regarding claims handling such as M.G.L. c. 175, §§ 22I, 24D, 24F, 110F and 119B.



*Required Actions:* The Company shall identify and remediate instances where the delayed settlement interest (DSI) was incorrectly calculated. The Company shall update their policies, procedures and tools to calculate DSI from 30 days after the date of death to the date of payment. The Company shall conduct self audits to ensure that the DSI was calculated and paid correctly. The results of the audits shall be submitted to the Division by June 30, 2015.

*Subsequent Action:* The Company identified 9,768 individuals who were due additional DSI and processed additional interest payments in the amount of approximately \$412,000.

#### STANDARD VII-7

*Findings:* None.

*Observations:* In one of the 108 claims tested, the claim form was not appropriate for administering the claim. The form submitted did not capture the number of available sick hours. In this instance, the policy had a sick time offset provision, but the disability did not exceed the offset.

*Recommendations:* The Company should implement a procedure to obtain and document any additional information that may be necessary to process the claim when outdated claim forms are submitted.

#### STANDARD VII-10

*Findings:* Of the 108 claims tested, the Examiners found one instance where review of the cancelled benefits and drafts did not reflect appropriate claim handling practices. A disability income claim was not paid in accordance with policy provisions. The Company applied a 15 day elimination period, which was contrary to the policy terms.

*Observations:* Of the 108 claims tested, two life claims did not reflect appropriate claim handling practices. The issues identified were:

- The name of the beneficiary on the claim proceeds check does not agree with the name of the beneficiary on the Group Insurance Certificate Change Form.
- The last name of the beneficiary per policy documentation and per the claim form and cancelled claim check are not the same.

In addition, the Examiners found that the benefit period details included in the EOB for group disability income claims tested does not appear to accurately reflect the benefit period for which benefits were paid. The EOB includes the headings "Period From" and "Period To." The "Period From" should specify the start of the benefit period and the "Period To" should specify the end date for which benefits will be paid, including the elimination period. The Company verbally indicated that the application of the elimination period and the date to which benefits are paid is the date before the "Period To" date and not the date shown as "Period To." As a result, this information could be misleading to the policyholder.

*Required Actions:* Regarding the underpaid disability insurance claim, the Company shall pay the appropriate benefit with 6% interest. For other disability insurance claims, the Company shall investigate whether the elimination period, per the terms of the policy, has been properly applied. If non-compliance is identified, the Company is to pay the appropriate benefit with 6% interest. The Company is to report the results of its investigation to the Division by June 30, 2015.

*Recommendations:* The Company should ensure that all life insurance proceeds are paid to the appropriate beneficiary by verifying the beneficiary's full name on policy documents matches the full name on the claim form. If the full name on the claim form does not match the full name on policy documents, the Company should obtain the appropriate documentation to verify a beneficiary's name. The Company should ensure that the elimination period is applied according to the terms of the contract and if an error is identified all necessary interest should be paid to the claimant. The EOB generated by the Company should be modified so the "Period From" date specifies the start of the benefit period and the "Period To" date specifies the end date for which the elimination period will be applied or benefits will be paid.

## COMPANY BACKGROUND

Boston Mutual is a mutual life insurance company which has traditionally offered small face whole life products to low and middle income individuals through independent general agents. Some policies are guaranteed issue, but many are underwritten in a simplified manner that does not utilize medical examinations or laboratory testing. In addition, the Company utilizes a worksite marketing program where employers allow the Company to sell life, disability income, critical illness, and accident products to employees, who pay the premiums through payroll deduction. The Company also writes group life, accident and disability income business, much of it administered through third party administrators.

The Company is headquartered in Canton, Massachusetts and domiciled in Massachusetts. The Company does business in all states and Puerto Rico. Boston Mutual had \$1.102 billion in admitted assets and \$126.3 million in surplus as of December 31, 2011. For the year ended December 31, 2011, the Company's premiums were \$180.1 million and net income was \$12.0 million. The Company is rated A- (Excellent) by A.M. Best.

The following is the 2011 direct premium and annuity considerations (which include first year and renewal business) written by the Company in Massachusetts by annual statement line of business:

<b>Massachusetts Direct Premium and Annuity Considerations in 2011</b>	<b>Total</b>
Individual Life Insurance Premiums	\$19,323,446
Individual Annuity Considerations	283
Accident and Health (including disability income and long term care)	6,815,290
Individual Deposit-Type Funds	(91,240)
Group Life Insurance	18,378,408
Group Annuities	0
Other Group Considerations	0
<b>Total</b>	<b>\$44,426,187</b>

## **MASSACHUSETTS CLAIM BENEFITS PAID IN 2011**

The following summarizes the approximate life insurance and annuity death claims and accident and health claims paid in Massachusetts in 2011 based on the Massachusetts Annual Statement State Page:

<b>Massachusetts Claim Benefits Paid in 2011</b>	
Life Insurance and Annuity Death Benefits Paid	\$22,636,156
Accident and Health Benefits Paid	\$3,965,162

## I. COMPANY OPERATIONS AND MANAGEMENT

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files. Unless otherwise stated, the policies and procedures addressed in the Standards below applied to the Company's management of Accident, Critical Illness, Disability Income and Life business.

<b>Standard I-1. The Company has an up-to-date, valid internal, or external, audit program.</b>
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Objective: This Standard addresses the audit function and its responsibilities.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company's statutory financial statements are audited annually by an independent accounting firm.
- The Company's Internal Audit Department is an independent function that performs audits of the Company's operational functions.
- The Board of Directors Audit Committee ("Audit Committee") annually approves the Internal Audit plan, monitors audit plan progress and results throughout the year.
- The Company's Internal Audit Department issues written reports for each audit performed. The reports discuss the procedures performed, findings, actions taken and recommendations. All audit reports are reviewed and approved by the Audit Committee.
- The Internal Audit Department conducts operations related audits throughout the year, and an audit report is issued at the end of the review. The audit report notes all issues that were identified, and each issue is followed by an action plan with target dates. All reports are reviewed by the Audit Committee. The Internal Audit Department utilizes an Excel Spreadsheet to monitor the status of all issues in order to ensure that issues are addressed by the target dates. All audit issues including the status of the issue (e.g., open, closed, open past target date) are reported to the Audit Committee. The issues that remain open after the target date must be reported to the Audit Committee, and the Company must indicate why the issue remains open and a new target date is established. The Audit Committee will closely monitor the status of issues until they are deemed closed.
- The Internal Audit Department is also responsible for conducting field audits of producers.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners reviewed all 26 Internal Audit reports conducted in 2011. The audits conducted during the period of review related to producer licensing and appointment, claims, commissions, corporate complaints, needs assessment, replacement procedures, and third party administrators.

Transaction Testing Results:

Findings: None.

Observations: The Internal Audit reports reviewed were well documented and provided management with information regarding the control structure in the area under review. Four of the 26 reports included findings and recommendations which included timelines to implement the recommendations. The Examiners reviewed the four corrective action plans to ensure that the recommendations were implemented.

Recommendations: None.

**Standard I-2. The Company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.**

No work was performed during this market conduct examination. All required activity for this Standard is included in the scope of the Division's statutory financial examination of the Company which is likewise for the period January 1, 2011 through December 31, 2011.

**Standard I-3. The Company has antifraud initiatives in place that are reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.**

Objective: This Standard addresses the effectiveness of the Company's antifraud plan.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has adopted a written antifraud plan (Plan) which requires them to take reasonable precautions to prevent, detect and thoroughly investigate potential insurance fraud.
- The Plan outlines procedures to report suspected fraud. Cases are referred to the Company's Special Investigative Unit, the Company's Chief Compliance Officer and the Company's General Counsel followed by the appropriate law enforcement authorities and the Massachusetts Insurance Fraud Bureau.

- The Company's policy is to seek the Division's approval regarding the hiring of any "prohibited person" (individuals convicted of state or federal felonies involving dishonesty or breach of trust ) as defined under 18 U.S.C. §1033, when it wishes to employ such a person.
- The Company's policy, commenced in August 2005, is to complete criminal background checks for all prospective employees prior to hiring them. Additionally, producers appointed by the Company are subject to criminal and financial background checks.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners reviewed the Company's Plan and policies and procedures regarding identifying and reporting suspected fraud.

Transaction Testing Results:

Findings: None.

Observations: The Examiners review of the Company's Plan found that the policies and procedures appear to be sufficient. The core outline of the Plan has not changed significantly since inception of the Plan. The Examiners further note that the Company did not hire any employees or contract any producers meeting the criteria as defined under 18 U.S.C. §1033.

Recommendations: None.

<p><b>Standard I-4. The Company has a valid disaster recovery plan.</b></p>
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No work was performed during this market conduct examination. All required activity for this Standard is included in the scope of the Division's statutory financial examination of the Company which is likewise for the period January 1, 2011 through December 31, 2011.

<p><b>Standard I-5. Contracts between the Company and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to MGAs, general agents (Gas), third party administrators (TPAs) and management agreements must comply with applicable licensing requirements, statutes, rules and regulations.</b></p>
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Objective: This Standard addresses the Company's contracts with entities assuming a business function and compliance with licensing and regulatory requirements.

Controls Assessment: The following controls were noted in review of this Standard and Standard I-6:

- The Company contracts with third parties to process disability income and medical reimbursement claims. The Company also contracts with producers who sell the Company's products. The Company's Internal Audit Department conducts periodic audits of these entities.
- The Company has relationships with third parties who process transactions on behalf of the Company's policyholders. As such, contracts exist between the third parties and the Company's policyholders. The contracts require the Company's approval and give the Company the right to conduct audits of these third parties. Consequently, the Company's Internal Audit function conducts periodic audits of these entities.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff about the use of third parties to perform Company functions. Also, the Examiners reviewed the Company's audit reports and contracts in effect with third parties. In addition, while testing other Standards as part of this examination, the Examiners reviewed for the appropriate oversight of third parties.

Transaction Testing Results:

Findings: None

Observations: The review indicated that the use of such third parties is conducted in compliance with Company policies and procedures. The review of the audit reports and contracts in effect with third parties indicated that the Company is monitoring the activities of entities acting on behalf of the Company to ensure that Company policies and procedures are followed and that the third party is safeguarding and protecting Company information..

Recommendations: None.

<b>Standard I-6. The Company is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the Company.</b>
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Objective: This Standard addresses the Company's efforts to adequately monitor the activities of the contracted entities that perform business functions on its behalf.

Controls Assessment: See Standard I-5.



Controls Reliance: See Standard I-5.

Transaction Testing Procedure: The Examiners began by interviewing Company management and staff about the use of third parties to perform Company functions. The oversight processes as explained during the interviews were considered when reviewing the related processes and controls. Also, the Examiners reviewed the Company's Internal Audit reports and contracts in effect with third parties. In addition, while testing other Standards as part of this examination, the Examiners reviewed for the appropriate oversight of third parties.

Transaction Testing Results:

Findings: None.

Observations: The review indicated that the use of such third parties is conducted in compliance with Company policies and procedures. The review of the audit reports and contracts in effect with third parties indicated that the Company is monitoring the activities of entities acting on behalf of the Company to ensure that Company policies and procedures are followed and that the third party is safeguarding and protecting Company information.

Recommendations: None.

<p><b><u>Standard I-7. Records are adequate, accessible, consistent and orderly and comply with record retention requirements.</u></b></p>
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Objective: This Standard addresses the adequacy and accessibility of the Company's records.

Controls Assessment: The Company has adopted written procedures noting the length of time specific documents must be retained. The policy details what records must be retained and, as a general rule, the Company requires that records be retained for a seven year period.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners reviewed the Company's Record Retention Policy and tested the Company's compliance with such policies and procedures while testing other Standards as part of this examination.

Transaction Testing Results:

Findings: None.

Observations: The Company has a record retention policy in place, and in general, most of the requested documents were produced by the Company. Testing results relating to documentation evidence are also noted in the various examination standards.

Recommendations: None.

<b>Standard I-8. The Company is licensed for the lines of business that are being written.</b>
--

Objective: This Standard addresses whether the lines of business written by the Company are in accordance with the authorized lines of business.

Controls Assessment: No control assessment was performed regarding this Standard.

Controls Reliance: Not Applicable.

Transaction Testing Procedure: As part of the examination planning process, the Examiners discussed with the Division the lines of business the Company was licensed to write in the Commonwealth during the examination period. The Examiners reviewed the Company's premium as reflected in the Company's 2011 annual statement to determine if the Company recorded premiums for any lines of business other than those the Company was licensed to write in the Commonwealth. Finally, the Examiners reviewed the Company's Certificate of Authority and compared it to the lines of business the Company writes in the Commonwealth.

Transaction Testing Results:

Findings: None.

Observations: The Examiners review of the Company's annual statement indicated that the only new business premiums reported were for the lines of business the Company was licensed to write during the examination period.

Recommendations: None.

**Standard I-9. The Company cooperates on a timely basis with examiners performing the examinations.**

Objective: This Standard is concerned with the Company's cooperation during the course of the examination conducted in accordance with M.G.L. c. 175, § 4.

Controls Assessment: No control assessment was performed regarding this Standard.

Controls Reliance: Not Applicable.

Transaction Testing Procedure: The Company's ability to respond to requests, provide access to information and provide access to staff was assessed throughout the examination.

Transaction Testing Results:

Findings: None.

Observations: During the examination, the Company was responsive to the needs of the Examiners but was unable to provide responses to several requests in a timely manner. Overall, the Company was cooperative and met the expectations of the Division.

Recommendations: None.

**Standard I-10. The Company has procedures for the collection, use and disclosure of information gathered in connection with insurance transactions to minimize any improper intrusion into the privacy of applicants and policyholders.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it minimizes improper intrusion into the privacy of consumers as required by M.G.L. c. 175I, §§ 1-22. Also, the Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313 set forth requirements for proper notice to consumers and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. Further, a financial institution must provide its customers with a written notice of its privacy policies and practices. In addition, a financial institution is prohibited from disclosing non-public personal consumer information to non-affiliated third parties, unless the institution satisfies various disclosure and opt-out requirements, and the consumer has not elected to opt-out of such disclosure.

Controls Assessment: The following controls were noted in review of this Standard, and Standards I-11 through I-16:

- The Company has defined adverse underwriting decision, personal information and pretext interview. Company policy prohibits pretext interviews except as allowed by law.
- The Company's practice is to provide the Notice of Information Privacy Practices ("Privacy Notice") at the policy application date. The Privacy Notice is part of the application package, and the application must be completed for all new business. The Company does not ask specific questions on the application designed to obtain information for marketing or research purposes.
- The Privacy Notice states that certain types of nonpublic personal financial and health information is collected from third parties and gives examples of such third parties and such types of information. Further, the Privacy Notice indicates that information may be disclosed in some cases, and that a right of access and correction exists.
- The Company requires that disclosure authorization in compliance with Health Insurance Portability and Accountability Act of 1996 ("HIPAA") be signed by the applicant at time of application for a policy and when a claim is filed.
- The Company does not share nonpublic personal financial information with other financial service providers and non-financial companies for marketing purposes. Thus, the Company is not required to offer an opt-out for such information sharing.
- At least annually, the Company mails the Privacy Notice to each individual customer.
- The Company provides applicants a written Notice of Adverse Underwriting Decision ("Adverse Underwriting Notice") when it declines to provide coverage, elects to provide a reduced amount of coverage or offers to provide insurance at higher than standard rates. The Adverse Underwriting Notice includes all statutory requirements.
- Company policy does not base an adverse underwriting decision on the existence of a previous adverse underwriting decision; on the basis of sexual orientation or perceived orientation; or on personal information obtained from an insurance support organization, provided that the Company can base their decision on further information obtained as a result of the initial receipt of such personal information.
- Company policy is to disclose nonpublic personal information only as required or permitted by law to regulators and law enforcement agencies. Such information is provided to third parties who assist the Company in processing customer business transactions only if expressly authorized by the applicant.
- The Company will not disclose to applicants information that it obtains from medical professionals when applicants authorize medical professionals to provide such information. Rather, the Company requires applicants to obtain such information directly from those medical professionals.
- The Company provides its privacy policy on the Company's website.

- The Company annually conducts an information systems risk assessment to consider, document and review information security threats and controls. The risk assessment evaluations have resulted in continual improvements to information systems security.
- Company policy requires that its information technology security practices safeguard nonpublic personal financial and health information, and communicates these practices to employees and producers in training programs, compliance presentations and various memoranda. All employees and producers have taken privacy training as required by Company policy.
- Only individuals approved by Company management are granted access to the Company's key electronic and operational areas where nonpublic personal financial and health information is located. Access is frequently and strictly monitored.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. The Examiners also reviewed underwriting and claims documentation for any evidence of the use of pretext interviews where the Company did not properly identify itself in obtaining information from consumers or claimants.

Transaction Testing Results:

Findings: None

Observations: The Company has policies and procedures in effect to meet the requirements of M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.

The Company's privacy practices appear to minimize any improper intrusion into applicants' and policyholders' privacy, and are disclosed to policyholders in accordance with the Company's policies and procedures. Further, based upon the results of underwriting and claims testing, the Examiners did not note any evidence of the use of pretext interviews

Recommendations: None

**Standard I-11. The Company has developed and implemented written policies for the management of insurance information.**

Details of the Company's controls and testing related to privacy matters were included in the Scope of Standards I-10 and I-12 through I-16.

**Standard I-12. The Company has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.**

Objective: This Standard addresses policies and procedures to ensure privacy of nonpublic personal information.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. As part of underwriting and claims testing, the Examiners sought any evidence that the Company improperly provided personal information to parties other than the applicant. The Examiners selected a sample of 120 issued new business applications for review. The review included verifying that the Company protects the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.

Transaction Testing Results:

Findings: None

Observations: Based on the Examiner's review of the Company's policies and procedures, the Company appears to have adequate controls to protect consumers' nonpublic personal information. The Examiners did not note any instances where the Company improperly provided personal information to parties other than the applicant. Additionally, the Examiners noted that the Company's Notice of Insurance Privacy Practices specifically states that the privacy of nonpublic personal information of former customers is protected.

Recommendations: None

**Standard I-13. The Company provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding treatment of nonpublic personal financial information.**

Objective: This Standard addresses requirements to provide privacy notices.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: The Examiners reviewed the Company's policies and procedures for providing the Privacy Notice to applicants, and annually thereafter to policyholders. Further, the Examiners evaluated compliance with privacy disclosure requirements in conjunction with testing of 120 new business applications.

Transaction Testing Results:

Findings: The Examiners could not determine the Company's compliance with M.G.L. c. 175I, § 4, which requires the Company to provide a notice of information practices at the time of application regarding the Critical Illness and Tower Disability Short Form Applications. Those applications do not contain an acknowledgement that the producer provided the applicant with a Privacy Notice at the time of application. Upon addressing these issues with the Company, it was discovered that the Company was in the process of revising the Critical Illness application so that it will contain the required acknowledgement.

Observations: Based upon the testing of the life and accident new business files, applicants acknowledged on the application that he or she received the Privacy Notice. Also, the Examiners noted that the Company has procedures for providing the Privacy Notice annually to policyholders.

Required Actions: The Company shall revise and file their Critical Illness Application and Tower Disability Short Form Application by June 30, 2015 to include an acknowledgement that the producer provided the applicant with a Privacy Notice at the time of application.

**Standard I-14. If the Company discloses information subject to an opt out right, the Company has policies and procedures in place so that nonpublic personal financial information will not be disclosed when a consumer who is not a customer has opted out, and the Company provides opt out notices to its customers and other affected consumers.**

Objective: This Standard addresses policies and procedures with regard to opt out rights.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures.

Transaction Testing Results:

Findings: None.

Observations: The Company does not share nonpublic personal financial information with other financial service providers and non-financial companies for marketing purposes. Thus, the Company is not required to offer an opt-out for such information sharing.

Recommendations: None.

**Standard I-15. The Company's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.**

Objective: This Standard is concerned with the Company's collection and use of nonpublic personal financial information.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. Based upon



underwriting and claims testing procedures, the Examiners looked for any evidence that the Company improperly collected, used or disclosed nonpublic personal financial information.

Transaction Testing Results:

Findings: None.

Observations: Based on the Examiner's review of the Company's policies and procedures the Company appears to properly collect, use and disclose nonpublic personal financial information.

Recommendations: None.

**Standard I-16. In states promulgating the health information provisions of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the Department of Insurance, the company has policies and procedures in place so that nonpublic personal health information will not be disclosed except as permitted by law, unless a customer or a consumer who is not a customer has authorized the disclosure.**

Objective: This Standard addresses efforts to maintain privacy of nonpublic personal health information.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed supporting documentation. The Examiners also sought evidence that the Company improperly disclosed nonpublic personal health information in conjunction with testing underwriting declinations, claims and new application processing. Finally, the Examiners reviewed compliance with HIPAA authorization disclosure requirements in conjunction with testing of 120 new business applications.

Transaction Testing Results:

Findings: None.

Observations: Based on testing and review, the Examiners noted that when medical information was requested, the HIPAA authorization disclosure was signed by the applicant for new business and by

claimants for claims filed. The Examiners did not note any instances where the Company improperly disclosed nonpublic personal health information in testing underwriting declinations, new business applications and claims filed.

Recommendations: None.

**Standard I-17. Each licensee shall implement a comprehensive written information security program for the protection of nonpublic customer information.**

Objective: This Standard is concerned with the Company's information security efforts to ensure that nonpublic consumer information is protected as required by M.G.L. c. 175I, §§ 1-22. Also, the Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313 set forth requirements for proper notice to consumers and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties. In addition, a financial institution must provide its customers with a written notice of its privacy policies and practices. Finally, a financial institution is prohibited from disclosing nonpublic personal consumer information to nonaffiliated third parties, unless the institution satisfies various disclosure and opt-out requirements and the consumer has not elected to opt-out of such disclosure.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has developed and implemented information technology security policies and practices to safeguard nonpublic personal and health information. The Company annually conducts information systems risk assessments to consider, document and review information security threats and controls, and to continually improve information systems security.
- Only individuals approved by Company management are granted access to the Company's electronic and operational areas where non-public personal financial and health information is located. Access is frequently and strictly monitored.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. Review of information technology access and authorization controls is also included in the scope of the recently completed statutory financial examination of the Company.

Transaction Testing Results:

Findings: None.

Observations: Based upon the Examiner's review of the Company's information security policies and procedures, it appears that the Company has implemented an information security program which provides reasonable assurance that its information systems protect nonpublic customer information.

Recommendations: None.

<b>Standard I-18. All data required to be reported to department of insurance is complete and accurate.</b>
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Objective: This Standard addresses the Company's efforts to file complete and accurate certifications with the Division as required.

Controls Assessment: No control assessment was performed regarding this Standard.

Controls Reliance: Not Applicable.

Transaction Testing Procedure: As part of the examination planning process, the Examiners discussed with the Division whether all data required to be reported to the Division was complete and accurate during the examination period. The Examiners reviewed the Company's premiums as reflected in the Company's 2011 annual statement to determine if the Company recorded premiums for any lines of business other than those the Company was licensed to write in the Commonwealth.

Transaction Testing Results:

Findings: None.

Observations: The Examiners review of the Company's annual statement indicated that the only new business premiums reported were for the lines of business the Company was licensed to write during the examination period.

Recommendations: None.

<p><b>Standard I-19. The Company files all certifications with the insurance department, as required by statutes, rules and regulations.</b></p>
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Objective: This Standard addresses the Company's efforts to file certifications with the Division as required.

Controls Assessment: No control assessment was performed regarding this Standard.

Controls Reliance: Not Applicable.

Transaction Testing Procedure: As part of the examination planning process, the Examiners discussed with the Division whether all data required to be reported to the Division was complete and accurate during the examination period. The Examiners reviewed the Company's premium as reflected in the Company's 2011 annual statement to determine if the Company recorded premiums for any lines of business other than those the Company was licensed to write in the Commonwealth.

Transaction Testing Results:

Findings: None.

Observations: The Examiners review of the Company's annual statement indicated that the only new business premiums reported were for the lines of business the Company was licensed to write during the examination period.

Recommendations: None.

## II. COMPLAINT HANDLING

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard II-1. All complaints are recorded in the required format on the Company complaint register.**

*Objective:* This Standard addresses whether the Company formally tracks complaints or grievances as required by statute. Pursuant to M.G.L. c. 176D, § 3(10), an insurer is required to maintain a complete record of all complaints it received from the date of its last examination. The record must indicate the total number of complaints, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint and the time taken to process each complaint.

*Controls Assessment:* The following controls were noted in review of this Standard, and Standards II-2 through II-4:

- As required by M.G.L. c. 176D, § 3(10), the Company has written policies and procedures to manage the complaint handling process.
- The Company logs all written complaints, Insurance Department complaints, customer satisfaction survey responses and oral complaints received via the telephone that meet the Company's complaint definition in its complaint register in a consistent format.
- The Company defines a corporate complaint as any written or oral communication, from, or on behalf of, a policyholder which expresses dissatisfaction of a significant nature with Company products, performance or service.
- As required by M.G.L. c. 176D, § 3(10), the Company's complaint register includes the date received, the date acknowledged, the response date, the date closed, the complaint number, the resident state code, the policy number, the group number, the person making the complaint, the policyholder and the insured, the nature of the complaint and the complaint disposition, how the complaint was received, the department and individual assigned to handle the complaint, the producer and producer debit number, the Marketing Department (Individual, Group, Worksite), the line of business, the claim center, the name of the person additional information requested from (if necessary), the date for additional information requested (if necessary), and date additional information is received (if necessary).
- Complaint processing time is not defined in a Massachusetts statute or regulation. The Division has established a practice of requiring that insurers respond to complaints from the Division within 14 calendar days from the date they receive a notice of a complaint. As such, the Company indicated

that responses to the Division must be made within 14 calendar days of receipt when possible, and in a timely manner once it receives and evaluates all required information.

- The Company conducts post-sale customer satisfaction surveys, and its policy is to timely and fully respond to all significant comments. According to the Company policy, responses which express dissatisfaction of a significant nature with products, performance or service are considered written complaints, subject to complaint handling procedures.
- The Audit Committee monitors the Company's complaint handling practices through periodic Internal Audits of complaint handling policies and procedures.
- The Company's website provides a toll free telephone number and Company address. In addition, the Company states the same information is provided on its written responses.
- The Company monitors complaint handling activity through monthly management review of complaint activity and trends.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for complaint handling. All nine complaints received by the Company were reviewed for completeness including whether the complaint had been recorded in the Company's standardized format for recording complaints. The Company's complaint register was also compared to the Division's complaint records to ensure that the Company's records were complete.

Transaction Testing Results:

Findings: None.

Observations: The format used by the Company to record complaints in the complaint register, as stated in the Company's complaint handling manual, appears to include all necessary information. During the exam period, the Company received six direct complaints and three complaints from the Division. The nine complaints tested by the Examiners included all the required information as stated in the Company's complaint handling manual.

Recommendations: None.

<b>Standard II-2. The Company has adequate complaint handling procedures in place and communicates such procedures to policyholders.</b>
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Objective: This Standard addresses whether the Company has adequate complaint handling procedures and communicates those procedures to policyholders and consumers.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for complaint handling. During the exam period, the Company received six direct complaints and three complaints from the Division. The Examiners requested the complete complaint files for review including whether the Company responded to the complaints within 14 calendar days as required by the MA DOI and appeared to include all the necessary documentation to support the handling of the complaint. Also, the Company's Procedures for Handling Corporate Complaints defines a "corporate complaint" as any written or oral communication, from, or on behalf of, a policyholder which expresses dissatisfaction of a significant nature with Company products, performance or service. As the Company indicated that they review the post-sale and policyholder service surveys for complaints, the Examiners reviewed the Company's log for completeness and to evaluate the handling of complaint matters. Two of complaints reviewed by the Examiners originated from post-sale surveys. In addition, the Company's website and various forms sent to policyholders were reviewed to determine whether they include Company contact information to consumers.

Transaction Testing Results:

Findings: None.

Observations: The Company's complaint handling procedures for both direct complaints and Division complaints appears to be satisfactory. Testing performed by the Examiners found that the Company's communication with consumers and the Division appears to provide sufficient information regarding the Company's complaint handling procedures.

Recommendations: None.

**Standard II-3. The Company should take adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.**

Objective: This Standard addresses whether the Company's response to the complaint fully addresses the issues raised, and whether policyholders or consumers with similar fact patterns are treated consistently and fairly.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for complaint handling. The Examiners requested the complete complaint files for review. All complaints were reviewed for completeness, including whether the Company fully addressed the issues raised and appeared to include all the necessary documentation to support the handling of the complaint.

Transaction Testing Results:

Findings: None.

Observations: The Examiners found that the Company responded to all issues identified in the complaints and the file documentation appeared to be complete. During the exam period, the Company received six direct complaints and three Division complaints. The complaint files included: the Company's complaint data form, the complaint including the insured's complaint to the Division if applicable, the Company's response and other related correspondence.

Recommendations: None.

**Standard II-4. The timeframe within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations.**

Objective: This Standard addresses the time required for the Company to process each complaint.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.



Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for complaint handling. All complaints received by the Company were reviewed for timeliness and completeness, including whether the Company responded to the complaints within 14 calendar days and appeared to include all the necessary documentation to support the handling of the complaint.

Transaction Testing Results:

Findings: None.

Observations: During the exam period, the Company received six direct complaints and three Division complaints. The Examiners requested the complete complaint files for review. The Company responded to all complaints within 14 calendar days and appeared to include all the necessary documentation to support the handling of the complaint.

Recommendations: None.

### III. MARKETING AND SALES

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard III-1. All advertising and sales materials are in compliance with applicable statutes, rules and regulations.**

*Objective:* This Standard is concerned with whether the Company maintains a system of control over the content, form and method of dissemination for all advertising materials.

*Controls Assessment:* The following controls were noted in review of this Standard:

- The Company has written policies and procedures pertaining to the review and use of advertising and sales materials, including a provision in producer contracts requiring adherence by producers to such procedures
- Company advertising and sales materials are reviewed and approved by Company management prior to use.
- The Company maintains a listing of approved advertising and sales materials that are available for use by producers.
- The Company discloses its name and address on its website.

*Controls Reliance:* The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

*Transaction Testing Procedure:* The Examiners began by interviewing Company management and staff responsible for the sales and marketing process. The process as explained during the interviews was considered when reviewing the related processes and controls. The Company provided a list of approved sales and advertising materials in effect during the exam period for the Company's products. A judgmental sample of five approved advertising pieces were selected and reviewed for content and home office approval.

*Transaction Testing Results:*

*Findings:* None

*Observations:* In four of the five instances, the Submission Review form was not completed in its entirety in compliance with Company advertising review procedures.

Recommendations: The Company should implement procedures to perform periodic assessments of the review process to assure that Company procedures are being followed.

**Standard III-2. Company internal producer training materials are in compliance with applicable statutes, rules and regulations.**

Objective: This Standard is concerned with whether the Company's producer training materials are in compliance with state statutes, rules and regulations.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company provides training to producers through its General Agency, Worksite and Group sales and Marketing Departments.
- Producer training materials which are "likely to be used for sales" are approved by management and the Company's Compliance Department prior to use.
- The Company utilizes a database to log when training materials have been reviewed for content and approved for use.
- General Agency producers are required to acknowledge that they have read the Training and Procedures Manual within 30 days of being appointed by the Company.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for the sales and marketing process. The Company provided a list of trainings conducted and training material available during the exam period for the Company's General Agency, Worksite and Group marketing channels. As such, a judgmental sample of five trainings were selected and reviewed for content and home office approval.

Transaction Testing Results:

Findings: None.

Observations: In two of the five items tested, the Examiners found no evidence that the training material was reviewed and approved by the Company. In one of the five instances, the Examiners found that the training material was approved by the Company however the content of the material included a statement that was untrue about a variable annuity product not manufactured by the Company.

**Recommendations:** The Company should revise its procedures to only approve training materials that include products that it manufactures or, at a minimum, to require and obtain evidence of prior approval from the other insurance carrier for any content related to its product(s). The Company should implement procedures to perform periodic reviews of the training material review process to reasonably assure that established procedures are being followed.

**Standard III-3. Company communications to producers are in compliance with applicable statutes, rules and regulations.**

**Objective:** This Standard is concerned with whether the written and electronic communication between the Company and its producers is in accordance with Company policies and procedures.

**Controls Assessment:** The following controls were noted in review of this Standard:

- The Company updates producers on product and compliance matters by circulating a periodic newsletter.
- Producer communications including electronic mail and bulletins are approved by Company personnel prior to distribution.

**Controls Reliance:** The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

**Transaction Testing Procedure:** The Examiners interviewed Company management and staff responsible for the sales and marketing process. The Company provided a list of communications sent to producers during the exam period for the General Agency, Worksite and Group distribution channels. As such, a judgmental sample of five communications was reviewed for content and home office approval.

**Transaction Testing Results:**

**Findings:** None

**Observations:** In four of the five items tested, the Examiners found no evidence that the communication was reviewed and approved by the Company. In two of these instances, the items included product information for other companies. In one instance, the communication (an e-mail blast) offered all producers access to pre-approved "thank you" notes, which included investment terminology. The Company, however, does not offer investment products and not all producer

recipients may have been licensed to sell investment products. In one instance, the item included information on updates to replacement regulations.

*Recommendations:* The Company should revise its advertising review procedures to include a formal documented review and approval for newsletters or other communications sent to producers in order to provide reasonable assurance that potential compliance issues are identified and corrected prior to distribution. The Company should implement procedures for the review of materials that reference products manufactured by other carriers to include obtaining evidence of approval for such content by the other carrier or broker dealer prior to distribution, depending on the nature of the communication.

**Standard III-4. Company rules pertaining to producer requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.**

*Objective:* This Standard addresses appropriate replacement handling by the producer, including identification of replacement transactions on applications and use of appropriate replacement-related forms.

*Controls Assessment:* The following controls were noted in review of this Standard:

- During the underwriting process of a new policy, the Company's application requires that the applicant and producer answer whether or not the policy applied for will replace an existing policy. This process is applicable to both life and health policies.
- If the applicant and producer indicate that the policy will replace an existing policy on the application, the Company requires that the applicant and producer sign a second form stating that the policy being replaced will be lapsed or terminated if the applied for policy with Boston Mutual is approved. A letter is sent to the other insurance company informing them that the applicant has applied for a new policy with Boston Mutual.
- Written policies and procedures govern replacement handling and the Company's definition of replacement of life insurance meets regulatory requirements. The Company's underwriting guide specifies that the producers must evaluate whether replacement of an existing policy is in "the best interest of the policyholder."
- Producers are required to submit a completed Company-developed Form NB-104, Understanding and Definition of Replacement, with the application documenting the merits of the replacement.
- Producers are required to submit a completed Company-developed Form NB-47 Std-A, when the applicant has existing insurance, whether or not the existing insurance is being replaced.
- Company policy requires that producers conclude that all replacement sales are in the applicants' best interests.
- The Company pays reduced commissions on certain internal replacements to discourage internal replacements.

- The Company's Internal Audit function conducts audits for compliance with replacement sale requirements.
- The Company's Compliance Department monitors producers' volume and nature of replacement sales and takes action when considered necessary.
- The Company's disability and critical illness policies are group policies and are exempt from Massachusetts replacement laws. Accident policies are the only individual health policies written by the Company in the Commonwealth.
- A subsequent contract issued to the same owner is considered to be a replacement where existing coverage was discontinued or altered within the prior 12 months or is intended to be discontinued or altered in the next 13 months.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for the underwriting process. Also, utilizing Audit Command Language (ACL), a random sample of 80 new life business transactions and 40 new health business transactions were selected for testing. The Examiners reviewed each of the sampled accident policies to determine whether the policy involved a replacement. Twenty-five of the life policies involved a replacement, and none of the accident policies involved a replacement. All of the replacements reviewed involved internal policies. As a part of new business testing, the Examiners also reviewed the applications to ensure that the replacement question on the applications was answered. The Examiners also read Internal Audit reports issued during the examination period, and reviewed the Compliance Department's timely monitoring of replacement activity by producer and subsequent actions taken.

Transaction Testing Results:

Findings: None

Observations: Based on testing, the Company's replacement procedures pertaining to producer requirements appear to be functioning in accordance with its policies, procedures and regulatory requirements. The quarterly replacement Internal Audit reports adequately monitor compliance with replacement procedures. Finally, the Compliance Department appears to timely monitor replacement activity by producer, and appears to take action when considered necessary.

Recommendations: None

**Standard III-5. Company rules pertaining to Company requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.**

Objective: This Standard addresses appropriate replacement handling by the producer, including identification of replacement transactions on applications and use of appropriate replacement-related forms.

Controls Assessment: The following controls were noted in review of this Standard:

- Written policies and procedures govern replacement handling, and the Company's definition of replacement of life insurance meets regulatory requirements. The Company's Underwriting Department reviews submitted applications, which require a signed response from the applicant and producer as to whether or not the policy applied for will replace another policy.
- The Company's Underwriting Department reviews submitted Massachusetts replacement disclosure forms signed by the applicant.
- The Company's Underwriting Department reviews the submitted Form NB-104, Understanding and Definition of Replacement documenting the merits of the replacement.
- The Company's Underwriting Department reviews the submitted Form NB-47 Std-A, when the applicant has existing insurance, whether or not the existing policy is being replaced.
- The Company's Underwriting Department evaluates whether all replacement sales are in the applicants' best interests.
- Company policy requires that all replacements be consistently recorded in the Company's replacement register.
- The Company reviews all submitted applications for undisclosed replacements. During the underwriting process, telephone interviews of applicants, when necessary, also inquire about replacement.
- The Company requires that notice to the replaced carrier be sent by the Company within seven business days from the date the application is received in the home office.
- The Company provides at least a 20 day free look on all sales including replacements, and provides an additional 10 days to allow for mailing and processing such requests.
- The Company pays reduced commissions on certain internal replacements to discourage internal replacements. Such reduced commissions are paid on the difference between the new and old premium amounts.
- The Company's Internal Audit function conducts audits for compliance with replacement sale requirements.
- The Company's Compliance Department monitors the volume and nature of replacement sales by producer, and takes action to require additional reporting by the producer and to enhance oversight of the producer when unusual replacement activity is noted.

- The Company's Disability and Critical Illness policies are group policies and are exempt from Massachusetts replacement laws. Accident policies are the only individual health policies written by the Company in the Commonwealth.

A subsequent contract issued to the same owner is considered to be a replacement where existing coverage was discontinued or altered within the prior 12 months or is intended to be discontinued or altered in the next 13 months.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for the underwriting process. Also, utilizing ACL, a random sample of 80 new life business transactions and 40 new health business transactions were selected for testing. The Examiners reviewed each of the sampled policies to determine whether the policy involved a replacement. Twenty-five of the life policies involved a replacement, and none of the accident policies involved a replacement. All of the replacements reviewed involved internal policies. As a part of new business testing, the Examiners also reviewed the applications to ensure that the replacement question on the applications was answered. The Examiners also read Internal Audit reports issued during the examination period, and reviewed the Compliance Department's timely monitoring of replacement activity by producer and subsequent actions taken.

Transaction Testing Results:

Findings: None.

Observations: Testing indicated that the Company's replacement procedures pertaining to Company requirements appear to be functioning in accordance with its policies, procedures and regulatory requirements. The internal audit reports adequately monitor compliance with replacement procedures.

Recommendations: None.

**Standard III-6. An illustration used in the sale of a policy contains all required information and is delivered in accordance with statutes, rules and regulations.**

Objective: This Standard is concerned with ensuring that policy illustrations, policy summaries and buyer's guides contain all required information and are timely provided to applicants.

Controls Assessment: The following controls were noted in review of this Standard:



- The Company has written policies and procedures addressing the use and distribution of policy illustrations, policy summaries and buyer's guides. The Company reviews all submitted applications to ensure that all applicable questions are answered, and that required forms and information are consistently filed.
- The Company provides a buyer's guide to life applicants when the policy is issued.
- The Company's ordinary life policies are designed to be sold without an illustration and were approved prior to the adoption of 211 CMR 28.03-28.09. The Company provides life policy summaries to applicants when the policy is issued.
- The Company's endowment life policies are designed to be sold with an illustration. As such, as required under 211 CMR 28.09, illustrations are provided at the time of application unless the producer and applicant certify that an illustration was not presented during the sale process and that an illustration will be presented at policy delivery.
- Applicants for accident policies receive an outline of coverage and other required disclosures when the policy is issued as required by Division Bulletins 2010-14 and 2011-18 regarding 211 CMR 42.09(4).
- The Company's policies and procedures are in effect to meet the requirements of the following regulations: 211 CMR 28.09; 211 CMR 31.05; 211 CMR 31.07; and 211 CMR 42.09.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for new business processing and underwriting and obtained supporting documentation. Utilizing ACL, the Examiners selected a random sample of 80 individual life and 40 health applications from the examination period for testing. The Examiners reviewed the policy summaries, illustrations and disclosures, and verified that they were timely provided to the applicants where required. Finally, the Examiners noted whether the contracts received were consistent with those applied for, and that any changes resulted in full written disclosure to applicants.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Examiners noted that the Company timely provided policy illustrations and/or summaries and other disclosures to applicants where required.

Contracts received by applicants were issued consistent with their applications, or any changes resulted in full written disclosure to the applicants.

Recommendations: None.

<b>Standard III-7. The Company has suitability standards for its products, when required by applicable statutes, rules and regulations.</b>
---

Objective: This Standard is concerned with whether the Company maintains suitability or needs assessment standards for its products.

Controls Assessment: The following controls were noted in review of this Standard:

- Company policy requires that producers conclude that all sales meet the applicants' needs. The Company's individual life applications generally require submission of information regarding the applicant's existing life insurance coverage, family member information, occupation, monthly earnings, age and the purpose of the applied for life insurance.
- The Company's disability income and accident applications require submission of information regarding the applicant's employment status, occupation, monthly earnings, income, age, existing disability income coverage and family member information, to assist in determining the applicant's needs.
- The Company's Internal Audit function conducts periodic audits for compliance with the Company's needs assessment policies and procedures.
- The Company conducts post-sale policyholder service surveys, and its policy is to timely and fully respond to all questions and responses which indicate that a policyholder was unsatisfied or did not understand his or her policy.
- The Company's policy is in effect to meet the requirements of Federal Public Law 109-290.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for new business processing and underwriting, obtained supporting documentation and reviewed the Company's needs assessment Internal Audit reports issued during the examination period. Utilizing ACL, the Examiners selected a random sample of 80 individual life and 40 health applications from the examination period to test for evidence that the product appeared to meet the applicant's needs.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, each of the sales related to the applications selected appeared to meet the applicant's needs. Also, the needs assessment Internal Audit reports adequately monitor compliance with needs assessment policies and procedures.

Recommendations: None.

<b><u>Standard III-8. Pre-need funeral contracts or pre-arrangement disclosures and advertisements are in compliance with statutes, rules and regulations.</u></b>
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No work was performed under this market conduct examination as the Company did not offer the products covered by this Standard during the examination period.

<b><u>Standard III-9. The Company's policy forms provide required disclosure material regarding accelerated benefit provisions.</u></b>
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Objective: This Standard is concerned with whether the Company maintains suitability or needs assessment standards for its products.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has filed policy forms and riders including the accelerated benefit rider with the Division.
- The Company's producers are instructed to provide the accelerated benefit disclosure notice to the applicant requesting such coverage at the time of sale. The producers are also instructed to obtain the applicant's signature on this disclosure notice which must be submitted to the Company with the application.
- The Company's process and forms are in effect to meet the requirements of 211 CMR 55.06.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for new business processing and underwriting and obtained supporting documentation. Also, the Examiners reviewed the Company's accelerated benefit disclosure form to ensure that it met statutory requirements. Utilizing ACL, the Examiners also selected a random sample of 80 individual life applications from the examination period for testing. The Examiners reviewed the applications and issued policies and verified that where the accelerated benefit rider was selected by the insured, a signed disclosure form was obtained from the applicant.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to provide proper accelerated benefit disclosures upon request for accelerated benefits.

Recommendations: None.

**Standard III-10. Policy application forms used by depository institutions provide required disclosure material regarding insurance sales.**

No work was performed under this market conduct examination as the Company did not offer the product covered by this Standard through depository institutions during the examination period.

**Standard III-11. Insurer rules pertaining to producer requirements with regard to suitability in annuity transactions are in compliance with applicable statutes, rules and regulations.**

No work was performed under this market conduct examination as the Company did not offer the product covered by this Standard during the examination period.

**Standard III-12. Insurer rules pertaining to requirements in connection with suitability in annuity transactions are in compliance with applicable statutes, rules and regulations.**

No work was performed under this market conduct examination as the Company did not offer the product covered by this Standard during the examination period.

**Standard III-13. The insurer has procedures in place to educate and monitor insurance producers and to provide full disclosure to consumers regarding all sales of products involving fixed-index annuity products, and all sales are in compliance with applicable statutes, rules and regulations.**

No work was performed under this market conduct examination as the Company did not offer the product covered by this Standard during the examination period.

**Standard III-14. The insurer has procedures in place to educate and monitor insurance producers and to provide full disclosure to consumers regarding all sales of products involving index life, and all sales are in compliance with applicable statutes, rules and regulations.**

No work was performed under this market conduct examination as the Company did not offer the product covered by this Standard during the examination period.

**Standard III-15. The insurer's underwriting requirements and guidelines pertaining to travel are in compliance with applicable statutes, rules and regulations.**

*Objective:* This Standard is concerned with whether the Company's underwriting requirements regarding travel are in compliance with Massachusetts requirements.

*Controls Assessment:* The following controls were noted in review of this Standard:

- The Company's policies and procedure provides the necessary oversight regarding the consideration of travel as a part of the underwriting process. In order to better determine which products are best suited for an applicant, the Company uses standardized disability income and accident applications to gather information consistently for each product. The information gathered through the application is used to determine the applicant's needs in addition to determining underwriting risk.
- The Company's policies and procedures are in effect to meet the requirements of M.G.L. c. 175, § 108J and M.G.L. c. 175, § 122A

*Controls Reliance:* The Examiners tested the Company's controls by reviewing policies and procedures, reviewing available documentation and/or conducting transaction testing.

*Transaction Testing Procedure:* Utilizing ACL, the Examiners selected a random sample of 40 new health transactions for testing. The Examiners tested the sampled policies to determine whether the applications included a "yes" response regarding travel. None of the policies reviewed included such responses. Additionally, the Examiners reviewed three judgmentally selected adverse underwriting transactions and five judgmentally selected declinations. The Examiners tested the sampled policies to determine whether the Company rejected an applicant, cancelled a policy, or required a higher rate of premium for reasons based solely upon an applicant's or insured's past lawful travel or future lawful travel plans.

*Transaction Testing Results:*

*Findings:* None.

Observations: The Examiner's testing of the disability income and accident samples found that no issues were identified in the testing of the sampled policies pertaining to travel.

Recommendations: None.

#### IV. PRODUCER LICENSING

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard IV-1. Company records of licensed and appointed (if applicable) producers agree with insurance department records.**

*Objective:* The Standard addresses licensing and appointment of the Company's producers.

*Controls Assessment:* The following controls were noted in review of this Standard, and Standards IV-2 and IV-4:

- The Company's appointment procedures are designed to comply with statutory requirements, which state that an insurer seeking to appoint a licensed producer must do so within 15 days from the date the producer's contract is executed, or when the first policy application is received. The Company maintains an automated producer database that tracks all appointments, terminations and other licensing changes related to its producer force.
- The Company policy is that producers must be licensed in Massachusetts prior to the Company contracting with them as producers.
- All appointed producers except worksite marketing enrollers are required to enter into a written contract with the Company prior to selling business. Standard contracts address authorities and responsibilities, producer licensing, use of sales materials and advertising, ownership of records, privacy guidelines, U.S. Patriot Act guidelines, telemarketing guidelines, compensation terms and termination provisions. Worksite marketing enrollers are employed by general producers and are supervised by them.
- The Company maintains fidelity bond coverage, which includes actions of its producers. Further, the Company encourages its appointed producers to maintain E&O coverage.
- The Company requires that all newly appointed producers complete Company-developed training prior to selling business.
- Company policy requires that criminal and financial background checks and vector checks (amounts owed to other insurers) be completed to screen all producers including worksite marketing enrollers applying for appointment as producer.
- The Company has a contracting scoring matrix in place regarding background check results that requires the approval of the Market Conduct Committee (Committee) for producers meeting certain adverse criteria. This Committee is an internal group of senior management employees that are responsible for reviewing producer related matters such as this matter noted above.

- The Company states that it completes a periodic reconciliation of its producer appointment records with those of the Division.
- All appointment renewals are performed by the licensing unit. Most states require annual appointment renewals. On a monthly basis, the unit will process all renewals and terminations.
- The Company's written policy is to notify the Division of all producer terminations and the reason for any "for cause" termination.
- The Company's procedures are in effect to meet the requirements of the following statutes and Bulletins: 18 U.S.C. §1033; M.G.L. c. 175, §§ 162I, 162R, 162S, 162T, 163 and 177E; 211 CMR 50.00; and Division Bulletins 1998-11, 2001-14, 2008-20, 2011-12 and 2011-15.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company employees with responsibility for producer contracting, processing of producer appointments and reconciliation of producer records. Also, the Examiners tested producer appointment procedures in conjunction with testing of the 120 new business applications (as discussed in the Marketing and Sales Section above) submitted during the examination period. The Examiners verified that the producer for each policy was included on the Division's list of the Company's appointed producers at the time of sale. The Examiners also selected a judgmental sample of 10 producers newly appointed (this sample will be referred to again in other standards within this section) during the examination period, to verify that the producer applicant properly completed an application, that a criminal and financial background check was completed, that the evaluation of the application was conducted in compliance with Company procedures and that the appointed producer was timely added to the Division's list of the Company's appointed producers. In addition, in connection with testing of producer terminations, the Examiners looked for any evidence that terminated producers were improperly appointed. Finally, the Examiners reviewed two Internal Audit reports issued during the exam period.

Transaction Testing Results:

Findings: None

Observations: Based on the results of the Examiner's testing of the 120 new business transactions processed during the examination period, all of the producers who sold policies were properly licensed and appointed with the Company.



Also, based on the results of the 10 newly contracted and appointed producers, all were processed in accordance with Company policies, procedures and statutory requirements.

Recommendations: None

**Standard IV-2. Producers are properly licensed and appointed and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken.**

Objective: This Standard addresses the requirement that producers must be licensed and producers must be appointed.

Controls Assessment: Refer to Standard IV-1.

Controls Reliance: Refer to Standard IV-1.

Transaction Testing Procedure: Refer to Standard IV-1.

Transaction Testing Results:

Findings: Refer to Standard IV-1.

Observations: Refer to Standard IV-1.

Recommendations: None

**Standard IV-3. Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable.**

Objective: This Standard addresses the Company's termination of producers in accordance with applicable statutes requiring notification to the state and the producer.

Controls Assessment: The following controls were noted in review of this Standard and Standard IV-5:

- The Company maintains an automated producer database that tracks all appointments, terminations and other licensing changes related to its producer force.
- The Company has established a producer watch list to monitor potential problem producers.

- The Company has established persistency monitoring procedures for policies sold by all producers.
- The Company's policy and practice is to notify the Division of producer terminations as required by statute.
- The Company's policy and practice is to notify the Division of the reason for producer terminations when the terminations are "for cause."
- The Company has a process for notifying producers that their appointments have been terminated in compliance with statutory and contractual requirements.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company employees with responsibility for processing producer terminations. Also, the Examiners selected 10 terminations judgmentally (this sample will be referenced again within other standards in this section) from the examination period to determine whether the Company gave timely notice of the terminations to the Division and the producers. In addition, the Examiners also reviewed two Internal Audit reports regarding licensing functions.

Transaction Testing Results:

Findings: None

Observations: The results of testing indicate that the Company gave timely notice of the terminations to the Division and producers. The Examiners note that there were no "for cause" terminations during the examination period.

Recommendations: None.

**Standard IV-4. The Company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.**

Objective: The Standard addresses the Company's policy for ensuring that producer appointments and terminations do not unfairly discriminate against policyholders.

Controls Assessment: Refer to Standard IV-1.

Controls Reliance: Refer to Standard IV-1.

Transaction Testing Procedure: The Examiners interviewed individuals with responsibility for producer contracting, appointments and terminations. The Examiners tested producer appointment procedures in conjunction with testing of 120 new business transactions processed during the examination period (as discussed in the Marketing and Sales Section above). The Examiners also selected a judgmental sample of 10 newly appointed producers and 10 terminations from the Company's records during the examination period to test for any evidence of unfair discrimination against policyholders.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Examiners noted no evidence of unfair discrimination against policyholders resulting from producer appointments and terminations.

Recommendations: None.

<b>Standard IV-5. Records of terminated producers adequately document the reasons for terminations.</b>
---

Objective: The Standard addresses the Company's documentation of producer terminations.

Controls Assessment: Refer to Standard IV-3.

Controls Reliance: Refer to Standard IV-3.

Transaction Testing Procedure: The Examiners interviewed Company employees with responsibility for processing producer terminations. The Examiners selected 10 terminations judgmentally from the examination period to test for adequate documentation of termination reasons. In addition, the Examiners reviewed the terminations to note whether any were "for cause," and whether any such terminations and the related reasons were communicated to the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, the Examiners noted that the reasons for terminations were adequately documented. The Company has a process for communicating “for cause” terminations and related reasons to the Division. The Examiners note that there were no “for cause” terminations during the examination period.

Recommendations: None.

**Standard IV-6. Producer account balances are in accordance with the producer’s contract with the Company.**

Objective: The Standard is concerned with whether the Company’s contracts with producers limit excessive balances with respect to handling funds.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company’s policies are direct billed, mitigating the possibility for excessive balances owed by producers.
- The Company has procedures to pay producers’ commissions in accordance with written producer contracts. Commissions are paid as earned, and producers are not entitled to commissions on lapsed policies.
- The Company provides producers with a monthly commission statement of new and renewal premium commissions and commission adjustments.
- The Company actively monitors producers’ balances to ensure that outstanding amounts are within limits it deems reasonable.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed individuals with responsibility for producer contracting and commission processing. Also, the Division’s financial examiners evaluated producers’ debit balances in conjunction with the recently completed financial examination of the Company.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of Company procedures, the Company appears to have a process for ensuring that producer debit account balances remain reasonable.

Recommendations: None.

## **POLICYHOLDER SERVICE**

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard V-1. Premium notices and billing notices are sent out with an adequate amount of advance notice.**

Objective: This Standard addresses efforts to provide policyholders with sufficient advance notice of premiums due and disclosure of the lapse risk due to non-payment.

Controls Assessment: The following controls were noted in review of this Standard:

- Individual life and accident policyholders may elect to pay premiums either monthly, quarterly, semi-annually or annually, by either electronic funds transfer or by check. For policies sold through employer worksite marketing arrangements, certificate and policy premiums are billed bi-weekly or monthly to the employer and paid by insureds via payroll deduction. If the employee leaves the employer, monthly payment coupon books are mailed to the employee.
- The Company generates and mails billing notices for individual life and accident policies that provide the minimum required statutory notice as required by M.G.L. c. 175, § 108.
- If life and accident premiums are not received by the due date, the Company mails a first reminder notice approximately 15 days after the due date and approximately 60 days prior to the lapse date. This notice mentions that the policy will lapse if the payment is not received. If payment is not made, the policy lapses and a final notice of lapse and a reinstatement application are sent to the policyholder. The Company has written service standards to ensure the timely processing of premium billing, reminder and lapse notices.
- The Company's policies allow for a 31-day grace period. This Company's process is in effect to meet the requirements of M.G.L. c. 175, § 110B.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed billing procedures with Company personnel, and obtained supporting documentation. Also, the Examiners selected a judgmental sample of five individual life policies, one accident, and one disability income policy lapsed for non-payment during the examination period to test for compliance with policies, procedures and statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing results, the Examiners noted that in each case, the Company gave adequate notice prior to lapse in compliance with statutory requirements. Also, premium billing notices appeared to be mailed to the policyholder with adequate advance notice, and included required disclosure of potential lapse in the event of non-payment.

Recommendations: None.

<b>Standard V-2. Policy issuance and insured requested cancellations are timely.</b>
--

Objective: This Standard addresses the Company's procedures to ensure that insured-requested cancellations are processed timely. Policy issuance testing is included in Standard VI-6.

Controls Assessment: The following controls were noted in review of this Standard:

- Upon request to cancel an insurance policy, the Company sends the policyholder required forms, which he or she must sign. The Company communicates the cancellation request to the producer to enable the conservation of the business. The cancellation is effective on the date the Company receives the signed form, and a check for any return premium due is sent to the policyholder. This process is in effect to meet the requirements of M.G.L. c. 175, §§ 187B and 187C.
- All policyholders have the right to return ("free look") newly purchased policies or certificates issued under group policies within 20 or 30 days of receiving their policy or certificate, depending on the type of policy or certificate. The Company's "free look" procedures are in effect to meet the requirements of 211 CMR 34.06 and 211 CMR 42.05. Premium refunds are to be promptly returned to the policyholder. The Company has written service standards to ensure the timely processing of new business applications and policyholder service transactions.
- The Company conducts post-sale policyholder service surveys, and its policy is to timely and fully respond to all questions and responses that reflect a policyholder was unsatisfied, or did not understand his or her policy.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed policy issuance, free look and insured-requested cancellation procedures with Company personnel, and obtained supporting documentation. Also, the Examiners selected a judgmental sample of five insured-requested cancellations and three free look cancellations from the examination period to ensure that requests were processed accurately and timely. Finally, the Examiners reviewed policy provisions for the legally required free look provisions.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing results, the insured-requested cancellations were processed accurately and timely in compliance with statutory requirements.

Recommendations: None.

**Standard V-3. All correspondence directed to the regulated entity is answered in a timely and responsive manner by the appropriate department.**

Objective: This Standard addresses the Company's procedures for providing timely and responsive information to customers.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company's customer service staff responds to phone calls and written correspondence from policyholders. The staff has access to computer systems to enable them to view contract history, policy values and other information to assist policyholders.
- The Company has written service standards to ensure the timely processing of policyholder service transactions.
- The Company has procedures regarding the proper handling of customer complaints.
- The Company conducts post-sale policyholder service surveys, and its policy is to timely and fully respond to all significant comments.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed correspondence procedures with Company personnel, obtained supporting documentation and reviewed five post-sale policyholder surveys to ensure that any

necessary responses were timely provided. The Examiners also evaluated the Company's efforts to correspond with policyholders in various complaint handling and claims standards.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing results, the Company appears to timely respond to customer inquiries including complaints, claims, and post-sale policyholder surveys as necessary.

Recommendations: None.

**Standard V-4. Whenever the regulated entity transfers the obligation of its contracts to another regulated entity pursuant to an assumption reinsurance agreement, the regulated entity has gained prior approval of the insurance department and the regulated entity has sent the required notices to affected policyholders.**

No work was performed under this market conduct examination as the Company did not enter into such agreements covered by this Standard during the examination period.

**Standard V-5. Policy transactions are processed accurately and completely.**

Objective: This Standard addresses loan interest rates and procedures for processing beneficiary and ownership changes, conversions, policy loans and maturities.

Controls Assessment: The following controls were noted in review of this Standard:

- Company policy provides for beneficiary and ownership change requests to be effective upon the signing and mailing of a properly completed form. Company policy requires a witness signature to process beneficiary and ownership changes. Company policy requires a signed written request and a witness signature to process policy loan requests. The annual interest rate for policy loans is 8% as required under M.G.L. c. 175, § 142. Other policy changes may be made in writing or by phone.
- The Company has procedures in place that provides written notice to disability income policyholders prior to expiration when the insured reaches age 65 as required under M.G.L. c. 175, § 110H.
- The Company gives written notice to life policyholders prior to policy maturity, and advises them of various settlement options.
- The Company has written service standards to ensure the timely processing of policyholder service transactions.



Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed policy change procedures with Company personnel, and obtained supporting documentation. Also, the Examiners selected a judgmental sample of nine transactions comprised of two beneficiary change requests (one life and one disability income), one life ownership change request, three policy loan requests and three miscellaneous policy maintenance requests from the examination period to ensure that the Company processed transactions accurately, timely and in accordance with statutory requirements and policy provisions.

Transaction Testing Results:

Findings: The Company is not in compliance with M.G.L. c. 175, § 110H in that notices were not sent to disability policyholders reaching age 65 informing them that their policy will be cancelled. The Company advised the Examiners that during the period of review there were two impacted policyholders.

Observations: The Company's policy loan provisions allow insureds to request loans verbally and after the premiums have been paid for one year. M.G.L. c.175, § 142 requires that loan requests be made by written application to the Company and only after premiums have been paid for three full years. With the exception of the above finding, the Company appears to process other policyholder transactions accurately, timely and in accordance with statutory requirements such and policy provisions.

Required Actions: The Company shall revise their disability policy age 65 expiration procedures to comply with M.G.L. c. 175, § 110H.

Recommendations: The Company should review and amend, as appropriate, its policy loan provisions and procedures to ensure compliance with M.G.L. c. 175, § 142.

<b>Standard V-6. Reasonable attempts to locate missing policyholders or beneficiaries are made.</b>
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Objective: This Standard addresses efforts to locate missing contract owners and beneficiaries and to comply with escheatment and reporting requirements.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has policies and procedures in place to locate missing policyholders and claimants by utilizing external sources such as the Death Master File from the Social Security Administration.
- The Company policy requires that outstanding checks, including claim payments and premium refunds be reported as unclaimed property and escheated to the state when the policy owner cannot be found.
- The Company annually reports escheatable funds to the State Treasurer as required under M.G.L. c. 200A, §§ 7-7B and 8A.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed the Company's procedures for locating missing policyholders and escheatment of funds with Company personnel, and reviewed supporting documentation. The Examiners selected a judgmental sample of 20 possible claims reviewed against the Social Security Death Index during the examination scope period to ensure that reasonable efforts were made to locate missing contract owners and beneficiaries, and to comply with escheatment and reporting requirements.

Transaction Testing Results:

Findings: None.

Observations: In 12 of the 20 items reviewed the Examiners were unable to determine whether the Company was complying with the standard as the Company's documentation was insufficient or incomplete:

- In nine instances the Company advised that the items were currently "pending" and had not yet been resolved but did not provide documentation to support this statement.
- In two instances the Company attempted to locate the beneficiary, however, the documentation does not demonstrate that Company did this in a timely manner. The Lexis

Nexis reports were run six months after the initial comparison was performed in September 2011. The Examiners noted three and five month from the dates those reports were run and the date of the next action by the Company.

- In one instance the Company provided documentation to demonstrate that the claim had been paid in 1997. No explanation was provided for why this item was identified as a claim that was reviewed against the Social Security Death Index during the examination scope period. As such the Company process for matching Company databases against the SSDMF does not appear to be operating as intended.

In addition, the Examiners note the following:

- The Company maintains written procedures; however the Company was not able to provide written procedures in effect for the entire examination period. Procedures provided were dated October 2011, February 6, 2012, and November 14, 2011 respectively.
- The Company's procedure for returned mail requires research through various internal and external databases to locate valid addresses for policyholders. However, the procedure does not indicate whether address change confirmations are mailed, only that mail should be sent to the new address.
- The Company indicated that each third party administrator used by the Company has their own procedures for returned mail, however the Company does not periodically review or monitor this practice. The Company also stated that Internal Audit reviews TPAs, but did not specifically state or provide evidence that returned mail procedures were in scope and audited.

**Recommendations:** The Company should evaluate, for effectiveness, the process in place to match Company databases against the SSDMF including investigating why a paid claim was included in the list of missing policyholders. The Company should maintain copies of historical procedures in order to demonstrate and memorialize protocols in place on any given date. The Company should update its returned mail and address change procedures to include sending address change confirmations to the old and new address to prevent fraudulent address changes. The Company should include a review of TPA returned check procedures as part of their internal audit process to assure that TPA procedures meet Company standards.

**Standard V-7. Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.**

**Objective:** This Standard addresses the calculation and timely return of unearned premiums.

**Controls Assessment:** The following controls were noted in review of this Standard:

- Upon request to cancel an insurance policy, the Company sends the policyholder required forms, which he or she must sign. The Company communicates the cancellation request to the producer to enable the conservation of the business. The cancellation is effective on the date the Company receives the signed form, and a check for any return premium due is sent to the policyholder. All policyholders have the right to return (“free look”) newly purchased policies or certificates issued under a group policy within 10 or 30 days of receiving their policy or certificate, depending on the type of policy or certificate. Premium refunds are to be promptly returned to the policyholder.
- The Company has written service standards to ensure the timely processing of new business applications and policyholder service transactions.
- The Company conducts post-sale policyholder service surveys and its policy is to timely and fully respond to all questions and responses that reflect a policyholder was unsatisfied, or did not understand his or her policy.
- The Company’s process is in effect to meet the requirements of M.G.L. c. 175, §§ 187B and 187C.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed policy issuance, free look and insured-requested cancellation procedures with Company personnel, and obtained supporting documentation. Also, the Examiners selected a judgmental sample of five insured request cancellations and three free look cancellations from the examination period to ensure that requests were processed accurately and timely. Finally, the Examiners reviewed policy provisions for the legally required free look provisions.

Transaction Testing Results:

Findings: None

Observations: Based upon review and testing, the unearned premium for the free look and insured-requested cancellations for policies with unearned premium was accurately calculated and timely returned to the policyholder.

Recommendations: None

<b>Standard V-8. Reinstatement is applied consistently and in accordance with policy provisions.</b>
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*Objective:* This Standard addresses consistent reinstatement processing in compliance with policy provisions.

*Controls Assessment:* The following controls were noted in review of this Standard:

- As required under M.G.L. c. 175, § 108, Accident and Critical Illness products allow for a reinstatement and if an application for reinstatement is required and the Company issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the Company or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the Company has previously notified the insured in writing of its disapproval of such application.. Also, any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement. The Company's life products allow for reinstatement within five years of lapse, which exceeds the three years required under M.G.L. c. 175, § 132(11).
- A reinstatement application is attached to all lapse notices sent to the policyholder.
- The policyholder must undergo various levels of underwriting prior to reinstatement, depending upon when the policy lapsed. Unpaid premiums must be paid to reinstate the policy.
- The Company has written service standards to ensure the timely processing of policyholder service transactions.

*Controls Reliance:* Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

*Transaction Testing Procedure:* The Examiners discussed reinstatement procedures with Company personnel and obtained supporting documentation. Also, the Examiners selected a judgmental sample of four life reinstatements and one accident reinstatement from the examination period to ensure that reinstatements were handled consistently, timely and in accordance with policy provisions.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Based upon review and testing results, the Company consistently and timely processed each of the reinstatement transactions in accordance with policy provisions.

*Recommendations:* None.

<b>Standard V-9. Non-forfeiture options are communicated to the policyholder and correctly applied in accordance with the policy contract.</b>
--

Objective: This Standard addresses periodic disclosure to the policyholder of contract information.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company uses policy and contract forms that are designed to meet statutory and regulatory requirements, and files these with the Division for approval prior to use.
- The Company provides applicants for life policies with several dividend or non-forfeiture options, which are listed on the application and are stated in the policy contract. The Company's non-forfeiture options and notice requirements are designed to meet the requirements of M.G.L. c. 175, §§ 134A, 143, 146 and 146A; and Division Bulletin 2000-02.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed non-forfeiture procedures with Company personnel and reviewed supporting documentation. As part of new life business testing, the Examiners also tested the selection of life dividend, automatic premium loan, or other non-forfeiture option checked on the application. In addition the Examiners also confirmed that the issued policy contained non-forfeiture clauses as required by law.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of policies and contracts issued, the Company appears to communicate non-forfeiture options to policyholders and to apply selected options in accordance with the policy contract.

Recommendations: None.

<p><b>Standard V-10. The regulated entity provides each policy owner with an annual report of policy values in accordance with statutes, rules and regulations and, upon request, an in-force illustration or contract policy summary.</b></p>
--

Objective: This Standard addresses periodic disclosure to the policyholder of contract information.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company mails annual reports to life policyholders disclosing policy current value, policy cash value, policy insured value, benefits cost, mortality cost, accrued interest and dividends and projected values for the next year. The Company has written service standards to ensure the timely processing of annual reports to policyholders.
- The Company does not retain a copy of the annual statement being sent to the policyholder but the Company's electronic records do have a program code which indicates that annual reports was sent.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed annual report disclosure procedures with Company personnel. Also, the Examiners selected a judgmental sample of five annual reports sent to life policyholders during the examination period for testing.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing results, the Company appears to have adequate procedures for providing life policyholders with timely annual reports in compliance with Company policies and regulatory requirements. However, the Company does not archive the annual reports sent to policyholders.

Recommendations: The Company should begin archiving the annual reports which will validate compliance with 211 CMR 28.10.

**Standard V-11. Upon receipt of a request from policyholder for accelerated benefit payment, the regulated entity must disclose to policyholder the effect of the request on the policy's cash value, accumulation account, death benefit, premium, policy loans and liens. The regulated entity must also advise that the request may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements.**

Objective: This Standard addresses periodic disclosure to the policyholder of contract information.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company uses policy and contract forms that are designed to meet statutory and regulatory requirements and files these with the Division for approval prior to use.
- The Company provides applicants for life policies with several optional coverages such as the Accelerated Benefit Payment Rider (Rider). The applicant must sign the Rider disclosure form if this coverage is selected.
- The Rider disclosure form is used to meet the requirements of 211 CMR 55.06(1)(b) and 55.11.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners discussed accelerated benefit procedures with Company personnel and reviewed supporting documentation. Also, the Examiners also reviewed the accelerated benefit disclosure form to ensure that it meets the requirements of Massachusetts laws. Finally, as part of life insurance new business testing, the Examiners reviewed 80 new business applications to ensure that, when the coverage was selected, the applicant signed the required disclosure form.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of life applications, the Company appears to provide the disclosure form when the applicant selects the rider.

Recommendations: None.



## V. UNDERWRITING AND RATING

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard VI-1. The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company rating plan.**

Objective: This Standard addresses whether the Company uses and charges proper premium rates.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has written underwriting and rating policies and guidelines, which are designed to assure reasonable consistency in classification and rating of new business.
- The Company's individual life policies are generally offered in tobacco and non-tobacco classes, with some products using a general class regardless of tobacco use status ("unismoke") for all applicants. In addition, underwriters determine the premium rate based on the applicant's age and health condition. The Company files the CSO mortality tables in use for each life product to comply with M.G.L. c. 175, § 9; M.G.L. c. 176D, § 3(7); 211 CMR 32.00; 211 CMR 57.04; 211 CMR 39.00 and Division Bulletin 2008-18.
- The Company determines the premium rate for disability income certificates of coverage based on the applicant's occupation, age and health condition. The rates for Critical Illness certificates are based on age and tobacco use.
- The Company's Group Underwriting Department determines group life, accident and disability income rates based on the size of the group, age range of the group and prior claims experience of the group.
- Individual Accident policy rates are flat rates by coverage for all applicants and the rates are filed with the Division for approval prior to use.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for determining rate classes as part of the underwriting process. Also the Examiners selected a judgmental sample of one group life policy, six individual life policies, one individual accident policy, one disability income certificate, and one critical illness certificate processed during the examination period and re-rated the premium charged for each application. This sample will be referenced again under other standards in this section.

Transaction Testing Results:

Findings: None

Observations: The Company appears to be charging premiums in accordance with rate information filed with the Division or the Company's rating plan in the case of certificates, and the rate classification process appears to comply with statutory requirements.

Recommendations: None.

**Standard VI-2. All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.**

Objective: This Standard addresses mandated underwriting disclosures for insurance policies, which are required in accordance with statutes, regulations and Company policy. Requirements to provide illustrations and other disclosures are included in Standard III-6. Replacement disclosures are included in Standards III-4 and III-5, and adverse underwriting notices are included in Standards VI-7 and VI-8.

**Standard VI-3. The Company does not permit illegal rebating, commission-cutting or inducements.**

Objective: This Standard prohibits illegal rebating, commission cutting or inducements in Company correspondence to producers, and in advertising/marketing materials. Reduced commissions paid on internal replacements are discussed in Standard III-5.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has procedures for paying producers' commissions in accordance with written producer contracts.
- Company policies, procedures and producer contracts prohibit special inducements and rebates.
- The Company's policy to discourage internal replacements is to pay reduced first year commissions when the previous policy was lapsed, cash surrendered, pledged or subjected to borrowing where existing coverage was discontinued or altered within the prior 12 months or is intended to be discontinued or altered in the next 13 months.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for commission processing and producer contracting. Also, the Examiners reviewed producer contracts, new business materials, advertising materials, producer training materials and manuals for indications of rebating, improper commission cutting or inducements. In addition, the Examiners selected a judgmental sample of one group life policy, three individual life policies that involved a replacement, three individual life policies that did not involve a replacement, one individual accident policy, one disability group certificate, and one critical illness group certificate issued during the examination period to ensure that the related commission payments were in accordance with contractual terms and did not indicate any unusual activity. Finally, during testing of 120 new business transactions, the Examiners reviewed for indications of rebating, improper commission cutting or inducements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, commission payments appeared proper and the Company's processes for prohibiting rebating, improper commission cutting or inducements appear to be functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: None.

<p><b>Standard VI-4. The Company's underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations and regulated entity guidelines in the selection of risks.</b></p>
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Objective: This Standard addresses unfair discrimination in underwriting.

Controls Assessment: The following controls were noted in review of this Standard:

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements.
- Written underwriting guidelines are designed to assure reasonable consistency in classification and rating of risks. The underwriting guidelines meet the requirements of M.G.L. c. 175, §§ 24A, 108A, 108C, 108G, 108H, 120A-120E and 193T; M.G.L. c. 175I, § 12; and Division Bulletin 2008-18. The underwriting system automatically sets policy rates based upon the applicant's criteria as entered into the system which meets the requirements of M.G.L. c. 175, §§ 120, 120F and 122; and M.G.L. c. 176D, § 3(7).

- Underwriting management performs periodic quality reviews to ensure that underwriting guidelines are followed.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed individuals with responsibility for underwriting and classification of risks. Utilizing ACL, the Examiners selected a random sample of five group life policies, 75 individual life policies, 20 disability income certificates of coverage, 15 accident policies and five critical illness policies from the examination period, to verify that the applications were approved by the Underwriting Department without discriminatory contract provisions. This sample is referenced again in other standards in this section.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, the Company's underwriting practices do not appear to be unfairly discriminatory, and the Company appears to adhere to related statutes, rules and regulations.

Recommendations: None.

**Standard VI-5. All forms, including contracts, riders, endorsement forms and certificates are filed with the insurance department, if applicable.**

Objective: This Standard addresses the required filing of all policy forms and endorsements.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company's written underwriting guidelines and policy forms are designed to assure reasonable consistency in classification of risks.
- The Company obtains Division approval of all policy forms, contract riders, endorsement forms and illustrations prior to use. This process is in effect to comply with M.G.L. c. 175, §§ 2B, 22, 24, 108, 129, 132, 134 and 139; 211 CMR 42.06; and Division Bulletin 2009-10.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for the policy forms, endorsements and rate filings process. Utilizing ACL, the Examiners selected a random sample of five group life policies; 75 individual life policies; 20 disability income certificates of coverage; 15 accident policies; and five critical illness policies from the examination period. The Examiners selected the most commonly used policy forms and endorsements to ensure that these were approved by the Division prior to use.

Transaction Testing Results:

Findings: None.

Observations: The Company has not filed the Privacy Notice, which is sent with the policy and is deemed to be a part of the policy. Except as noted, the Company utilized policy forms, riders, and endorsement forms approved by the Division prior to their use.

Recommendations: The Company should timely file the Privacy Notice with the Division in all future filings.

<p><b>Standard VI-6. Policies, riders and endorsements are issued or renewed accurately, timely and completely.</b></p>
---

Objective: This Standard addresses whether the Company issues insurance policies timely and accurately.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has written underwriting guidelines and procedures that require compliance with statutory requirements including M.G.L. c. 175, §§130 and 131. Company underwriters review all insurance applications and supporting forms to ensure that they are complete and internally consistent, and obtain any additional information needed to make underwriting decisions.
- The Company's practice is to issue policies and riders in a timely and complete manner.
- The Company conducts post-sale policyholder service surveys and its policy is to timely and fully respond to questions and responses, which reflect that a policyholder was unsatisfied, or did not understand his or her policy.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed individuals with responsibility for underwriting and policy issuance. Utilizing ACL, the Examiners selected five group life policies; 75 individual life policies; 20 disability income certificates of coverage; 15 accident policies; and five critical illness policies from the examination period to determine whether policies were issued timely, accurately and completely.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that policies are issued timely, accurately, completely and in accordance with Company policies, procedures and statutory requirements.

Recommendations: None.

<b>Standard VI-7. Rejections and declinations are not unfairly discriminatory.</b>
--

Objective: This Standard addresses whether application denials are fair.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has written underwriting guidelines and policies that prohibit unfair discrimination.
- The Company sends applicants an adverse underwriting notice when an application is rejected or declined.
- Underwriting management performs periodic audits to ensure that the reasons for policy rejections and declinations are in compliance with state laws.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners reviewed written Company policies and procedures requiring that the Adverse Underwriting Notice be provided when the Company declines applications, elects to provide a reduced amount of coverage and when it offers coverage at higher than standard rates. Also, the Examiners selected a judgmental sample of nine individual life, four disability certificates of coverage, one individual

accident, and one critical illness certificate of coverage declinations to ensure that the declination reason was in compliance with Massachusetts laws and for evidence that the Company provided timely Adverse Underwriting Notices. Additionally, as part of new business testing, the Examiners noted two individual life applications where the Company offered coverage at higher than standard rates and verified that the Company provided a timely Adverse Underwriting Notice to the applicants.

Transaction Testing Results:

Findings: None.

Observations: For the applications tested, the Company declined applications in compliance with Massachusetts laws. Additionally, the Company provided the Adverse Underwriting Notice when it declined to offer coverage, or offered coverage at higher than standard rates. Based upon testing, the Company's policies and procedures for providing Adverse Underwriting Notices appear to be functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: None.

**Standard VI-8. Cancellation/nonrenewal, discontinuance and declination notices comply with policy provisions, state laws and the regulated entity's guidelines.**

Objective: This Standard addresses whether the non-underwriting reasons for a cancellation are valid according to policy provisions and state laws. Compliance with adverse underwriting notice requirements are tested in Standard VI-7.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company has written procedures for cancellation of insurance coverage in accordance with statutory requirements such as M.G.L. c. 175, §§ 108 (3)(a)(2), 108C, 108G, 108H, 132(2), 187C and 187D.
- Although rare, the Company may rescind coverage in cases of fraud or material misrepresentation.
- The Company's policy is to give adequate notice in cases where the Company cancels insurance coverage for non-payment.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners selected a judgmental sample of five policies cancelled for non-payment of premium during the examination period to test for compliance with policies, procedures and statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing, the Examiners did not note any instances of improper cancellation for non-payment of premium, and noted that in each case the Company gave adequate notice prior to cancellation.

Recommendations: None.

<b><u>Standard VI-9. Rescissions are not made for non-material misrepresentation.</u></b>
---

Objective: The Standard addresses whether: (a) rescinded policies indicate a trend toward post-claim underwriting practices; (b) decisions to rescind are made in accordance with applicable statutes, rules and regulations; and (c) Company underwriting procedures meet incontestability standards.

Controls Assessment: The following controls were noted in review of this Standard:

- The Company does not have a contractual right to cancel insurance coverage absent the conditions set forth in statutes or regulations.
- Although rare, within the first two years of the policy issuance date for Massachusetts policies, the Company will rescind a policy if fraud or material misrepresentations are made. After the said two year period, the Company will rescind a policy only if fraudulent misstatements were made by the applicant during the application process. The Company's process is in place to meet the requirements of M.G.L. c. 175, § 108 (3)(a)(2) and 132(2).
- The Company's underwriting process considers the risk of material misrepresentation by applicants, and attempts to corroborate information received including health status.
- Cases considered for rescission are reviewed by the Underwriting Department and Legal Department management.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.



Transaction Testing Procedure: The Examiners reviewed the rescission only for the period under review. Also, the Examiners reviewed for evidence of improper rescissions during testing of complaints, cancellations, underwriting declinations and claims.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing, the Examiners did not note any instances of improper rescissions.

Recommendations: None.

<b><u>Standard VI-10. Pertinent information on applications that form a part of the policy is complete and accurate.</u></b>
--

Objective: This Standard addresses whether: (a) the requested coverage is issued; (b) the Company verifies the accuracy of application information; (c) applicable non-forfeiture and dividend options are indicated on the application; (d) changes and supplements to applications are initialed by the applicant; and (e) supplemental applications are used where appropriate.

Controls Assessment: The following controls were noted as part of this Standard:

- The Company's individual life applications generally require submission of information regarding the applicant's existing life insurance coverage, family member information, occupation, monthly earnings, age and the purpose of the applied for life insurance. A copy of the application is attached to the issued policy.
- The Company's disability income applications require submission of information regarding the applicant's employment status, occupation, monthly earnings, income, age, existing disability income coverage and family member information, to assist in determining the applicant's needs.
- The Company's group life, critical illness, accident and disability income applications require submission of information regarding the applicant's nature of employment, type and amount of coverage requested, group eligibility guidelines, employee contributions, waiting periods, benefit termination guidelines and rate guarantees.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners interviewed Company personnel with responsibility for new business processing and obtained supporting documentation. Also, utilizing ACL, the Examiners selected five group life policies, 75 individual life policies, 20 disability income certificates of coverage, 15 accident policies and five critical illness policies from the examination period. The Examiners verified that each of the applications was signed and completed in accordance with Company policy, and that each of the individual life applications reflected a dividend or non-forfeiture option, as applicable. Finally, the Examiners also reviewed each application package and confirmed that the policy was issued consistent with the application or that any changes resulted in disclosure to the applicant.

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, the application submitted for each sale was signed and completed in accordance with Company policy. Each policy was issued consistent with the application, or any changes resulted in disclosure to the applicant.

Recommendations: None.

<p><b><u>Standard VI-11.</u> The Company complies with the specific requirements for AIDS-related concerns in accordance with statutes, rules and regulations.</b></p>
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Objective: This Standard addresses procedures to ensure that the Company does not use medical records indicating AIDS-related concerns to discriminate against life and individual disability income insurance applicants without medical evidence of disease.

Controls Assessment: The following controls were noted in review of this Standard:

- The Underwriting Department's procedures require that an applicant give prior written informed consent before the Company may conduct an AIDS-related test, and that the applicant acknowledge in writing that he or she understands his or her rights regarding AIDS-related tests. The Companies procedures and AIDS testing consent forms are designed to meet the requirements of 211 CMR 36.04-; 36.08.
- A standard form that includes required Massachusetts AIDS-related test disclosures is provided to the applicant at the time an application is taken.
- Policies sold through worksite marketing do not require the applicants to undergo AIDS-related tests.

Controls Reliance: Controls tested via documentation inspection, procedure observation and/or corroborating inquiry appear to be sufficiently reliable to be considered in determining the extent of transaction testing procedures.

Transaction Testing Procedure: The Examiners selected 35 individual life applications submitted by general producers from the examination period to verify that the Company obtained signed Massachusetts AIDS testing disclosure notices from the applicants when an AIDS test was performed. Also, the Examiners also reviewed the AIDS testing consent form to determine compliance with Massachusetts laws. In addition, the Examiners reviewed for evidence of unfair discrimination relative to AIDS in the testing of underwriting declinations..

Transaction Testing Results:

Findings: None.

Observations: Based upon testing, it appears that the Company obtains the Massachusetts AIDS testing disclosure notice from applicants when such testing is performed in accordance with Company policies, procedures and statutory requirements. The Examiners did not note any evidence of unfair discrimination based on sexual orientation in underwriting declinations.

Recommendations: None.

## CLAIMS

Evaluation of the Standards in this business area is based on: (a) an assessment of the Company's internal control environment, policies and procedures, (b) the Company's response to various information and data requests, and (c) a review of various types of Company files.

**Standard VII-1. The initial contact by the Company with the claimant is within the required time frame.**

*Objective:* The Standard addresses the timeliness of the Company's initial contact with the claimant.

*Controls Assessment:* The following controls were noted in review of this Standard, and Standards VII-2 through VII-13:

- The Company has written policies and procedures to provide oversight of the claim handling process
- Individual life insurance policy death claims are reported through an producer, by mail, or through the Company's 800 phone number. The claim is registered in the claim tracking system. The claims examiner confirms the name of the beneficiary and sends the death kit to the claimant. The insurance contract is researched to determine its status, and to ascertain if other policies or contracts are in-force. The policy is then pended in the applicable policy administration system and a claims examiner is assigned based on a predetermined dollar authority limit. The claims examiner must acknowledge or process the claim within 10 days of notification.
- Once the Company receives a death claim form, a claims examiner investigates the claim to ensure that it includes the death certificate, a signed claim form and any other information needed. For individual life insurance claims, the claim settlement amount includes the payment of interest, and may also include return premium amounts, pro-rata dividends, or netting of policy loan amounts as applicable. Claim payment interest is calculated outside of the mainframe claim system, using an access database which automatically calculates interest for the claim based on state specific requirements. Claims staff populate the required fields (e.g. payment amount, date of death, date of receipt etc.) in the database and system controls prevent staff from modifying the underlying state specific information. The interest amount is input into the mainframe system by the claims examiner and a printed copy of the interest calculation is maintained in the claim file. The Massachusetts Department of Revenue website is checked to ensure compliance with the Intercept program requirements for unpaid child support and taxes. On a monthly basis, the Second Vice President of Claims reviews a random selection of claim files to confirm compliance with Company policies and procedures. For disbursements over \$25,000, the check and claim file are also reviewed by the Controllers Department.
- Group life insurance policy claims are reported to the Company by the employer who is actual policyholder. Standardized claim forms are available on the Company's website and are used for all

group life claims. The employer and employee complete their respective parts of the claim form and the employer submits the form and a copy of the enrollment form or document that identifies the beneficiary selected by the employee. The claims examiner sets up the claim file and reviews the master policy held by the employer to determine who is covered and for what amount and whether all premiums are paid to date. A system print out with this information is maintained in every claim file. On a monthly basis, the manager reviews a random selection of claim files to confirm compliance with Company policies and procedures.

- The Company performs a search to identify all life policies where the deceased is a named insured as required by Division Bulletin 2001-07.
- Short-term disability income claims are reported through a producer, by mail or the Company's 800 phone number. The claim is registered, and a claim form is sent to the claimant within one or two days. Once the Company receives a disability income claim form, the claims examiner enters the claim information into the eligibility screen. Claims are assigned to claims examiners based upon their current workloads and examiners are responsible for acknowledging and investigating the claim as necessary. Claim documentation and history notes are maintained in each claim file. All disability income claims are evaluated based on total and partial disability using definitions in the policies. Supervisors review all claims to ensure compliance with Company policies and procedures.
- The Company contracts with third parties to process group and individual long-term disability income claims, and all medical reimbursement claims. The Company's internal audit function conducts periodic audits of these entities to ensure compliance with Company policies and procedures.

Controls Reliance: The Examiners tested the Company's controls by reviewing policies and procedures and/or conducting transaction testing.

Transaction Testing Procedure: The Examiners interviewed Company management and staff responsible for claims handling. . Also, utilizing ACL, the Examiners selected a random sample of 40 life claims and 68 (Critical Illness, Accident, Disability Income and Health) health claims for review. This sample is referenced again in other standards within this section.

Transaction Testing Results:

Findings: None.

Observations: Testing indicated that the Company's policies and procedures appear to be sufficient and in compliance with M.G.L. c. 176D, § 3(9)(b) and M.G.L. c. 175, § 108.

Recommendations: None.

<b>Standard VII-2. Timely investigations are conducted.</b>
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Objective: The Standard is concerned with the timeliness of the Company's claims investigations.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In all the claims tested, the Examiners found that the Company investigated claims timely in compliance with M.G.L. c. 176D, § 3(9)(b); and Division Bulletin 2001-07. Testing performed indicated that the Company's policies and procedures appear to be sufficient and in compliance with statutory requirements.

Recommendations: None.

<b>Standard VII-3. Claims are resolved in a timely manner.</b>
--

Objective: The Standard is concerned with the timeliness of the Company's claims settlements.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In five of the 108 claims tested, the claim form was not date stamped with a received date.

Recommendations: The Company should update their policies and procedures to require that a date stamp be applied to all claim correspondence.

**Standard VII-4. The Company responds to claims correspondence in a timely manner.**

Objective: The Standard addresses the timeliness of the Company's response to all claim correspondence.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In two of the 108 claims tested, there was no documentation in the claim file to support that the Company communicated timely with the insured after receiving the claim forms in compliance with M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e).

Recommendations: The Company should update their policies and procedures to require that follow-ups are performed within 30 days as required by statute. The Company should conduct self audits to ensure that the noted follow-ups are being done appropriately.

**Standard VII-5. Claim files are adequately documented.**

Objective: The Standard addresses the adequacy of information maintained in the Company's claim records.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In 5 of the 108 claims tested, the Examiners found that the Company did not adequately document the claim files.

Two of the errors related to the following life claims:

- In one instance, the file did not include the policy or the statement of policy loss. In addition, there was no documentation to support that the beneficiary changed her name.
- In one instance, there was no documentation to support the beneficiary changed her name.

Three of the errors related to the following health claims:

- In two of the files, there was no documentation available for review by the Examiners to demonstrate that the Company responded timely to customer correspondence.
- In one instance, the claim file does not clearly document the dates of disability.

The Company includes handwritten notes indicating the date the claim packet was mailed but the Company does not retain a copy of the letter mailed with the packet. Also, in five of the 108 claims tested the claim form was not date stamped with a received date.

Recommendations: The Company should retain a copy of the letter mailed with the claim packet. Also, the Company should update their policies and procedures to require that a date stamp be applied to all claim correspondence.

<b>Standard VII-6. Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.</b>
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Objective: This Standard addresses whether appropriate claim amounts, including applicable interest, have been paid to the appropriate beneficiary/payee.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:



**Findings:** In 15 of the 108 claims tested, the Examiners found that the Company did not adequately document the claim files.

Of the 18 paid life claims tested, the Examiners noted:

- 12 instances where interest was paid from the date the Company was notified rather than 30 days after the insured's death pursuant to M.G.L. c. 175 §119C.
- Of the 12 instances, interest was underpaid on 10 claims and overpaid on two claims.

Of the 68 health claims tested, the 3 findings included:

- In one instance, the Company used an inaccurate disability start date that was two days after the actual procedure date identified in the file by the physician.
- In one instance, the Company applied an incorrect elimination period to the claim. The policy has a 14-day elimination period; however, per the EOB, a 15-day elimination period was applied resulting in an underpayment of benefits.
- In one instance, the Company processed the claim upon receipt of a claim form that was not signed or dated.

**Observations:** The 108 claims reviewed complied with Massachusetts laws regarding claims handling such as M.G.L. c. 175, §§ 22I, 24D, 24F, 110F and 119B.

**Required Actions:** The Company shall identify and remediate instances where the delayed settlement interest (DSI) was incorrectly calculated. The Company shall update their policies, procedures and tools to calculate DSI from 30 days after the date of death to the date of payment. The Company shall conduct self audits to ensure that the DSI was calculated and paid correctly. The results of the audits shall be submitted to the Division by June 30, 2015.

**Subsequent Action:** The Company identified 9,768 individuals who were due additional DSI and processed additional interest payments in the amount of approximately \$412,000.

<b>Standard VII-7. The Company claim forms are appropriate for the type of product.</b>
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**Objective:** The Standard addresses the use of claim forms that are appropriate for the policy.

**Controls Assessment:** See Standard VII-1.

**Controls Reliance:** See Standard VII-1.

**Transaction Testing Procedure:** See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In one of the 108 claims tested, the claim form was not appropriate for administering the claim. The form submitted did not capture the number of available sick hours. In this instance, the policy had a sick time offset provision, but the disability did not exceed the offset.

Recommendations: The Company should implement a procedure to obtain and document any additional information that may be necessary to process the claim when outdated claim forms are submitted.

<b><u>Standard VII-8.</u> Claim files are reserved in accordance with the regulated entity's established procedures.</b>
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No work was performed regarding this Standard in this market conduct examination. All required activity for this Standard is included in the scope of the Division's statutory financial examination of the Company which includes the period January 1, 2011 through December 31, 2011.

<b><u>Standard VII-9.</u> Denied and closed without payment claims are handled in accordance with policy provisions and state law.</b>
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Objective: This Standard is concerned with the adequacy of the Company's decision-making, and its documentation of denied and closed-without-payment claims.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: In all claims tested, the Examiners found that the Company handled denied claims in accordance with policy provisions and M.G.L. c. 176D, §§ 3(9)(d), 3(9)(h), and 3(9)(n). Regarding

the Company's handling of denied life insurance claims, testing performed indicated that the Company's policies and procedures appear to be sufficient and in compliance with statutory requirements.

Recommendations: None.

<b>Standard VII-10. Canceled benefit checks and drafts reflect appropriate claim handling practices.</b>
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Objective: The Standard addresses the Company's procedures for issuing claim checks.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: Of the 108 claims tested, the Examiners found one instance where review of the cancelled benefits and drafts did not reflect appropriate claim handling practices. A disability income claim was not paid in accordance with policy provisions. The Company applied a 15 day elimination period, which was contrary to the policy terms.

Observations: Of the 108 claims tested, two life claims did not reflect appropriate claim handling practices. The issues identified were:

- The name of the beneficiary on the claim proceeds check does not agree with the name of the beneficiary on the Group Insurance Certificate Change Form.
- The last name of the beneficiary per policy documentation and per the claim form and cancelled claim check are not the same.

In addition, the Examiners found that the benefit period details included in the EOB for group disability income claims tested does not appear to accurately reflect the benefit period for which benefits were paid. The EOB includes the headings "Period From" and "Period To." The "Period From" should specify the start of the benefit period and the "Period To" should specify the end date for which benefits will be paid, including the elimination period. The Company verbally indicated that the application of the elimination period and the date to which benefits are paid is the date before the

"Period To" date and not the date shown as "Period To." As a result, this information could be misleading to the policyholder.

**Required Actions:** Regarding the underpaid disability insurance claim, the Company shall pay the appropriate benefit with 6% interest. For other disability insurance claims, the Company shall investigate whether the elimination period, per the terms of the policy, has been properly applied. If non-compliance is identified, the Company is to pay the appropriate benefit with 6% interest. The Company is to report the results of its investigation to the Division by June 30, 2015.

**Recommendations:** The Company should ensure that all life insurance proceeds are paid to the appropriate beneficiary by verifying the beneficiary's full name on policy documents matches the full name on the claim form. If the full name on the claim form does not match the full name on policy documents, the Company should obtain the appropriate documentation to verify a beneficiary's name. The EOB generated by the Company should be modified so the "Period From" date specifies the start of the benefit period and the "Period To" date specifies the end date for which the elimination period will be applied or benefits will be paid.

**Standard VII-11. Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.**

**Objective:** The Standard addresses whether the Company's claim handling practices force claimants to: (a) institute litigation for the claim payment, or (b) accept a settlement that is substantially less than what the policy contract provides.

**Controls Assessment:** See Standard VII-1.

**Controls Reliance:** See Standard VII-1.

**Transaction Testing Procedure:** See Standard VII-1.

**Transaction Testing Results:**

**Findings:** None.

**Observations:** The Examiner's testing found no instances where claimants needed to institute litigation to receive claim payments or where claimants were required to accept less than the amount due under the policy. Testing of the 108 claims indicated that the Company's policies and procedures appear to

be sufficient and in compliance with statutory requirements such as M.G.L. c. 176D, §§ 3(9)(g) and 3(9)(h) to prevent claimants from needing to institute litigation to receive claim payments or accept less than the amount due under the policy.

Recommendations: None.

**Standard VII-12. The Company provides the required disclosure material to policyholders at the time an accelerated benefit payment is requested.**

No testing was performed during this examination as no claims were received by the Company during the examination period.

**Standard VII-13. The Company does not discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy.**

Objective: The Standard is concerned with whether the Company's claim handling practices discriminate against claimants with similar qualifying events covered under its policies.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: See Standard VII-1.

Transaction Testing Results:

Findings: None.

Observations: The Examiners found that the Company does not unfairly discriminate against claimants with similar qualifying events covered under its policies as prohibited under M.G.L. c. 176D, § 3(7). Testing revealed that the Company's claim handling policies and procedures do not appear to discriminate against claimants with similar qualifying events covered under its policies.

Recommendations: None.

## SUMMARY

Based upon the procedures performed in this examination, RRC has reviewed and tested Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims in accordance with the standards as set forth in the *2011 NAIC Market Regulation Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts' insurance laws, regulations and bulletins. The Examiners have made recommendations or identified required actions to address various concerns in the areas of operations and management; marketing and sales; producer licensing; policyholder services; underwriting and rating; and claims.

## ACKNOWLEDGMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with RRC, applied certain agreed-upon procedures to the corporate records of the Company in order for the Division of Insurance of the Commonwealth of Massachusetts to perform a market conduct examination of the Company.

The undersigned's participation in this examination as the Examiner-In Charge encompassed responsibility for the coordination and direction of the examination performed, which was in accordance with, and substantially complied with, those standards established by the National Association of Insurance Commissioners ("NAIC") and the *NAIC Market Regulation Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the examination report. In addition to the undersigned, James Wright of the Division's Market Conduct Department participated in the examination and in the preparation of the report.

The cooperation and assistance of the officers and employees of the Company extended to all Examiners during the course of the examination is hereby acknowledged.

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Matthew C. Regan III  
Director of Market Conduct &  
Examiner-In Charge  
Commonwealth of Massachusetts  
Division of Insurance  
Boston, Massachusetts