



**THE COMMONWEALTH OF MASSACHUSETTS**

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS  
REGULATION**

**Division of Insurance**

*Report on the Comprehensive Market Conduct Examination of*

*Liberty Life Assurance Company of Boston*

*Boston, Massachusetts*

*For the Period January 1, 2004 through December 31, 2004*

**NAIC COMPANY CODE: 65315**

**NAIC GROUP CODE: 0111**

**EMPLOYER'S ID NUMBER: 04-6076039**



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

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February 26, 2007

Honorable Nonnie S. Burnes  
Commissioner of Insurance  
Commonwealth of Massachusetts  
Division of Insurance  
One South Station  
Boston, Massachusetts 02110-2208

Dear Commissioner Burnes:

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

**Liberty Life Assurance Company of Boston**

at its home office located at:

175 Berkeley Street, Boston, MA 02117.

The following report thereon is respectfully submitted.

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## SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (“Division”) conducted a comprehensive market conduct examination of Liberty Life Assurance Company of Boston (“Liberty Life” or “Company”) for the period January 1, 2004 through December 31, 2004. The examination was called pursuant to authority in Massachusetts General Laws Chapter 175, Section 4. The current market conduct examination was conducted at the direction of, and under the overall management and control of, the market conduct examination staff of the Division. Representatives from the firm of Eide Bailly, LLP (“Eide”) were engaged to complete certain agreed-upon procedures.

## EXAMINATION APPROACH

A tailored audit approach was developed to perform the examination of Liberty using the guidance and standards of the *National Association of Insurance Commissioners Market Conduct Examiners Handbook* (“Handbook”), the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. All procedures were performed under the management and control of the market conduct examination staff of the Division. The following describes the procedures performed and the findings for the workplan steps thereon.

The basic business areas that were reviewed under this examination were:

- I. Company Operations/Management
- II. Complaint Handling
- III. Marketing and Sales
- IV. Producer Licensing
- V. Policyholder Service
- VI. Underwriting and Rating
- VII. Claims

In addition to the processes’ and procedures’ guidance in the Handbook, the examination included a review of the Company’s policies and procedures regarding compliance with 18 U.S.C. §§ 1033 and 1034, as well as an assessment of the Company’s internal control environment. While the Handbook approach detects individual deficiencies through transaction testing, the internal control assessment provides an understanding of the key controls that Company management uses to run their business and to meet key business objectives, including complying with applicable laws, regulations and bulletins related to market conduct activities.

The controls assessment process is comprised of three significant steps: (a) identifying controls; (b) determining if the control has been reasonably designed to accomplish its intended purpose in mitigating risk (i.e., a qualitative assessment of the controls); and (c) verifying that the control is functioning as intended (i.e., the actual testing of the controls). For areas in which controls reliance was established, sample sizes for transaction testing were accordingly adjusted. The form of this report is “Report by Test,” as described in Chapter VI A. of the Handbook.

## EXECUTIVE SUMMARY

The comprehensive examination was conducted concurrently with the Division's statutory financial examination of Liberty.

This summary of the examination is intended to provide a high-level overview of the reported results of the examination. The body of the report provides details of the scope of the examination, tests conducted, findings and conclusions, recommendations and subsequent Company actions. Managerial or supervisory personnel from each functional area of the Company should review report results relating to their specific area.

The Division considers a substantive issue as one in which corrective action on part of the Company is deemed advisable, or one in which a "finding", or violation of Massachusetts insurance laws, regulations or bulletins was found to have occurred. It is also recommended that Company management evaluate any substantive issues or "findings" for applicability to potential occurrence in other jurisdictions. When applicable, the Company should take corrective action for all jurisdictions, and provide a report of any such corrective action(s) taken to the Division. Any corrective action requires agreement of both the Company and the Division prior to implementation.

All Massachusetts insurance laws, regulations and bulletins cited in this report may be viewed on the Division's website at [www.mass.gov/dor](http://www.mass.gov/dor). The following is a summary of all substantive issues found, along with related recommendations and, if applicable, Company corrective actions taken, as part of the comprehensive market conduct examination of Liberty.

## SECTION I – COMPANY OPERATIONS / MANAGEMENT

### STANDARD I-3

*Findings:* The Company has procedures in place to perform criminal background checks on new employees, but no such process is in place for existing employees.

*Observations:* Eide noted that the Company does not perform criminal background checks on existing employees.

*Recommendations:* Eide recommends that the Company conduct criminal background checks for all current and prospective employees of the Company.

## SECTION II – COMPLAINT HANDLING

### STANDARD II-4

*Findings:* The Company did not respond to one complaint filed during the examination period within 14 days of receipt as required by the Division. The Company did respond to the complaint within 14 days of its receipt by the Presidential Service Team ("Service Team"), after the complaint was initially received and forwarded by the Company's central mail processing facility.

Observations: For the single complaint tested, Eide noted that the Company responded to the issues raised through the formalized complaint process in a complete manner. There was adequate documentation to support complaint handling, and complaint files were adequately documented for review purposes.

Recommendations: The Division recommended that the Service Team, which receives and distributes the complaints, establish a method of preferred contact with the Division. This should eliminate the response lag time sometimes caused by the central mailroom's initial receipt and forwarding of the complaints. The Company complied with this request and the Division has the contact information.

## SECTION VII – CLAIMS

### STANDARD VII-5

Findings: Eide found that documentation of the search for back taxes and back child support owed by claimants was not timely in ten of 58 files tested. The search page in these ten files was printed and put in the file months after the claimant was paid. Eide concluded that it was likely that the searches were done at the time each check was written, considering that the searches for the other 48 tested files had been done on the same day the check was written. Further, new searches printed and put in the file all came back with nothing owed by the claimant. However, the Company did not print and retain the search page in the file at the time of the initial search.

Observations: Based on the testing results, it appears the Company's claim file documentation is not functioning in accordance with Company policies and procedures. Eide discussed this problem with the Company, which had previously identified the problem, and in March 2005 implemented a checklist to rectify it. This checklist of all the items to be included in the file must be signed by a manager before the file can be closed. Eide performed a walkthrough for 10 policies to test the new procedures, and found evidence of their implementation.

Recommendations: The Company should regularly monitor the corrective actions it implemented in March 2005 to adequately document the search for back taxes and back child support owed by claimants.

## COMPANY BACKGROUND

The Company is a part of the Liberty Mutual Insurance Group ("Group"), a diversified global insurance organization principally engaged in the sale of domestic property/casualty, life/health and international property/casualty insurance, as well as loss control and other services. Through its traditional direct agency force, independent agents in its Regional Agency Markets business unit and captive agents in its Personal Market business unit, the Group's domestic insurance operations offer a full array of personal and commercial insurance coverage.

The Company is a stock insurance company 90% owned by Liberty Mutual Insurance Company and 10% owned by Liberty Mutual Fire Insurance Company. The Company's operations are integrated with its parent's operations via an administrative services agreement, with all employees maintained at Liberty Mutual Insurance Company.

The Company primarily provides traditional life, structured settlements, and disability products to individuals and institutions through its exclusive direct agents, banks and brokers, making up approximately 3% of the Group's consolidated revenues.

The Company's Individual Business Unit markets life and annuity products including traditional, term, universal, single premium, whole life and variable universal life to middle-income consumers. The Individual Business Unit also markets structured settlements and other individual annuity products. The Group's personal lines property/casualty agency force markets individual life insurance and annuity products as a supplement to the property/casualty coverage offered. Increases in the independent producer force and broader financial institution relationships will provide additional future marketing channels for the Company.

The Company's Group Business Unit markets long and short-term disability and life products primarily to employers with over 500 employees through a growing sales and service force countrywide. This business builds on the parent company's employer relationships and its expertise in occupational disability management. The Company's focus on group operations has enabled it to maintain its long term disability product line, which insures over 1.1 million covered lives.

The Company's national breakout by line of business for direct written premium during 2004 is shown below:

### 2004 Business Production and Profitability (\$000)

Product Line	Premium Written		% of Total NPW
	Direct	Net + Deposits	
Ordinary Life	231,884	212,258	41.2%
Group Life	129,182	117,465	22.8%
Individual Annuities	116,762	170,533	33.1%
Group Annuities	11	15,788	3.1%
Individual A & H	168	-483	-0.1%
Group A & H	241,809	27	0.0%
<b>Totals</b>	<b>719,816</b>	<b>515,588</b>	<b>100.0%</b>

The Company is rated A- (Excellent) by AM Best Company and ratings were stable over the examination period.

The key objectives of this examination were determined by the Division utilizing the Handbook. The remainder of this report outlines the testing and results by each major risk area defined by the Handbook.

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## I. COMPANY OPERATIONS/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 requests, and (c) a review of several types of files at the Company.

**Standard I-1. The company has an up-to-date, valid internal or external audit program.**

*Objective:* This Standard is concerned with whether the Company has an audit program function that provides meaningful information to management.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

### *INTERNAL AUDITS*

- The Company has a well-established internal audit department that performs reviews of a variety of operational functions throughout the Company.
- Audit reports are distributed to all relevant operational and management personnel. The reports contain a summary of control enhancements which management has implemented or agreed to implement as a result of the audit.
- The status of significant audits and findings are reported to the Board of Directors' Audit Committee at the regularly scheduled meetings.

### *FIELD OFFICE AUDITS*

- The internal audit department performs periodic audits as necessary on each of the Massachusetts field offices based upon prior audit results, complaint activity and enforcement activity. Audit topics cover many of the Handbook areas including:
  - Complaint handling and recordkeeping
  - Use of approved sales materials
  - Communication of mandated disclosures
  - New business procedures
  - Suitability
  - Compliance with replacement guidelines
  - Licensing requirements
  - Sales illustration requirements
  - General supervision
- A formal report is issued to both the home office department and the field office at the end of each field office audit.

*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 Procedures:* Due to the nature of this Standard, no transaction testing was performed.

Transaction Testing Results: Not applicable.

Recommendations: None.

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

No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

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

**18 U.S.C. § 1033; Division of Insurance Bulletins 1998-11 and 2001-14.**

Objective: This Standard is concerned with whether the Company has an antifraud plan that is adequate, up-to-date, in compliance with applicable statutes and implemented appropriately.

Pursuant to 18 U.S.C. § 1033 of the Violent Crime Control and Law Enforcement Act of 1994, it is a criminal offense for anyone “engaged in the business of insurance” to willfully permit a “prohibited person” to conduct insurance activity without written consent of the primary insurance regulator. A “prohibited person” is an individual who has been convicted of any felony involving dishonesty or a breach of trust or certain other offenses, who willfully engages in the business of insurance as defined in the Act. In accordance with Bulletins 1998-11 and 2001-14, any entity conducting insurance activity in Massachusetts has the responsibility of notifying the Division, in writing, of all employees and producers who are affected by this law. Individuals “prohibited” under the law may apply to the Commissioner for written consent, and must not engage in the business of insurance unless and until such consent is granted.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has a written antifraud plan.
- The Company has a Special Investigation Unit (“SIU”) dedicated to the prevention and handling of fraudulent activities.
- The SIU holds periodic meetings with representatives from various departments at the Company including claims, compliance, internal audit, underwriting, sales and customer service.
- Potentially fraudulent activity is tracked by the SIU and investigated with the assistance of other departments as necessary. Such activity is reported to the regulators when required by statute.
- The Company’s SIU works with the Massachusetts Insurance Fraud Bureau to investigate and properly handle possible fraud.
- The Company’s claims and underwriting personnel take part in ongoing continuing education focused on identification and proper treatment of suspected fraudulent activity.

- The Company performs criminal background checks for all new employees.

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 Procedures: Eide interviewed individuals with responsibility for ensuring the Company does not employ prohibited persons as defined in 18 U.S.C. § 1033, and reviewed procedures followed by the Company to ensure compliance.

Transaction Testing Results:

Findings: The Company has procedures in place to perform criminal background checks on new employees, but no such process is in place for existing employees.

Observations: Eide noted the Company does not conduct criminal background checks on existing employees.

Recommendations: Eide recommends that the Company conduct criminal background checks for all current and prospective employees.

**Standard I-4. The company has a valid disaster recovery plan.**

No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

**Standard I-5. The company is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the company.**

No work performed. The Company does not utilize managing general agents or third party administrators in Massachusetts.

**Standard I-6. Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.**

Objective: This Standard is concerned with the organization, legibility and structure of files, as well as with determining if the Company is in compliance with state record retention requirements. The objective of this Standard was included for review in each Standard where such policies or procedures for the retention of records exists or should exist.

Controls Assessment: The Company's home office record retention policies are described for each Standard, as applicable. In addition:

- Company policy requires that its producers keep complete records and accounts of all insurance transactions.

- The Company's standard producer contract requires that insurance records and accounts be kept current and identifiable.
- The Company's standard producer contract also maintains the Company's right to examine producers' accounts and records of all insurance transactions for as long as the Company deems reasonable, including a reasonable time after the termination of a producer contract.

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 Procedures: Eide performed various procedures throughout this examination which related to review of documentation and record retention.

Transaction Testing Results: Such testing results are noted in the various examination areas, and include exceptions noted in the Executive Summary.

Recommendations: Such recommendations are noted in the various examination areas, and include exceptions noted in the Executive Summary.

**Standard I-7. The company is licensed for the lines of business that are being written.**

**M.G.L. c. 175, §§ 32, and 47.**

Objective: This Standard is concerned with whether the Company is operating within the requirements of its Certificate of Authority.

According to M.G.L. c. 175, § 32, a company must first obtain a certificate of authority from the commissioner before it may issue any contracts or policies. A company may issue policies and contracts for lines of business allowed by M.G.L. c. 175, § 47.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company operates within the lines of business approved under its existing Certificate of Authority.

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 Procedures: Eide reviewed the Company's Certificate of Authority, and compared it to the lines of business it writes in the Commonwealth.

Transaction Testing Results:

Findings: None.

Observations: The Company operates within the lines of business approved under its existing Certificate of Authority.

Recommendations: None.

**Standard I-8. The company is licensed for the lines of business that are being written.**

**M.G.L. c. 175, §§ 32 and 47.**

Objective: This Standard is concerned with whether the Company is operating within the requirements of its Certificate of Authority.

According to M.G.L. c. 175, § 32 a company must first obtain a certificate of authority from the commissioner before any contracts or policies may be issued. A company may issue policies and contracts for lines of business allowed by M.G.L. c. 175, § 47.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company operates within the lines of business approved under its existing Certificate of Authority.

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: Eide reviewed the Company's Certificate of Authority, and compared it to the lines of business it writes in the Commonwealth.

Transaction Testing Results:

Finding(s): None.

Observation(s): The Company operates within the lines of business approved under its existing Certificate of Authority.

Recommendation(s): None.

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

**M.G.L. c. 175, § 4.**

Objective: This Standard is concerned with the Company's cooperation during the course of the examination.

M.G.L. c. 175, § 4 sets forth the Commissioner's authority to conduct examinations of an insurer.

Controls Assessment: Due to the nature of this Standard, no controls assessment was performed.

Controls Reliance: Not applicable.

Transaction Testing Procedures: The Company's level of cooperation and responsiveness to examiner requests was assessed throughout the examination.

Transaction Testing Results:

Findings: None.

Observations: The Company's level of cooperation and responsiveness to examiner requests was acceptable.

Recommendations: None.

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

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. The Company provides annual disclosure notices to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard customer, personal and health information.

- The Company's internal audit function has conducted reviews of privacy policies and procedures.
- The Company has procedures in place to comply with M.G.L. c. 175I, §§ 1 - 22.

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 Procedures: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice, it appears that the Company's privacy policy minimizes any improper intrusion into the privacy of applicants and policyholders, and is disclosed to policyholders in accordance with their policies and procedures. No violations of M.G.L. c. 175I, §§ 1 - 22 were noted during testing.

Recommendations: None.

**Standard I-11. The company had developed and implemented written policies, standards and procedures for the management of insurance information.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it manages insurance information properly.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has procedures in place for each division regarding the management of insurance information.

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 Procedures: Eide interviewed Company personnel with responsibility for management of insurance information. The standard of insurance information management was tested with each individual section on this exam.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's information management policies and procedures, the Company appears to be operating within the Handbook standards.

Recommendations: None.

**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.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information, and to comply with the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the Gramm-Leach-Bliley Act regarding privacy requirements of nonpublic personal information.

- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions to its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. The Company provides annual disclosure notices to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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 Procedures: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice, it appears that the Company's privacy policy minimizes any improper intrusion into the privacy of policyholders, former policyholders and consumers that are not policyholders, and is disclosed to policyholders in accordance with their policies and procedures.

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.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information, and complies with the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the Gramm-Leach-Bliley Act regarding privacy requirements of nonpublic personal information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions to its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. The Company also provides annual disclosure notices to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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 Procedures: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The financial examination team conducted a review of the Company's privacy policies, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice and discussion with Company personnel, it appears that the Company disclosed privacy information to policyholders in accordance with their policies and procedures.

Recommendations: None.

**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.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

*Objective:* This Standard is concerned with the Company's policies and procedures to provide consumers with an opt-out option as required in the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the Gramm-Leach-Bliley Act regarding privacy requirements of nonpublic personal information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions to its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. The Company also provides annual disclosure notices to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

*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 Procedures:* Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The Division's financial examination team conducted a review of the privacy policies of the Company, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice and discussion with Company personnel, it appears that the Company provides consumer information to business partners or other third parties only to help provide essential services to the consumer, and therefore is not required to provide an opt out option.

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.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information, and complies with the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22, 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the Gramm-Leach-Bliley Act regarding privacy requirements of nonpublic personal information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions to its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. The Company also provides annual disclosure notices to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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 Procedures: Eide interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional information to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice and discussion with Company personnel, it appears that the Company has adequate policies and procedures to protect nonpublic personal financial information.

Recommendations: None.

**Standard I-16. In states promulgating the health information provision 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.**

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information, and complies with the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company stated that it does not sell any personal consumer information to third parties.

- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions for its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices also are provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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 Procedures: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The financial examination team conducted a review of the Company's privacy policies, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's privacy notice and discussion with Company personnel, it appears that the Company has adequate policies and procedures to protect nonpublic personal health information.

Recommendations: None.

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

**M.G.L. c. 175I, §§ 1-22; Gramm-Leach-Bliley Act, §§ 502, 503, 504 and 505 and 16 CFR Part 313.**

Objective: This Standard is concerned with the Company's policies and procedures to ensure it maintains privacy of consumer information, and complies with the Gramm-Leach-Bliley Act.

The Company must have policies and procedures to ensure it minimizes improper intrusion into consumers' privacy as required by M.G.L. c. 175I, §§ 1-22. 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 non-public personal consumer information 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 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 discussion.

Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the Gramm-Leach-Bliley Act regarding privacy requirements of nonpublic personal information.
- Company has written policies and procedures in place for security of nonpublic policyholder and consumer information.
- The Company stated that it does not sell personal information to third parties.
- Company policy is to disclose personal information only as required or permitted by law to industry regulators, law enforcement agencies, anti-fraud organizations, and third parties who assist the Company in processing business transactions to its policyholders.
- Company policy requires that a consumer privacy notice be provided to policyholders when a policy is delivered. Annual disclosure notices also are provided to policyholders using standard mail.
- The Company stated that it has developed and implemented information technology security practices to safeguard nonpublic personal information.

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 Procedures: The examiners interviewed Company personnel with responsibility for policyholder services, and reviewed its privacy notice. The Division's financial examination team conducted a review of the Company's privacy policies, which provided additional comfort to the market conduct examiners.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review of the Company's written documentation of its privacy notice, it appears that the Company has adequate policies and procedures for the protection of nonpublic policyholder and consumer information.

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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 176D, § 3(10).**

*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 since 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 it took to process each complaint.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the complaint handling process.
- The Company records all complaints in a consistent format in the complaint log.
- The Company's definition of complaint is similar to the statutory definition.
- The Company has a variety of mediums through which a consumer can file a complaint.
- The Company's Presidential Service Team ("Service Team") receives all complaints, and directs them to the appropriate department for handling.

*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 Procedures:* Eide obtained complete complaint listings from the Company and the Division for the examination period, and found that both lists logged one complaint about Liberty made to the Division. Eide reviewed the complaint received by the Division and recorded on the Company log, to ensure that it was handled in accordance with M.G.L. c. 176 § 3(10).

Based on these findings, coupled with a planning risk assessment, Eide performed detail testing on claims handling and underwriting as outlined later in this report.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted from the single Division complaint from the examination period that the Company appears to maintain complaint handling procedures, and a complete listing of complaints, in accordance with M.G.L. c. 176D, § 3(10)

Recommendations: None.

**Standard II-2. The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.**

**M.G.L. c. 176D, § 3(10).**

Objective: This Standard addresses whether the Company has adequate complaint handling procedures, and communicates those procedures to policyholders.

Pursuant to M.G.L. c. 176D, § 3(10), an insurer is required to maintain a complete record of complaints it received since 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 it took to process each complaint.

Controls Assessment: Refer to Standard II-1.

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 Procedures: Eide reviewed a complete listing of the Massachusetts complaint files from both the Company and the Division for the examination period to evaluate this Standard. In addition, Eide interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. A sampling of forms and billing notices sent to policyholders was reviewed to determine whether the Company provides contact information for consumer inquiries.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have adequate complaint procedures in place, and communicates such procedures to policyholders.

Recommendations: None.

**Standard II-3. The company takes 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 complaints fully addresses the issues raised.

Controls Assessment: Refer to Standard II-1.

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 Procedures: Eide reviewed a complete listing of the Massachusetts complaint files from the examination period to evaluate this Standard. Each complaint was reviewed to determine if the Company's response was given beyond the 14 days required by the Division.

Transaction Testing Results:

Findings: None.

Observations: For the single complaint tested, Eide noted that the Company responded to the issues raised through the formalized complaint process in a complete manner. Based on the review of the Company's complaint log, the Company appears to treat complainants with similar fact patterns in a consistent manner, and adequately documents its complaint files.

Recommendations: None.

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

Objective: This Standard is concerned with the time required for the Company to process each complaint.

Massachusetts does not have a specific complaint processing time standard in the statutes or regulations. However, established Division practice requires insurers to respond to the Division within 14 days of its receipt of any complaint from the Division.

Controls Assessment: Refer to Standard II-1.

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 Procedures: Eide reviewed a complete listing of the Massachusetts complaint files from the examination period to evaluate this Standard. Eide also reviewed each complaint to determine the reason for delay for any which exceeded the 14 day response time required by Division.

Transaction Testing Results:

Findings: The Company did not respond to one complaint filed during the examination period within 14 days as required by the Division. The Company did respond to the complaint within 14 days of its receipt by the Presidential Service Team ("Service Team"), after the complaint was initially received and forwarded by the Company's central mail processing facility.

Observations: For the single complaint tested, Eide noted that the Company responded to the issues raised through the formalized complaint process in a complete manner. There was adequate documentation to support complaint handling, and complaint files were adequately documented for review purposes.

*Recommendations:* The Division recommended that the Service Team, which receives and distributes the complaints, establish a method of preferred contact with the Division. This should eliminate the response lag time sometimes caused by the central mailroom's initial receipt and forwarding of the complaints. The Company complied with this request and the Division has the contact information.

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### 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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 175, §§ 18, 121, 129, 174J; M.G.L. c. 176D, § 3; Division of Insurance Bulletin 2001-02.**

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

M.G.L. c. 175, § 18 states that all material created by the Company must state the Company's corporate name, and any material publishing its assets must also publish its liabilities. M.G.L. c. 175, § 121 requires insurers to limit offers to those plainly stated in the policy, and prohibits insurers from offering securities as an inducement. M.G.L. c. 175, § 129 requires the face page of a policy to contain in bold letters a plain description of the policy and any dividend features. Pursuant to M.G.L. c. 175, § 174J, a separate notice to the prospective insured is required disclosing the broker and controlled insurer relationship. Pursuant to M.G.L. c. 176D, § 3, it is deemed an unfair method of competition to misrepresent or falsely advertise insurance policies, or the benefits, terms, conditions and advantages of said policies. Pursuant to Division of Insurance Bulletin 2001-02, an insurer who maintains an Internet website must disclose on that site the name of the company appearing on the certificate of authority, and the address of its principal office.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the advertising and sales material approval process.
- All advertising and sales materials produced by the Company are reviewed by management for approval and compliance with statutory and regulatory requirements prior to use.
- The Company has a website designed for use by consumers.
- The Company discloses their history and pertinent facts for use by consumers on their website.
- The Company completed an Insurance Marketplace Standards Association, (hereafter "IMSA") assessment which found no violations.

*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 Procedures:* Eide reviewed the IMSA report, and cross-referenced its procedures to the standards in the NAIC Handbook. Eide verified that coverage of the IMSA assessment satisfied the standards outlined in the Handbook, and selected 17 advertising items, and

52 underwriting files, to test for compliance with M.G.L. c. 176D, § 3. (Refer to Standards VI-1 and VI-5 for testing performed). Eide also reviewed the Company's website for appropriate disclosure of its name and address, and consistency with statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: The IMSA report showed that the Company's process for approving advertising and sales material prior to use was functioning in accordance with Company policies and procedures. Eide tested compliance with Massachusetts M.G.L. c. 176D, § 3 and found compliance. The Company's website disclosure complies with the requirements of Division of Insurance Bulletin 2001-02. The Company's advertising materials included proper disclosures of the products and the company underwriting the product.

Recommendations: None.

**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 as part of this Standard:

- Written Company policies and procedures govern the advertising and sales material approval process.
- The Company regularly has internal training for their producers to ensure they are operating in compliance with applicable statutes, rules, and regulations.
- The Company tracks through a communications log email updates it sends to producers between training sessions on law changes, new interpretations, and emerging bulletins.
- The Company has processes in place to ensure that all producer training materials are in compliance with the applicable statutes, rules, and regulations.
- The Company's producers do not have the authority to launch their own marketing campaigns.

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 Procedures: Eide interviewed Company personnel with responsibility for producer training materials. Eide also reviewed the IMSA report, and found no violations with regard to producer training materials.

Transaction Testing Results:

Findings: None.

Observations: The Company's internal producer training materials appear adequate and in compliance with its training policy.

Recommendations: None.

**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 applicable statutes, rules and regulations.

Controls Assessment: See Standard III-2.

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 Procedures: Due to the broad nature of Company-wide producer communications, and Eide's review of such communications in Standards III-1 and III-2, no detailed transaction testing was deemed necessary for this Standard. Eide reviewed the Company's communications log to determine whether it adequately documented the communication of policies and procedures to producers.

Transaction Testing Results:

Findings: None.

Observations: Eide found the Company's communications log to be comprehensive and its communications to producers in compliance with the Company's communications policy.

Recommendations: None.

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

**M.G.L. c. 175, § 204; and 211 CMR 34.04-34.06.**

Objective: This Standard is concerned with appropriate replacement handling by the agent and the Company, including identification of replacement transactions on applications, use of appropriate replacement related forms, and timely notice of the replacement to existing insurers.

M.G.L. c. 175, § 204 addresses the promulgation of regulations governing the replacement of life insurance and annuities.

For life insurance and annuities, 211 CMR 34.04-34.06 requires the agent or broker to submit to the insurer as a part of the application: (a) a statement signed by the applicant as to whether the transaction involves replacement of existing life insurance or annuities; and (b) a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. Furthermore, where a transaction involves replacement, a copy of the replacement notice must be provided to the applicant at a time not later than the time of taking the application, and the producer shall submit a copy of the replacement notice to the replacing insurer within seven (7) working days of the date of the application. The replacing insurer is also required to send the existing insurer a policy summary and a written communication advising of the replacement or proposed replacement.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with requirements to provide disclosure notices to policyholders and replaced carriers in accordance with 211 CMR 34.04-34.06.
- Written Company policies and procedures govern the replacement handling process.
- The Company has completed an IMSA assessment process, which found no violations related to its replacement policies and procedures.

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 Procedures: Eide reviewed the IMSA report, and cross-referenced its procedures to the standards in the Handbook. Eide selected all 14 replacements that occurred during the examination period to test the Company's compliance with its replacement policies and procedures, and related regulatory requirements. Eide also performed replacement testing on the entire sample at Standard V-2

Transaction Testing Results:

Findings: None.

Observations: Eide found one instance where inadequate documentation existed in the file to demonstrate that the previous insurer was adequately informed that a replacement policy was being issued by the Company. Eide noted that all files, other than the isolated incident discussed above, were complete. Eide reviewed the Company's replacement policies and procedures, and found them to be adequate to ensure compliance with 211 CMR 34.04 – 34.06. The single error appears to have been an isolated incident where the necessary documentation did not reach the file.

Recommendations: None.

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

**M.G.L. c. 175, § 204, and 211 CMR 34.04-34.06.**

*Objective:* This Standard is concerned with appropriate replacement handling by the agent and the Company, including identification of replacement transactions on applications, use of appropriate replacement related forms, and timely notice to existing insurers of the replacement.

M.G.L. c. 175, § 204 addresses the promulgation of regulations governing the replacement of life insurance and annuities based upon the model regulation developed by the NAIC. It requires that the regulation include the delivery of a notice stating the replacement of a life insurance policy or annuity contract.

Pursuant to 211 CMR 34.04-34.06, the agent or broker must submit to the insurer as a part of a life insurance or annuity application: (a) a statement signed by the applicant as to whether the transaction involves replacement of existing life insurance or annuities; and (b) a signed statement as to whether the agent or broker knows the transaction may involve replacement. Furthermore, where a replacement is involved, a copy of the replacement notice must be provided to the applicant at a time not later than the time of taking the application, and the producer shall submit a copy of the replacement notice to the replacing insurer within seven (7) working days of the date of the application. The insurer is also required to send the existing insurer a policy summary and a written communication advising of the replacement.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with requirements to provide replacement disclosure notices to policyholder and replaced carriers in accordance with 211 CMR 34.04-34.06.
- Written Company policies and procedures govern the replacement handling process.
- The Company has completed an IMSA assessment process, which found no violations related to its replacement policies and procedures.

*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 Procedures:* Eide reviewed the IMSA report and cross-referenced its procedures to the replacement standards in the Handbook. Eide selected all 14 replacements that occurred during the examination period, to test the Company's compliance with its replacement policies and procedures, and regulatory requirements. Eide also performed replacement testing on the entire sample at Standard V-2.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide found one instance where inadequate documentation existed in the file to demonstrate that the previous insurer was adequately informed that a replacement policy was being issued by the Company. Eide noted that all files, other than the isolated incident

discussed above, were complete. Eide reviewed the Company's replacement policies and procedures, and found them to be adequate to ensure compliance with 211 CMR 34.04 – 34.06. The single error appears to have been an isolated incident, where the necessary documentation did not reach the file.

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.**

**211 CMR 31.05 and 95.11.**

Objective: This Standard is concerned with ensuring that policy illustrations, policy summaries and buyer's guides contain all required information, are provided to policyholders, and maintained in Company records.

Pursuant to 211 CMR 95.11, insurers must provide the applicant for a variable life product with an illustration of benefits payable at or before the time an application is executed. Pursuant to 211 CMR 31.05, non-variable life insurance marketed through agents requires insurers to provide applicants with buyer's guides and preliminary policy summaries before the application is signed, and policy summaries before accepting premium. However, if the policy or policy summary contains an unconditional refund offer, the policy summary may be delivered with the policy.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the replacement handling process.
- The Company has completed an IMSA assessment process.

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 Procedures: Eide reviewed the IMSA report and cross-referenced its procedures to the standards in the Handbook. Eide also performed testing regarding 211 CMR 95.11 at Standard VI-2. Eide further selected all 17 marketing materials in use during 2004, and reviewed them for compliance with statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: Eide noted no findings related to this standard in the testing it performed.

Recommendations: None.

**Standard III-7. The company has suitability standards for its products when required by applicable statutes, rules and regulations.**

**211 CMR 34.04 - 34.06.**

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

211 CMR 34.04-34.06 details the duties of the agent or broker during the policy application and replacement process.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with the requirement to provide disclosure notices to policyholder and replaced carriers in accordance with 211 CMR 34.04-34.06.
- Written Company policies and procedures govern the replacement handling process.
- The Company has completed an IMSA assessment process.

*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 Procedures:* Eide reviewed the IMSA report and cross-referenced procedures to the standards in the Handbook. Eide also selected the 17 marketing materials used during 2004, and tested them for compliance with applicable statutory and regulatory requirements.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted no findings related to this standard in the testing it performed.

*Recommendations:* None.

**Standard III-8. Pre-need funeral contracts or pre-arrangement disclosures and advertisements are in compliance with statutes, rules, and regulations.**

No work performed. The Company does not offer such products anywhere it is licensed.

**Standard III-9. The company's policy forms provide required disclosure material regarding accelerated benefit provisions.**

*Objective:* This Standard is concerned with whether the Company provides required disclosures for accelerated benefits.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the disclosure of accelerated benefit provisions.
- The Company has completed an IMSA assessment process.

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 Procedures: Eide reviewed the IMSA report and cross-referenced its procedures to the standards in the Handbook. Eide also selected the 17 marketing materials used during 2004, and tested them for compliance with applicable statutory and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: Eide noted no findings related to this standard in the testing it performed.

Recommendations: None.

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

**211 CMR 34.04-34.06.**

Objective: This standard is concerned with ensuring that the policy applications forms used by depository intuitions provide the disclosure material needed.

211 CMR 34.04-34.06 details the duties of the agent or broker during the application and replacement process.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy is to comply with requirement to provide disclosure notices to policyholders and replaced carriers in accordance with 211 CMR 34.04-34.06.
- Written Company policies and procedures govern the replacement handling process.
- The Company has completed an IMSA assessment process.

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 Procedures: Eide reviewed the IMSA report, and cross-referenced its procedures to the standards in the Handbook. Eide also performed replacement testing at Standard V-2.

Transaction Testing Results:

Findings: None.

Observations: Eide noted no findings related to this standard in the testing it performed.

Recommendations: None.

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#### 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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 175, §§ 162I and 162S.**

*Objective:* The Standard is concerned with ensuring that the Company's appointed producers are appropriately licensed by the Division.

M.G.L. c. 175, § 162I requires that all persons who solicit, sell or negotiate insurance in the Commonwealth be licensed for that line of authority. Further, any such producer shall not act as a producer of the Company unless they have been appointed by the Company pursuant to M.G.L. c. 175, § 162S.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company has a centralized licensing department charged with ensuring that all producers are licensed and appointed.
- The producer's manager or employer is responsible for notifying the Company's central licensing unit of any employment change using the required protocol.
- Notification to the central licensing unit of a change to a producer's name or address is not required.
- The Company notifies the Division of producer terminations on a weekly basis through the Division's online producer appointment website, (hereafter "OPRA").
- When a producer is appointed or terminated, the required information is entered into the Company's licensing database system. A member of the Company's central licensing unit will analyze the information for completeness and accuracy. Upon verification that the producer has an active license, the analyst will use OPRA to notify the Division of the producer's appointment, and will input the relevant data into the Company's licensing database system.
- The Company's appointment procedures are designed to comply with M.G.L. c. 175, § 162S, which requires that a producer be appointed by the Company as producer within 15 days from the earlier of the date the producer's contract is executed, or the first coverage application is submitted.

*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, with the exceptions noted below.

*Transaction Testing Procedures:* Eide interviewed individuals with responsibility for producer contracting and processing of appointments, and selected a sample of 86 sales during the examination period for testing. Eide verified that the Company's producer for each of the sales was included on the Division's list of the Company's appointed producers. Eide also eliminated all

exceptions that were for simple name or address changes, and tested an additional 23 producers for evidence of licensure and appointment.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing of new and renewal business written during the examination period, no violations of M.G.L. c. 175, §§ 162I and 162S were noted, as all sales were produced by properly licensed producers.

Recommendations: None.

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

**M.G.L. c. 175, §§ 162I, and 162S.**

Objective: The Standard is concerned with ensuring that the Company's appointed producers are appropriately licensed by the Division.

M.G.L. c. 175, § 162I requires that producers be licensed for each line of authority that they solicit, sell or negotiate. Further, any such producer shall not act as a producer of the Company unless they producer have been appointed by the Company pursuant to M.G.L. c. 175, § 162S.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has a centralized licensing department charged with ensuring that all producers are licensed and appointed.
- The producer's manager or employer is responsible for notifying the Company's central licensing unit of any employment change using the required protocol.
- Notification to the central licensing unit of a change to a producer's name or address is not required.
- The Company notifies the Division of producer terminations through OPRA weekly.
- When a producer is appointed or terminated, the required information is entered into the Company's licensing database system. A member of the Company's central licensing unit then analyzes the information for completeness and accuracy. Upon verification that the producer has an active license, the analyst will use OPRA to notify the Division of the producer's appointment, and will input the relevant data into the Company's licensing database.
- The Company's appointment procedures are designed to comply with M.G.L. c. 175, § 162S, which requires that a producer be appointed by the Company as producer within the earlier of 15 days from the date the producer's contract is executed or the first coverage application is submitted.

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, with the exceptions noted below.

Transaction Testing Procedures: Eide interviewed individuals with responsibility for producer contracting and processing of appointments, and selected a sample of 86 sales during the examination period for testing. Eide verified that the Company's producer for each of the sales was included on the Division's list of the Company's appointed producers. Eide also eliminated all exceptions that were for simple name or address changes, and sampled records for an additional 23 producers for evidence of licensure and appointment.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing of 86 new and renewal business sales from the examination period, no violations of M.G.L. c. 175, §§ 162I and 162S were noted, as all sales were produced by properly licensed producers.

Recommendations: None.

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

**M.G.L. c. 175, § 162T.**

Objective: This Standard is concerned with whether the Company's termination of producers complies with applicable statutes requiring notification to the state and the producer.

Pursuant to M.G.L. c. 175, § 162T, the Company must notify the Division within 30 days of the effective date of the producer's termination, and if the termination was for cause, must notify the Division of such cause.

Controls Assessment: Refer to Standard IV-2.

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 Procedures: Eide selected all producers from the Company's records that were terminated during the examination period, and requested documentation supporting the reporting of the terminations to the Division.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that the Company notifies terminated producers using a letter whose contents have been approved by the Division. When the termination is "for cause" the Company sends the notice to the producer via certified mail, return receipt requested. The Company notifies the Division of the termination consistent with procedures established by the Division.

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 is concerned that the Company has a policy for ensuring that producer appointments and terminations do not unfairly discriminate against policyholders.

Controls Assessment: Refer to Standards IV-1 and IV-3.

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 Procedures: Eide selected a sample of 86 sales during the examination period for testing. Eide reviewed documentation for each sale for any evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Transaction Testing Results:

Findings: None.

Observations: Eide noted no evidence of unfair discrimination against policyholders resulting from the Company's policies regarding producer appointments and terminations.

Recommendations: None.

**Standard IV-5. Records of terminated producers adequately document reasons for terminations.**

**M.G.L. c. 175, §§ 162R and 162T.**

Objective: The Standard is concerned that the Company's records for terminated producers adequately document the action taken.

Pursuant to M.G.L. c. 175, § 162T, the Company must notify the Division within 30 days of the effective date of the producer's termination, and of the cause for any termination as defined in M.G.L. c. 175, § 162R.

Controls Assessment: Refer to Standard IV-3.

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 Procedures: Eide obtained a listing of producers terminated during the examination period and reviewed the reasons for each termination.

Transaction Testing Results:

Findings: None.

Observations: Based on the testing noted above, the Company's internal records adequately document reasons for producer terminations. None of the terminations tested were for cause as defined in M.G.L. c. 175, § 162R. The Company has procedures in place to notify the Division of terminations whether "for cause" or "not for cause", complying with M.G.L. c. 175, § 162T.

Recommendations: None.

<b>Standard IV-6. Producer accounts current (account balances) are in accordance with the producer's contract with the company.</b>
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No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

FOR INFORMATION PURPOSES ONLY

## V. 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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 175, §§ 110B, and 146A.**

*Objective:* This Standard is concerned with whether the Company provides policyholders with sufficient advance notice of premiums due, and disclosure of the risk of lapse.

Pursuant to M.G.L. c. 175, § 110B, no life policy shall terminate or lapse for nonpayment of any premium until the expiration of three months from the due date of such premium, unless the company within not less than ten, nor more than forty-five days prior to said due date, shall have mailed a notice showing the amount of such premium and its due date. The notice shall also contain a statement as to the lapse of the policy if no payment is made as provided in the policy. M.G.L. c. 175, § 146A requires that a notice be sent to industrial life policyholders in default on premium informing them of non forfeiture benefits.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company generates a premium billing notice for traditional life policies 30 days prior to the premium due date. The Company generates scheduled payment notices for VUL ("Variable Universal Life") and UL ("Universal Life") policies 20 days prior to the scheduled payment date. The Company mails these notices to the policyholder within one business day after they are generated.
- If premiums are not received as required, the Company mails an overdue premium notice 20 days after the premium due date, and again 45 days after the due date.
- For universal life policies, scheduled payments are flexible within policy limits and may vary. The Company sends a scheduled payment notice to the policyholder 20 days prior to the due date for the chosen billing mode (monthly, quarterly, semi-annually or annually).

*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 Procedures:* Payment notices for individual policies were examined for compliance with Company policy and statutory requirements. Due to the nature of group policies, no detailed testing was performed. However, Eide reviewed examples of billing notices and exception reports.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review, life premium notices and billings generally appear clear, are mailed with adequate advance notice and include disclosure of potential lapse for non-payment.

Recommendation: None.

**Standard V-2. Policy issuance and insured requested cancellations are timely.**

**M.G.L. c. 175, §§ 134A, 187C, 187D, and 187H; 211 CMR 34.06.**

Objective: This Standard is concerned with whether the Company has cancellation and withdrawal procedures to ensure that such policyholder requests are processed timely.

Company processes must be in compliance with M.G.L. c. 175, § 187H regarding free looks, and with the Division's policy to require 10 day free looks on all life policies and annuity contracts, with 211 CMR 34.06 regarding 20 day free looks on replacements, and with M.G.L. c. 175, § 187C regarding written notice for Company cancellations. M.G.L. c. 175, § 134A defines notice requirements and timing of such notices to certificate-holders of group policies eligible for conversion to another policy. M.G.L. c. 175, § 187D states that a policy can be cancelled by an insurer for nonpayment of premium. Policy issuance review is included in Standard VI-9.

Controls Assessment: The following key observations were noted in conjunction with the review of cancellation and withdrawals under this Standard:

- When a customer requests that a life policy be cancelled, written and signed authorization must be provided by the owner. Once the authorization is received, the Company allows a maximum of five business days for conservation. On all products, the effective date of the cancellation is the date of receipt of the authorization. The Company sends a check for the value of the policy on the cancellation effective date within one business day after the cancellation request is processed.
- The Company's goal is to process 97% of insured requested cancellations within 7 business days for traditional life and UL, and within 4 business days for VUL. This benchmark is monitored monthly.

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 Procedures: Eide discussed policy issuance and cancellation procedures with Company personnel, reviewed documentation and exception reports and conducted a transaction walkthrough to corroborate information received regarding the Company's policies and procedures on free looks, insured requested cancellations and Company cancellations.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have reasonable procedures to process insured requested cancellations, free looks and Company cancellations, and such transactions appear to be processed timely in compliance with statutory requirements. When a Company cancellation occurs, written notice is provided to the policyholder.

Recommendations: None.

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

Objective: This Standard is concerned with whether the Company provides timely and responsive information to policyholders and claimants.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has a central customer call center in its Service Office to respond to policyholders' and agents' questions.
- For life policies, the Company receives approximately 9,500 calls per month and has approximately 24 call center employees to handle such calls. The employees have access to Company systems to view policy history and values. Requests for address changes, loans, surrenders, and VUL fund transfers are handled directly by the call center employee. Certain employees have the NASD ("National Association of Securities Dealers") licensed Series 6 designation, and only those licensed individuals handle fund transfers. Service results are benchmarked and tracked monthly by the Company's customer service operations.
- The Company has a customer contact process, which utilizes surveys mailed to policyholders by an outside vendor to ask about their understanding of purchased life insurance policies, Company documents and the service provided by Company sales representatives. Distribution management and Individual Life Compliance personnel follow up with customers and appointed producers to review issues identified on these surveys.

For discussion of written complaint procedures, refer to the Section II - Complaint Handling.

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 Procedures: Eide discussed correspondence procedures with Company personnel, and reviewed documentation and exception reports to corroborate information received.

Transaction Testing Results:

Findings: None.

*Observations:* Based on Eide's conversations with Company personnel, company procedures meant to ensure that all correspondence directed to the Company is answered in a timely and responsive manner by the appropriate department appear to be working correctly.

*Recommendations:* None.

**Standard V-4. Reinstatement is applied consistently and in accordance with policy provisions.**

**M.G.L. c. 175, §§ 132(11), and 187G.**

*Objective:* This Standard is concerned with whether the Company consistently processes reinstatements that comply with policy provisions.

Pursuant to M.G.L. c. 175, § 132(11), life policies must include a provision that the policyholder is entitled to have the policy reinstated, with certain limitations. M.G.L. c. 175, § 187G states lapse of certain life insurance policies during strike of agents must be reinstated.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- For life policies:
  - All life reinstatement requests received with payment for the lapsed premium within seven business days of lapse are automatically reinstated.
  - Reinstatement requests received after seven business days, but before 180 days after the lapse date, require completion of a health statement form. The Company will automatically reinstate if the insured(s) had no health changes. Reinstatement requests reporting a change in health are reviewed by the underwriting department.
  - Reinstatement requests received after 180 days, but before 60 months after the lapse date, require completion of a reinstatement application that goes through underwriting.

*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 Procedures:* Eide discussed reinstatement procedures with Company personnel, and reviewed documentation and detailed summary reports to corroborate Company policies and procedures.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted no evidence of life reinstatement requests being denied in violation of Company policy, contractual obligations or M.G.L. c. 175, § 132(11). The vast majority of reinstatement requests are processed with little or no underwriting. According to Company underwriting records, the number of reinstatements requiring full underwriting

are minimal, and these requests are subject to the underwriting processes and controls noted in the Underwriting and Rating Standards in this report.

*Recommendations:* None.

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

**M.G.L. c. 175, §§ 123, 126, 139, 140, and 142; 211 CMR 95.08(12).**

*Objective:* This Standard addresses the Company's procedures for processing transactions including beneficiary and ownership changes, conversions and policy loans to ensure that they are accurate, complete and in compliance with applicable laws.

M.G.L. c. 175, § 123 requires a witness for beneficiary changes. M.G.L. c. 175, § 139 limits face amounts of conversions for rewritten policies with an effective date prior to the exchange application date. M.G.L. c. 175, § 142 governs loan interest rates for non-variable whole life policies, and 211 CMR 95.08(12) governs policy loans on variable life policies. M.G.L. c. 175, § 140 defines divisible surplus for purpose of paying dividends on participating policies. M.G.L. c. 175, § 126 defines limitations on beneficiary changes where the policy beneficiary is a married woman.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's goal is to accurately process 97% of life policy beneficiary and ownership changes within seven business days. These benchmarks are tracked monthly.
- Company practices for ownership and beneficiary changes are designed to comply with M.G.L. c. 175, § 123.
- Conversions are contractually permitted, and Company policy is designed to comply with M.G.L. c. 175, § 139, which limits face amounts of conversions for rewritten policies with an effective date prior to the conversion application date.
- When a customer requests a life policy loan, written and signed authorization must be provided by the owner. On traditional and UL policies, the effective date of the transaction is the date the transaction is processed. For VUL policies, the effective date of a transaction is the date of receipt of the authorization. The Company sends the policyholder a check is sent within one business day after such transactions are processed.
- The Company's practices on interest rates on non-variable life policy loans are designed to comply with M.G.L. c. 175, § 142.
- The Company's practices for VUL policy loans are designed to comply with the requirements in 211 CMR 95.08(12).

*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 Procedures:* Eide discussed policy transaction procedures with Company personnel, and completed a transaction walkthrough including review of supporting documentation and summary reports, to corroborate beneficiary changes or loan interest rates. None of the policies selected through Eide's new business testing were conversions. Eide reviewed the Company's

variable life prospectuses for proper disclosure of loan information in compliance with 211 CMR 95.08(12).

Transaction Testing Results:

Findings: None.

Observations: The Company has implemented procedures for processing transactions including beneficiary and ownership changes, and appears to process these accurately, completely and in compliance with M.G.L. c. 175, § 123. Interest rates on policy loans on non-variable whole life policies are in compliance with M.G.L. c. 175, § 142. It appeared from reviewing variable life prospectuses that notice of variable life policy loan provisions, including interest rates, is properly given in the prospectus provided to the policyholder at the application date, in accordance with 211 CMR 95.08(12).

Recommendations: None.

**Standard V-6. Non-forfeiture options are communicated to the policyholder and correctly applied in accordance with the policy contract.**

**M.G.L. c. 175, §§ 143, 144, 144A, and 146; Division of Insurance Bulletin 2000-02.**

Objective: This Standard is concerned with the Company's notification to life policyholders and annuity contract holders regarding non-forfeiture options, and that these options are applied in accordance with the policy contract.

M.G.L. c. 175, § 143 states that life and annuity contracts are subject to laws limiting forfeitures. Pursuant to M.G.L. c. 175, § 144, life policyholders may, in the event of a default, elect to (a) surrender the policy and receive its value in cash, or (b) take a specified paid-up non-forfeiture benefit effective from the due date of the premium in default. In lieu of such specified paid-up non-forfeiture benefit, the Company may substitute an actuarially equivalent alternative paid-up benefit that provides a greater amount or longer period of death benefits. M.G.L. c. 175, § 144A provides similar options for annuity contracts. M.G.L. c. 175, § 146 makes § 144 apply to all industrial life policies, and specifically states that cash surrender value provisions apply to all industrial life policies where premiums have been paid for 5 years. Finally, no-lapse guarantees on variable whole life and variable universal life policies are addressed by Division of Insurance Bulletin 2000-02.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Life policy lapses contractually occur 60 days after non-payment of premium on direct bill policies and, as an administrative practice, after 120 days on payroll deduction policies. The Company notifies the policyholder and the producer of the lapse in writing.
- In certain cases, an automatic premium loan (APL) may be taken to cover the premium if the cash value or accumulated dividends in the policy support the premium payment.

A notice is sent to the insured when an APL is initiated. In other cases, the paid-up benefit is granted to the policyholder in compliance with M.G.L. c. 175, § 144.

- No-lapse option guarantees on variable universal life contracts are designed to comply with Division of Insurance Bulletin 2000-02. The Company does not offer variable whole life policies in Massachusetts.

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 Procedures: Eide discussed non-forfeiture procedures with Company personnel, and completed a transaction walkthrough supporting the application of the non-forfeiture benefit. Eide reviewed the product prospectuses to ensure that non-forfeiture benefits and no-lapse guarantees are communicated to the policyholder at the application date.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's review, the Company appears to communicate non-forfeiture options to policyholders, and appears to apply such options in accordance with the policy contract. In addition, the Company's procedures appear to ensure that the payment of cash surrender values complies with contractual obligations and M.G.L. c. 175, §§ 144 and 144A. Finally, no-lapse option guarantees on variable universal life contracts are communicated in compliance with Bulletin 2000-02.

Recommendations: None.

**Standard V-7. Reasonable attempts to locate missing policyholders or beneficiaries are made.**

**M.G.L. c. 175, §§ 119A, and 149D; M.G.L. c. 200A, §§ 5A, 5B, 6D 7-7B, 8A and 9.**

Objective: This Standard is concerned with the adequacy of the Company's processes for locating missing policyholders and beneficiaries, and to comply with escheatment and reporting requirements.

M.G.L. c. 175, §§ 119A and 149D, and M.G.L. c. 200A, §§ 5A, 5B, 6D 7-7B, 8A and 9 outline the legal requirements regarding this Standard. These statutes state that a matured life policy or annuity contract is presumed abandoned if unclaimed and unpaid for more than three years after the funds became due and payable. They provide for the annual reporting to the State Treasurer's Office of the required attempts to find the owner of the abandoned property, and the retaining of documentation supporting such attempts. Finally, the statutes specify payment requirements to the State Treasurer's Office for escheated property.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has processes for locating lost policyholders via company records, the internet, sales offices and social security databases.
- Company policy requires that life policy funds be reported and escheated as required by state law when no owner can be found.

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 Procedures: Eide discussed the Company's procedures for locating missing policyholders and beneficiaries with Company personnel, and reviewed documentation and exception reports to corroborate information received. Eide reviewed the procedures performed by the Division's financial examination staff during the financial examination to assess the Company's compliance with escheatment and reporting requirements.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have processes for locating lost policyholders via Company records, the internet, sales offices, social security databases and audit reports, and escheats life policy funds as required by state law when no owner can be found.

Recommendation: None.

**Standard V-8. The company provides each policy owner with an annual report of policy values in accordance with statute, rules and regulations and, upon request, an in-force illustration or contract policy summary.**

**211 CMR 95.13.**

Objective: This Standard is concerned that the Company discloses certain required information to policyholders.

211 CMR 95.13 requires that certain reports, with certain disclosures contained therein, be provided to variable life policyholders including (a) an annual report (including cash surrender value, cash value, death benefit, any partial withdrawal, partial surrender or policy loan, any interest charge, and any optional payments allowed), and (b) a summary financial statement of each separate account (including net investment return information, a listing of investments held, expenses charged to the account, and any change in investment objectives). The regulation further requires that the Company maintain specimen copies of reports distributed to policyholders. Illustration requirements are addressed in Standard III-6, and contract summary requirements are addressed in Standard VI-2.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company provides annual reports to all life insurance policy owners using standard mail.

- VUL statements disclose account balances, sub-account balances, cash surrender value, recent performance and the current death benefit, in compliance with 211 CMR 95.13.
- The Company's policy is to provide illustrations and policy summaries to policyholders when requested.

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 Procedures: Eide discussed policy annual statement procedures with Company personnel, and completed a transaction walkthrough supporting the processes for issuing annual statement disclosures, and responding to policyholder requests for illustrations and policy summaries.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have reasonable procedures to provide policyholders with timely annual statements that comply with 211 CMR 95.13. The Company also timely provides illustrations and policy summaries to policyholders when requested.

Recommendations: None.

**Standard V-9. Unearned premiums are correctly calculated and returned to appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.**

**M.G.L. c. 175, §§ 119B, 119C, 187B, 187C and 187D.**

Objective: This Standard is concerned with the accuracy of calculated unearned premiums and the timeliness of their return to the policyholder.

Pursuant to M.G.L. c. 175, § 119B, the proceeds payable under any life policy (except single-premium policies) shall include premiums paid for any period beyond the end of the policy month in which death occurred. M.G.L. c. 175, § 119C requires that interest be paid on all proceeds (including excess premiums paid), beginning 30 days after the death of the insured. M.G.L. c. 175, §§ 187B and 187C provide that the full return premium payable on a policy be tendered without deductions upon cancellation in accordance with its terms. M.G.L. c. 175, § 187D precludes payment of unearned premiums if the insured has not actually paid the premium.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's policy administration systems automatically calculate the unearned premium remaining on a cancelled policy, and process a payment to the policyholder in accordance with M.G.L. c. 175, § 187C.

- The Company's policy administration systems automatically calculate the amount of return premium after death of the insured, in accordance with M.G.L. c. 175, § 119B.
- Company policy is to process all death claims within five days. If a death claim including all required documentation is not paid within 30 days after the death of the insured, interest is paid to the beneficiary in accordance with M.G.L. c. 175, § 119C. Further, the Company noted that its policy is to pay interest on claims as of the date of death.

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 Procedures: Eide discussed return premium procedures with Company personnel, and completed a transaction walkthrough supporting the Company's related policies and procedures. Eide reviewed procedures and tested claims to corroborate the Company's policy of paying interest on claims as of the date of death. The Division's financial examiners tested the policy administration systems that calculate unearned premium. .

Transaction Testing Results:

Findings: None.

Observations: The Company appears to calculate unearned premiums correctly and returns premium in a timely manner in accordance with statutory guidelines. The Company appears to comply with M.G.L. c. 175, § 119C regarding interest on claims, and with its own claims interest policy. The Division's financial examiners have determined that the Company's policy administration systems properly calculate unearned premium amounts.

Recommendations: None.

**Standard V-10. Whenever the company transfers the obligations of its contracts to another company pursuant to an assumption reinsurance agreement, the company has gained the prior approval of the insurance department and the company has sent the required notices to its affected policyholders.**

No work performed. The Company did not enter into assumption reinsurance agreements during the examination period.

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

Refer to standard VII – 12 for testing performed.

## VI. 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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 175, § 190B; M.G.L. c. 176D, § 3(7).**

*Objective:* This Standard is concerned with whether the Company charges proper premiums based on accurate rates.

Pursuant to M.G.L. c. 175, § 190B, insurance costs for mass marketed products must not be unreasonable.

Pursuant to M.G.L. c. 176D, § 3(7), it is deemed an unfair method of competition to unfairly discriminate between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance, or of life annuity, or to unfairly discriminate between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company automatically computes rates based on applicant information and rating classifications assigned by the underwriter.
- The Company has written underwriting policies and procedures designed to assure reasonable consistency in classification and rating.
- There are 13 rating classes, and for policies underwritten and issued/declined in 2004, 88% of policies were issued standard or preferred, 9% were issued in the nine classes under standard, and 3% were denied.
- The Company has a process to log and document Division approval of all rates to comply with provisions contained in statutory underwriting and rating 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 Procedures:* Eide interviewed Company personnel with responsibility for determining rate classes as part of the underwriting process. Eide selected 85 policies written during the examination period, of which 52 were new business sales and 33 were declined or incomplete applications. The 52 new business sales were used to test the Company rate classifications as part of the underwriting processes. Such sales included products for which actuarial rate setting documentation was required to be filed with the Division. For each of the selected sale transactions, Eide verified that the Company rate classifications complied with

statutory requirements. Related product filings, including rate-setting processes, were reviewed for evidence that they were submitted to the Division.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company's rate classification process complies with statutory requirements, and that it submitted related product filings, including rate-setting processes, to the Division, as required.

Recommendations: None.

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

**211 CMR 31.05; CMR 95.11.**

Objective: This Standard is concerned with whether all mandated disclosures for individual insurance policies are documented in accordance with statutes, regulations and Company policy.

Pursuant to 211 CMR 31.05, non-variable life insurance that is marketed through an insurance agent requires that the insurer provide the applicant with a Buyer's Guide and Preliminary Policy Summary before the application is signed, and with a signed Policy Summary before accepting any premium. This policy summary is similar to an illustration provided to buyers of variable life policies. Pursuant to 211 CMR 95.11, illustrations are to be provided for variable life sales. Refer to Marketing and Sales Standard III-6 for testing of this requirement.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's procedures are designed to ensure that new business submissions from producers are accurate and complete, including use of all Company required forms and instructions.
- The Company has written policies and procedures for new business processing.
- The Company closely reviews applications to determine that all applicable questions are answered, and that required information is filed and consistent.
- The Company sends a letter to the producer to request any missing forms or information.
- Outstanding information or open items are tracked for completion. A policy will not be issued until all outstanding information and open items are completed.
- The Company has documented disclosures for individual life insurance for both non-variable and variable universal life insurance policies.
- The Company produces a Buyer's Guide and Policy Summary that is provided to the policyholder when the application is signed, and when a non-variable life policy is delivered.
- The Company has a review process to monitor whether producers obtain required variable universal life insurance disclosure documents signed by the policyholder.

- The Company has a customer contact process, which utilizes surveys mailed to policyholders by an outside vendor to ask about their level of understanding of purchased life insurance policies, Company documents and the service provided by Company sales representatives. Distribution management and Individual Life Compliance personnel follow up with customers and appointed producers to review issues identified on these surveys.

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 Procedures: Eide interviewed company personnel with responsibility for underwriting and new business processing, and selected 52 new business sales for the examination period for testing. Eide verified that the application submitted was signed and complete in compliance with 211 CMR 31.05, and that a Buyer's Guide was provided.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company is making all the required disclosures for individual insurance, and all new policies are issued in accordance with applicable statutes, rules, regulations and Company policies.

Recommendations: None.

**Standard VI-3. All mandated disclosures for group insurance are documented and in accordance with applicable statutes, rules and regulations.**

**M.G.L. c. 175, §§ 136, 132A; 211 CMR 31.05, and CMR 95.11.**

Objective: This Standard is concerned with whether all mandated disclosures for group insurance policies are documented in accordance with statutes, regulations and Company policy.

M.G.L. c. 175, §136, requires that any equity in a group life contract be used to purchase additional paid up insurance or other benefits for employees in the event of premium default, and exempts policy loan provisions allowing for offset. M.G.L. c. 175, § 132A defines a group annuity contract and certain terms used in connection with such contracts. This Policy Summary is similar to an illustration provided to buyers of variable life policies. Pursuant to 211 CMR 31.05, non-variable life insurance that is marketed through an insurance agent requires that the insurer provide the applicant with a Buyer's Guide and Preliminary Policy Summary before the application is signed, and with a signed Policy Summary before accepting any premium. Pursuant to 211 CMR 95.11, illustrations must be provided for variable life sales. Refer to Standard III-6 for testing of this requirement.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company's procedures are designed to ensure that new business submissions from producers are accurate and complete, including use of all Company required forms and instructions.
- The Company has written policies and procedures for new business processing.
- The Company closely reviews applications to determine that all applicable questions are answered, and that required information is filed and consistent.
- The Company sends a letter to the producer requesting any missing forms or information.
- The Company tracks outstanding information or open items for completion. A policy will not be issued until all outstanding information and open items are completed.

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 Procedures: Eide interviewed company personnel with responsibility for underwriting and new business processing, and selected 52 new business sales for the examination period for testing.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company is making all the required disclosures for group insurance, and that all new policies are in accordance with applicable statutes, rules, regulations and Company policies.

Recommendations: None.

**Standard VI-4. All mandated disclosures for credit insurance are documented and in accordance with applicable statutes, rules and regulations.**

**211 CMR 143.00.**

No work performed. The Company does not sell credit products anywhere it is licensed.

**Standard VI-5. The company does not permit illegal rebating, commission cutting or inducements.**

**M.G.L. c. 175, §§ 162B, 177, 182, 183, and 184; M.G.L. c. 176D, § 3(8).**

Objective: This Standard is concerned with whether (a) Company correspondence to producers and advertising/marketing materials have any indication of illegal rebating, commission cutting or inducements; (b) producer commissions adhere to the commission schedule; and (c) the Company makes required filings.

M.G.L. c. 175, § 162B allows producers to accept installment premiums. Pursuant to M.G.L. c. 175, § 177, payment of commissions to unlicensed producers is illegal. Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, the Company, or any agent thereof, cannot pay or allow, or offer to pay or allow any valuable consideration or inducement not specified in the policy or contract, or any special favor or advantage in the dividends or other benefits to accrue thereon.

Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to make or offer to make an insurance contract for life insurance, life annuity or accident and health insurance other than as expressed in the insurance contract, or to pay, allow or give as inducement to purchase such insurance or annuity any rebate of premiums or any special favor or advantage in the dividends or other benefits, or any valuable consideration or inducement whatsoever not specified in the contract.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has procedures to pay producers' commissions in accordance with home office approved written contracts.
- The Company's producer contracts, and its home office policies and procedures, are designed to comply with provisions contained in statutory underwriting and rating requirements that prohibit special inducements and rebates.

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 Procedures: Eide interviewed individuals with responsibility for commission processing and producer contracting. In connection with the review of producer contracts, Eide inspected new business materials, advertising materials, producer training materials and manuals for indications of rebating, commission cutting or inducements. Eide also completed 1 transaction walkthrough of commission processing for individual policies, and 10 transaction walkthroughs for group policies, as group policies had considerably larger commissions.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company's processes for prohibiting illegal acts including special inducements and rebating, are functioning in accordance with its policies and procedures, and with statutory underwriting and rating requirements.

Recommendations: None.

**Standard VI-6. All forms including contracts, riders, endorsement forms and certificates are filed with the department of insurance, if applicable.**

**M.G.L. c. 175, §§ 2B, 22, 22B, 24, 132, 132B, 132G, 134, 139, 192A, 193F, and 193H; 211 CMR 95.08, 95.12, and 98.17; Division of Insurance Bulletins 2001-05 and 2003-01.**

*Objective:* This Standard is concerned with the appropriate filing of all forms and endorsements.

Pursuant to M.G.L. c. 175, § 2B, no policy form of insurance shall be delivered or issued for delivery to more than 50 policyholders in the Commonwealth, until a copy of the policy form has been on file with the Commissioner for 30 days, or the Commissioner approves the form within the 30 day time frame. No life, endowment or annuity policy form may be delivered unless it complies with a variety of readability guidelines. M.G.L. c. 175, § 22 sets forth unauthorized policy provisions, § 22B prohibits waiver provisions in insurance contracts except as expressly provided. M.G.L. c. 175, § 24 permits insurers to provide accidental death and disability benefits. M.G.L. c. 175, § 132 sets forth a 30 day filing requirement, and identifies certain mandated provisions that must be contained within life, endowment and annuity policy forms before they are delivered. M.G.L. c. 175, §§ 132B, 132G, and 134 require policy forms to be filed with the Commissioner for at least 30 days prior to use, and defines required contents of such forms including grace periods, contestability, dividend participation, etc. M.G.L. c. 175, § 139 defines conditions in which policies maybe re-written or altered. M.G.L. c. 175, § 192A allows loose leaf policies. M.G.L. c. 175, § 193F allows extensions of time to approve policy forms, and § 193H sets forth the procedures for withdrawal of approval of policy forms by the Division, and the procedure to appeal such withdrawals.

211 CMR 95.08 sets forth the policy form requirements for variable life products, and 211 CMR 95.12 outlines the items that should be contained within an application for a variable life insurance policy. 211 CMR 98.17 sets forth equity-indexed advertising and disclosure requirements. Division of Insurance Bulletin 2001-05 requires that all policy form filings for life and annuities be accompanied by a fully-completed form-filing checklist. Finally, Division of Insurance Bulletin 2003-01 clarifies actuarial equivalents on annuity non-forfeiture benefits.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company develops forms, rates, contract riders, endorsement forms, and illustrations by using multi-disciplined teams from its actuarial, marketing, legal, compliance and information technology departments.
- Written Company underwriting guidelines are designed to reasonably assure consistency in classification of risks.
- The Company has a process to log and document Division approval of all such forms, policy riders, endorsement forms and illustrations to comply with provisions contained in statutory underwriting and rating 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 Procedures:* Eide interviewed individuals with responsibility for preparing forms, contracts, riders, endorsement forms, and illustrations. Eide selected 85 policies written

during the examination period, of which 52 were new business sales and 33 were declined or incomplete applications. For each of the selected sale transactions, Eide verified that the policy forms, contract riders, endorsement forms and illustrations were approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: Based upon the testing performed, the Company utilized policy forms, contract riders, endorsement forms and illustrations approved by the Division.

Recommendations: None.

**Standard VI-7. The company underwriting practices are not to be unfairly discriminatory. The company adheres to applicable statutes, rules and regulations, and company guidelines in selection of risks.**

**M.G.L. c. 175, §§ 24A, 120, 120A -120E, 122, 128, 130, and 193T; M.G.L. c. 176D, § 3(7); 211 CMR 32.00. et seq.**

Objective: This Standard is concerned with whether (a) the file documentation adequately supports decisions made; (b) the Company is following underwriting guidelines that both conform to state laws and have been filed where applicable; and (c) that no unfair discrimination is occurring according to the state's definition of unfair discrimination.

M.G.L. c. 175, § 24A prohibits sex as the sole criteria for refusing to issue or limit coverage. Pursuant to M.G.L. c. 175, § 120, no Company may discriminate between insureds of the same class and equal life expectancy with regard to premiums or rates charged for life or endowment insurance, or annuities, or on the dividends or other benefits payable thereon. The Commonwealth specifically prohibits discrimination in the issuance of policies to mentally retarded persons (M.G.L. c. 175, § 120A), blind persons (M.G.L. c. 175, § 120B), individuals with DES exposure (M.G.L. c. 175, § 120C), abuse victims (M.G.L. c. 175, § 120D), as well as on the basis of genetic tests (M.G.L. c. 175, § 120E). M.G.L. c. 175, § 122 prohibits insurers from making a distinction on its rates between Caucasians and African American persons. M.G.L. c. 175, § 128 defines minors who have reached age 15 as competent to contract for life insurance for defined situations. M.G.L. c. 175, § 130 states that no policy of life or endowment insurance shall be issued if it is dated or takes effect more than six months before the date of the original application. M.G.L. c. 175, § 193T prohibits discrimination based on blindness, mental retardation, or physical impairment.

Pursuant to M.G.L. c. 176D, § 3(7), it is an unfair method of competition to engage in unfair discrimination, which is defined as: "(a) making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or (b) making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatsoever." Mortality tables must conform to the requirements set forth in 211 CMR 32.00.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy prohibits unfair discrimination in underwriting in accordance with M.G.L. c. 175, §§ 120, 120A-120E and M.G.L. c. 176D, § 3(7).
- The Company's policy is to utilize mortality tables that conform to the requirements set forth in 211 CMR 32.00.
- Written Company underwriting guidelines are designed to reasonably assure consistency in classification and rating of risks.
- The Company has a process to log and document Division approval of all such forms, policy riders, endorsement forms and illustrations to comply with provisions contained in statutory underwriting and rating 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 Procedures: Eide interviewed individuals with responsibility for underwriting and classification of risks. Eide selected 85 policies written during the examination period, of which 52 were new business sales and 33 were declined or incomplete applications. For each of the selected sale transactions, Eide verified that the Company's underwriting practices are not unfairly discriminatory, and that the Company complies with the statutes, rules and regulations noted above.

Transaction Testing Results:

Findings: None.

Observations: Based upon Eide's testing, the Company's underwriting practices do not appear to be unfairly discriminatory, and the Company appears to comply with the statutes, rules and regulations noted above.

Recommendations: None.

**Standard VI-8. Producers are properly licensed and appointed (if required) for the jurisdiction where the application was taken.**

Refer to Standards IV-1 and IV-2 in the Producer Licensing Section.

**Standard VI-9. Policies and riders are issued or renewed accurately, timely and completely.**

**M.G.L. c. 175, §§ 123, 130, and 131**

Objective: This Standard is concerned with whether the Company issues life policies and annuities timely and accurately.

Pursuant to M.G.L. c. 175, § 123, a written application is required for issuance of life policies. M.G.L. c. 175, § 130 provides that no life policy or annuity issued shall be dated more than six months prior to the application, if thereby the applicant would rate at an age younger than his age at nearest birthday on the date when the application was made. M.G.L. c. 175, § 131 requires that a signed copy of the application be endorsed upon or attached to the life policy or annuity contract.

Controls Assessment: The following key observations were noted in conjunction with the review of the issuance of policies and contracts under this Standard:

- The Company has written underwriting guidelines and procedures that require compliance with M.G.L. c. 175, §§ 123, 130 and 131.
- Supervisors review all applications to ensure that they are complete and internally consistent.

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: Eide interviewed individuals with responsibility for underwriting, policy issuance, rejections, declinations and reinstatements. Eide selected 85 policies written during the examination period, of which 52 were new business sales and 33 were declined or incomplete applications. For each sale transaction selected, Eide verified that the contract was approved by underwriting and was issued in compliance with M.G.L. c. 175, §§ 123, 130 and 131.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's testing, it appears that the Company's processes for complying with M.G.L. c. 175, §§ 123, 130 and 131 are functioning in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

Recommendations: None.

**Standard VI-10. Rejections and declinations are not unfairly discriminatory.**

**M.G.L. c. 175, §§ 120, 120A - 120E; M.G.L. c. 175I, § 12; M.G.L. c. 176D, § 3(7).**

Objective: This Standard is concerned with the fairness of application rejections and declinations, and the communication of such reasons to the policyholder when required.

Pursuant to M.G.L. c. 175, § 120, no Company may discriminate between insureds of the same class and equal life expectancy with regard to premiums or rates charged for life or endowment insurance, or annuities, or on the dividends or other benefits payable thereon. The Commonwealth specifically prohibits discrimination in the issuance of policies to mentally retarded persons (M.G.L. c. 175, § 120A), blind persons (M.G.L. c. 175, § 120B), individuals with DES exposure (M.G.L. c. 175, § 120C), abuse victims (M.G.L. c. 175, § 120D), as well as on the basis of genetic tests (M.G.L. c. 175, § 120E).

M.G.L. c. 175I, § 12 states that an adverse underwriting decision may not be based, in whole or in part, on a previous adverse underwriting decision, on personal information received from certain insurance-support organizations or on sexual orientation.

Pursuant to M.G.L. c. 176D, § 3(7), it is an unfair method of competition to engage in unfair discrimination, which is defined as: “(a) making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or (b) making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance, or in the benefits payable there under, or in any of the terms or conditions of such contract, or in any other manner whatsoever.”

Controls Assessment: The following key observations were noted in conjunction with the review of the issuance of life policies under this Standard:

- The Company has written underwriting guidelines and policies that prohibit discrimination and comply with statutory underwriting and rating requirements as set forth in M.G.L. c. 175, §§ 120-120E, M.G.L. c. 175I, § 12 and M.G.L. c. 176D, § 3(7).
- The Company’s home office underwriting approval processes and procedures, its training of home office underwriters and its communications with producers are designed to prohibit unfair discrimination.

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 Procedures: Eide interviewed individuals with responsibility for underwriting, policy issuance, rejections, declinations and reinstatements. Eide selected 85 policies written during the examination period, of which 52 were new business sales and 33 were declined or incomplete applications. For each new business policy file reviewed, Eide verified that the contract was approved by underwriting with no evidence of discriminatory rates or contract provisions. In addition, Eide tested 33 declined or incomplete applications, or applications approved by underwriting but not accepted by the applicant. Eide verified that the reason for the declination or non-issuance was in accordance with the Company’s written underwriting guidelines. Eide further verified that the Company gave written notice of reasons for an adverse decision to rejected or denied applicants, in accordance with statutory underwriting and rating requirements.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide’s testing, it appears that the Company’s processes for prohibiting unfair discrimination in underwriting and selection of risks are functioning in accordance with Company policies and procedures, and statutory underwriting and rating requirements.

Recommendations: None.

**Standard VI-11. Cancellation/non-renewal reasons comply with policy provisions and state laws and company guidelines.**

**M.G.L. c. 175, §§ 132(2), 187H, 193, and 193G.**

*Objective:* This Standard is concerned with whether (a) the reasons for a cancellation or non-renewal are valid according to policy provisions and state laws; (b) the procedures for cancellation and non-renewal follow appropriate guidelines; and (c) policy procedures do not incorporate any unfairly discriminatory practices. Refer to Standard V-2 for discussion of Company cancellations and Standard VI-12 for rescissions.

M.G.L. c. 175, § 132(2) requires that a policy be incontestable after being in force for two years, unless there has been: (1) non-payment of premium; (2) a violation of the terms of the policy for military service during wartime; or (3) (if the company adds such language) the policy is being contested for the purpose of disability benefits or accidental death benefits. Insurance policies issued in Massachusetts are contestable after two years in force when evidence of insurance fraud exists. Pursuant to M.G.L. c. 175, § 187H written notice of the 10 day free look option is required on all policies with a face value less than \$25,000. Pursuant to M.G.L. c. 175, § 193 policies issued in violation of law are valid but rights and obligations are controlled by this chapter. Finally, M.G.L. c. 175, § 193G provides rules for resubmission of previously denied policy forms.

*Controls Assessment:* Not applicable. The Company does not have a contractual right to cancel absent the conditions set forth above. In such cases, the policy may be rescinded. Refer to Standard VI-12.

*Controls Reliance:* Not applicable.

*Transaction Testing Procedures:* Not applicable.

*Transaction Testing Results:* Not applicable.

*Recommendations:* None.

**Standard VI-12. Rescissions are not made for non-material misrepresentation.**

**M.G.L. c. 175, § 132(2).**

*Objective:* This Standard is concerned with 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. Refer to Standard V-2 for discussion of Company cancellations.

Pursuant to M.G.L. c. 175, § 132(2), the Company does not have a contractual right to cancel unless there has been: (1) non-payment of premium; (2) a violation of the terms of the policy for military service during wartime; or (3) (if the company adds such language) the policy is being contested for the purpose of disability benefits or accidental death benefits. Insurance policies issued in Massachusetts are contestable after 2 years in force if evidence of fraud exists.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's underwriting process considers the risk of material misrepresentation by applicants, and attempts to corroborate information received from them such as health status.
- Cases considered for rescission are reviewed by at least two individuals in underwriting.
- All decisions to rescind are reviewed by the legal staff.
- Rescissions are based on material misrepresentations, and apply only to policies within the first two years after the sale.

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 Procedures: Because grounds for rescission in Massachusetts are limited and such incidents are rare, Eide relied on testing performed in other areas for compliance.

Transaction Testing Results:

Findings: None.

Observations: In the performance of other examination procedures, Eide noted no instances of rescission in violation of M.G.L. c. 175, § 132(2).

Recommendations: None.

**Standard VI-13. Pertinent information on applications that forms a part of the policy is complete and accurate.**

Objective: This Standard is concerned with whether (a) the requested coverage is issued; (b) the Company has a verification process in place to determine the accuracy of application information; (c) applicable non-forfeiture options 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: Refer to Standard VI-2 and Standard VI-9.

Controls Reliance: Refer to Standard VI-2 and Standard VI-9.

Transaction Testing Procedures: Refer to Standard VI-2 and Standard VI-9.

Transaction Testing Results: Refer to Standard VI-2 and Standard VI-9.

Findings: Refer to Standard VI-2 and Standard VI-9.

Observations: Refer to Standard VI-2 and VI-9.

Recommendations: Refer to Standard VI-2 and Standard VI-9.

**Standard VI-14. The company complies with the specific requirements for AIDS-related concerns in accordance with statutes, rules and regulations.**

**211 CMR 36.04-36.08**

*Objective:* This Standard is concerned with ensuring that the Company does not use medical records indicating AIDS-related concerns to discriminate against applicants without medical evidence of disease. No forms used by the Company should require sexual orientation disclosure.

211 CMR 36.04 sets forth prohibited practices with respect to AIDS-related testing and AIDS-related information. Pursuant to 211 CMR 36.05, an applicant must give prior written informed consent in order for an insurer to conduct an AIDS-related test. Additionally, 211 CMR 36.06 requires that the insurer notify the insured, or his/her designated physician, of a positive test result within 45 days after the blood sample is taken. 211 CMR 36.07 defines the confidentiality requirements and 211 CMR 36.08 defines the application of the standard.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- The Company's new business submission requirements include specific requirements to comply with 211 CMR 36.04-36.06 in life insurance underwriting.
- The Company provides a specific form that includes disclosures required by 211 CMR 36.05 which is provided at the time an application for insurance is taken.
- The Company's procedures require the applicant to acknowledge in writing that he or she understands his or her rights regarding the tests for HIV status that are required as part of policy underwriting.

*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 Procedures:* As a part of Eide's testing of 52 new business sales, Eide verified that the Company obtained a signed copy of the Massachusetts AIDS testing disclosure notice from the applicant as required by 211 CMR 36.05.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Based on the results of Eide's testing, it appears that the Company's application processes comply with the specific requirements for AIDS – related concerns in accordance with statutes, rules and regulations.

*Recommendations:* None.

## VII. 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 requests, and (c) a review of several types of files at the Company.

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

**M.G.L. c. 176D, § 3(9) (b).**

*Objective:* The Standard is concerned with the timeliness of the Company's contact with the claimant.

Pursuant to M.G.L. c. 176D, § 3(9) (b), unfair claim settlement practices include failure to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the claims handling process.
- Company policy is to send claim forms within one to two business days after receiving notification of the claim.
- All claim notifications are logged into the claims system.
- Company claims management accesses the claim system daily to monitor open claims.
- Company claims management performs monthly claim audits to examine compliance with Company claim policies.
- Company claims management uses exception reports to measure operational effectiveness and claim processing time.

*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 Procedures:* Eide interviewed Company personnel to understand claim handling processes, obtained documentation supporting such processes, and completed claim walkthrough transactions to confirm such processes. Eide selected 58 claims processed during the examination period to verify that the initial contact by the Company was reasonably timely.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Eide noted that the 58 claims selected were processed according to the Company's policies and procedures, and that the initial contact by the Company was reasonably timely. Based on the results of Eide's testing, it appears that the Company's

processes for handling death and disability claims are functioning in accordance with their policies and procedures, and with statutory requirements.

Recommendations: None.

**Standard VII-2. Investigations are conducted in a timely manner.**

**M.G.L. c. 176D, § 3(9)(c); M.G.L. c. 175, §§ 24D and 24F; Division of Insurance Bulletin 2001-07.**

Objective: The Standard is concerned with the timeliness of the Company's claim investigations.

Pursuant to M.G.L. c. 176D, § 3(9) (c), unfair claim settlement practices include failure to adopt and implement reasonable standards for the prompt investigation of a claim. M.G.L. c. 175, § 24D requires interception of non-recurring payments for past due child support, and M.G.L. c. 175, § 24F requires communication with the Massachusetts Department of Revenue ("MADOR") regarding unpaid taxes. Division of Insurance Bulletin 2001-07 requires that, upon receipt of a single claim and proof of the insured's loss, the Company is required to search with due diligence its records, as well as the records of its Massachusetts subsidiaries and affiliates, for additional policies insuring the same individual.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy is that investigations begin within two business days from receipt of claim and determinations made within 45 days based on ERISA guidelines.
- Written Company procedures also include multi-policy search processes in which internal databases are scanned using social security number, name and policy number, in compliance with Division of Insurance Bulletin 2001-07.
- All claimant names are matched against the Office of Foreign Asset Control list to determine if the benefit recipient appears on the list.
- All claim investigations involve a number of supervisory reviews, and for individual life claims a referral to the legal department occurs before any adverse action is taken.
- Company Claims management performs monthly claim audits to examine compliance with Company claim handling processes.

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 Procedures: Eide interviewed Company personnel to understand the claims investigation and multi-policy search processes, and obtained documentation supporting these processes. Eide noted that the above procedures were performed on all 58 claims tested.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of Eide's review, it appears that the Company's processes for investigating claims and performing multi-policy searches are functioning in accordance with policies and procedures, as well as statutory and regulatory requirements.

Recommendations: None.

**Standard VII-3. Claims are resolved in a timely manner.**

**M.G.L. c. 176D, § 3(9) (f).**

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

Pursuant to M.G.L. c. 176D, § 3(9)(f), unfair claims settlement practices include failing to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the claims handling process.
- Company policy is to send claim forms within two business days after receiving notification of the claim.
- All claim notifications are logged into the claims system.
- Company claims management accesses the claim system daily to monitor open claims.
- Company claims management performs monthly claim audits to examine compliance with Company claims policies.
- Company policy is to investigate and settle all claims within five business days of receiving the required paperwork. The Company follows the ERISA guidelines of 45 days for claims subject to those requirements.
- Company claims management uses exception reports to measure operational effectiveness and claim processing time.

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 Procedures: Eide interviewed Company personnel to understand its claim handling processes, obtained documentation supporting such processes, and completed 11 claim walkthrough transactions to confirm such processes. Eide reviewed 58 claims from the examination period to verify that claim settlements were reasonably timely.

Transaction Testing Results:

Findings: The Company took six business days to make a final decision on one of 58 tested claims, where its policy is to resolve claims within five business days of receipt of

proper documentation. While this may be a reasonable response time under M.G.L. c. 176D, § 3(9)(f), it violated Company policy.

Observations: Excluding the above identified exception, Eide noted that claims were timely processed according to the Company's policies and procedures. Based on the results of Eide's testing, it appears that the Company's processes for handling death and disability claims are functioning in accordance with their policies and procedures, and with statutory requirements.

Recommendations: The Company should review its procedures related to the timeliness of claim settlements to ensure that all claims are resolved according to company policy.

**Standard VII-4. The company responds to claim correspondence in a timely manner.**

**M.G.L. c. 176D, §§ 3(9)(b), and 3(9)(e).**

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

Pursuant to M.G.L. c. 176D, § 3(9)(b), unfair claims settlement practices include failure to act reasonably promptly upon communications with respect to claims arising under insurance policies. M.G.L. c. 176D, § 3(9)(e) considers failure to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed an unfair trade practice.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy is to respond to claim questions in a timely manner.
- Company policy is to respond to correspondence within five business days of receiving required paperwork.
- Company claims management performs monthly claims audits to examine compliance with Company claim policies.

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 Procedures: Eide interviewed Company personnel to understand claim handling processes, obtained documentation supporting such processes and completed 11 claim walkthrough transactions to confirm such processes. Eide selected 58 claims from the examination period to verify that the Company timely answered policyholder claim correspondence.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that claim correspondence was answered reasonably timely according to the Company's policies and procedures. Based on the results of Eide's testing, it appears that the Company's processes for handling death and disability claim

correspondence are functioning in accordance with their policies and procedures, and statutory requirements.

Recommendations: None.

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

**M.G.L. c. 175, § 24D.**

Objective: The Standard is concerned with the adequacy of information maintained in the Company's claim records related to claim decisions.

Claim payments must comply with M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company claim processing guidelines require that key information be completed, signed, and maintained in the file, including:
  - Certified copy of the insured's certificate
  - Other relevant proof of loss
  - Applicable clinical /other investigative correspondence
  - Other pertinent written communication
  - Documented or recorded telephone communication
  - Proof of payment to claimant or beneficiary
- Company claims management performs monthly claim audits to examine the Company's compliance with its claim policies.
- Company claims management uses reports measuring operational effectiveness and processing time to monitor claim processing activities.

Controls Reliances: 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 Procedures: Eide interviewed Company personnel to understand its claim handling processes, obtained documentation supporting such processes, and completed claim walkthrough transactions to confirm such processes. Eide selected 58 claims from the examination period to verify that claim files were adequately documented.

Transaction Testing Results:

Findings: Eide found that documentation regarding the search for back taxes and back child support owed by claimants was not timely in ten of the 58 files tested. The search page in these 10 files was printed and put in the file months after the claimant was paid. Eide concluded that it was likely the 10 searches were done at the time each check was written, considering that the searches for the other 48 tested files had been done and were

documented with printouts on the same day the claim checks were written. Further, new searches printed and put in the files all came back with nothing owed by the claimant. However, the Company did not print and retain the search page in the file at the time of the initial search.

*Observations:* Based on the testing results, it appears the Company's claim file documentation is not functioning in accordance with Company policies and procedures. Eide discussed this problem with the Company, who had previously identified the problem and in March 2005 implemented a checklist to rectify it. This checklist of all the items to be included in the file must be signed by a manager before the file can be closed. Eide performed a walkthrough for 10 policies to test the new procedures, and found evidence of their implementation.

*Recommendations:* The Company should regularly monitor the corrective actions it implemented in March 2005 to adequately document the search for back taxes and back child support owed by claimants.

**Standard VII-6. Claim files are handled in accordance with policy provisions and state law.**

**M.G.L. c. 175, §§ 22I, 24D, 119B, 119C, 125, 132C, and 135; M.G.L. c. 176D, §§ 3(9) (d), and 3(9) (f); Division of Insurance Bulletin 2001-07.**

*Objective:* The Standard is concerned with whether the claim appears to have been paid for the appropriate amount, to the appropriate beneficiary/payee, and includes applicable interest.

Pursuant to M.G.L. c. 176D, § 3(9) (d), unfair claim settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information. Moreover, M.G.L. c. 176D, § 3(9)(f) considers failure to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear an unfair trade practice. M.G.L. c. 175, § 22I allows insurers to retain unpaid premium due to the insurer from claim settlements. Claim payments must comply with M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support. M.G.L. c. 175, § 119B requires insurers to refund premiums paid beyond the end of the month of death. M.G.L. c. 175, § 119C requires that if it has received proof of loss, the Company must pay interest on claims beginning 30 days after death of the insured. M.G.L. c. 175, § 125 defines situations where beneficiaries' creditors have claims to policy proceeds or paid premiums. M.G.L. c. 175, § 132C defines situations where annuitants' creditors have claims to policy proceeds or paid premiums. M.G.L. c. 175, § 135 defines situations where group life certificate-holders' creditors have claims to policy proceeds or paid premiums. Bulletin 2001-07 requires that, upon receipt of a single claim and the insured's proof of loss, the Company is required to search with due diligence its records, as well as the records of its Massachusetts subsidiaries and affiliates, for additional policies insuring the same individual.

*Controls Assessment:* The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the claims handling process.
- Company policy is to send claim forms within two business days after receiving notification of the claim.
- All claim notifications are logged in the claims system.

- Company claims management accesses the claims system daily to monitor open claims.
- Company claims management performs monthly claims audits to examine compliance with Company claims policies.
- Company policy is to investigate and settle all claims within five business days of receipt of required paperwork.
- Company claims management uses exception reports to measure operational effectiveness and claim processing time.
- The Company has procedures to comply with requirements in M.G.L. c. 175, § 24D to intercept non-recurring payments for past due child support for life policy distributions.
- Company procedures also include multi-policy search processes in which internal databases are scanned using social security number, name and policy number in compliance with Bulletin 2001-07.

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 Procedures: Eide interviewed Company personnel to understand the claims handling and intercept program processes, obtained documentation supporting these processes, and completed 11 claim walkthrough transactions to confirm such processes. Eide selected 58 claims from the examination period to verify that claim files were adequately handled.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that that files for the 58 claims tested were appropriately handled according to the Company's policies and procedures, as well as statutory and regulatory requirements. There were no instances of back taxes or back child support due in any of the 58 tested claims.

Recommendations: None.

<b>Standard VII-7. Company claim forms are appropriate for the type of product.</b>
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Objective: The Standard is concerned with the Company's use of claim forms that are proper for the type of product.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- The Company has developed unique claim forms tailored to each type of claim, and provides the appropriate form to claimants when they report a claim.
- The Company will not process claims unless submitted on the appropriate claim form.

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 Procedures: Eide interviewed Company personnel to understand the claim handling process, obtained documentation supporting this process, and completed 11 claim walkthrough transactions to confirm this process. Eide selected 58 claims from the examination period to verify that the Company provided claim forms appropriate for the type of product.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that claim forms for the 58 claims tested were appropriate and used in accordance with the Company's policies and procedures.

Recommendations: None.

**Standard VII-8. Claim files are reserved in accordance with the company's established procedures.**

No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

**Standard VII-9. Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.**

**M.G.L. c. 176D, §§ 3(9)(d), 3(9)(h), and 3(9)(n).**

Objective: The Standard is concerned with the adequacy of the Company's decision-making and its documentation of denied and closed-without-payment claims.

Pursuant to M.G.L. c. 176D, § 3(9) (d), unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation based upon all available information. Pursuant to M.G.L. c. 176D, § 3(9)(h), unfair claims settlement practices include attempting to settle a claim for an amount less than a reasonable person would have believed he or she was entitled to receive. M.G.L. c. 176D, § 3(9) (n) considers failure to provide a reasonable and prompt explanation of the basis for denial of a claim an unfair claim settlement practice.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company policy requires that written claim denials state the contractual basis for non-payment and inform the claimant of their right to appeal.
- All claim investigations and denied claims involve a number of supervisory reviews, and for individual life claims referral to the legal department occurs before the Company takes any adverse action.
- Company claims management performs monthly claim audits to examine compliance with Company claim policies.

- Denied and closed-without-payment claims are rare for the products offered by the Company.

*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 Procedures:* Eide interviewed Company personnel to understand the claim handling process for denied and closed-without-payment claims, obtained documentation supporting these processes, and completed 11 claim walkthrough transactions to confirm these processes. None of the 58 claims selected were denied or closed-without-payment, but the Company indicated that it had a total of four denied or closed-without-payment claims during the examination period. Eide randomly selected one of these four claims and performed substantive procedures including review of claim file to determine that the claim was handled in accordance with policy provisions and legal requirements.

*Transaction Testing Results:*

*Findings:* None.

*Observations:* Based upon the procedures performed on one of four denied or closed-without-payment claims, such claims appear to be appropriately handled in accordance with the Company's policies and procedures and statutory requirements.

*Recommendations:* None.

**Standard VII-10. Cancelled benefit checks and drafts reflect appropriate claim handling practices.**

No work performed. All required activity for this Standard is included in the scope of the ongoing statutory financial examination of the Company.

**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.**

**M.G.L. c. 176D, §§ 3(9)(g), and 3(9)(h).**

*Objective:* The Standard is concerned with 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 for.

Pursuant to M.G.L. c. 176D, §§ 3(9)(g) and 3(9)(h), unfair claims settlement practices include (a) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, and (b) attempting to settle a claim for less than the amount to which a reasonable person

would have believed he or she was entitled, by reference to written or printed advertising material accompanying or made part of an application.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company claims handling guidelines require the uniform and consistent handling of claim settlements and payment of claims.
- Company claims management performs monthly claim audits to examine compliance with Company claim policies.
- Company claims management uses reports measuring operational effectiveness and processing times to monitor claim processing activities.

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 Procedures: Eide interviewed Company personnel to understand the claim handling process, obtained documentation supporting this process, and completed claim walkthrough transactions to confirm this process. Eide selected 58 claims processed during the examination period to verify the Company's compliance with its claim handling procedures.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that that none of the 58 claims selected appeared to reflect that policyholders were compelled to institute litigation to receive claim payments.

Recommendations: None.

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

**211 CMR 55.00.**

Objective: The Standard is concerned with whether the Company gives claimants the required disclosure material when they request an accelerated benefit payment.

211 CMR 55.00 outlines the disclosure requirements for life insurance policies with accelerated benefit provisions.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Written Company policies and procedures govern the accelerated benefit payment process.
- Company policy is to send claim forms within two business days after receiving notification of the claim.
- The Company logs all claim notifications into the claim system to monitor open claims.

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 Procedures: Eide interviewed Company personnel to understand the accelerated benefit payment process, obtained documentation supporting this process, and completed claim walkthrough transactions to confirm this process. Eide selected 58 claims processed during the examination period to verify the Company's compliance with its claim handling process.

Transaction Testing Results:

Findings: None.

Observations: None of the 58 policies selected with payments due were accelerated benefit payments, and the Company disclosed accelerated benefit payment information upon policy issuance. Based on the results of Eide's testing, it appears that the Company's processes for handling accelerated benefit payment requests are functioning in accordance with their policies, procedures and statutory requirements.

Recommendations: None.

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

**M.G.L. c. 176D, § 3.**

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

M.G.L. c. 176D § 3 states that companies may not discriminate among insureds with different qualifying events covered under the policy, or among insureds with similar qualifying events covered under the policy.

Controls Assessment: The following key observations were noted in conjunction with the review of this Standard:

- Company claim handling guidelines require the uniform and consistent handling of claim settlements and payments.
- Company claims management performs monthly claim audits to examine the Company's compliance with its claim policies.
- Company claims management uses reports measuring operational effectiveness and processing times to monitor claims processing activities.

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 Procedures: Eide interviewed Company personnel to understand the claim handling process, obtained documentation supporting this process, and completed claim walkthrough transactions to confirm this process. Eide selected 58 claims processed during the examination period to verify that the Company is not unfairly discriminating against claimants.

Transaction Testing Results:

Findings: None.

Observations: Eide noted that no claim of the 58 tested appeared to reflect that the Company unfairly discriminates against claimants.

Recommendations: None.

FOR INFORMATION PURPOSES ONLY

## SUMMARY

Based upon the procedures performed in this comprehensive examination, Eide has reviewed and tested Company operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims as set forth in the *NAIC Market Conduct Examiner's Handbook*, the market conduct examination standards of the Division, and the Commonwealth of Massachusetts insurance laws, regulations and bulletins. Eide has made recommendations to address various concerns related to company operations and management, complaint handling and claims.

FOR INFORMATION PURPOSES ONLY

## ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with Eide Bailly LLP, 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 comprehensive market conduct examination (“comprehensive examination”) of the Company.

The undersigned’s participation in this comprehensive 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 Conduct Examiners’ Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the comprehensive examination report. In addition, Dorothy K. Raymond of the Division’s Market Conduct Section participated in the examination and in the preparation of this 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 &  
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