



THE COMMONWEALTH OF MASSACHUSETTS

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS
REGULATION**

Division of Insurance

Report on the Comprehensive Market Conduct Examination of

Massachusetts Mutual Life Insurance Company

Springfield, Massachusetts

For the Period January 1, 2004 through June 30, 2005

NAIC COMPANY CODE: 65935

EMPLOYER'S ID NUMBER: 04-1590850



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JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

February 24, 2006

Honorable Julianne M. Bowler
Secretary, Northeast Zone
Commissioner of Insurance
Division of Insurance
Commonwealth of Massachusetts
One South Station
Boston, Massachusetts 02110-2208

Dear Commissioner Bowler:

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

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

at its home office located at:

1295 State Street
Springfield, Massachusetts 01111

The following report thereon is respectfully submitted.

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SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (the "Division") conducted a comprehensive market conduct examination of Massachusetts Mutual Life Insurance Company ("Mass Mutual" or "the Company") for the period January 1, 2004 to June 30, 2005. The examination was called pursuant to authority in Massachusetts General Laws Chapter (M.G.L. c.) 175, Section 4. The 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 Rudmose & Noller Advisors, LLC ("RNA") were engaged to complete certain agreed upon procedures.

EXAMINATION APPROACH

A tailored audit approach was developed to perform the examination of the Company using the guidance and standards of the *NAIC Market Conduct Examiner's Handbook*, ("the 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 and general supervision of the market conduct examination staff of the Division, including procedures more efficiently addressed by the concurrent Division financial examination. For those objectives, market conduct examination staff discussed, reviewed and used procedures performed by the Division's financial examination staff to the extent deemed necessary and appropriate and effective to ensure that the objective was adequately addressed. The following describes the procedures performed and the findings for the workplan steps thereon.

The basic business areas that were reviewed in 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 an assessment of the Company's internal control environment. While the Handbook approach detects individual incidents of 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 and regulations 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

This summary of the comprehensive market conduct examination of the Company is intended to provide a high-level overview of the examination results. The body of the report provides details of the scope of the examination, tests conducted, findings and observations, recommendations and, if applicable, 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 also is recommended that Company management evaluate any substantive issues or “findings” for applicability to potential occurrence in other jurisdictions. When applicable, corrective action should be taken for all jurisdictions and a report of any such corrective action(s) taken should be provided to the Division.

The following is a summary of all substantive issues found, along with related recommendations and, if applicable, subsequent Company actions made, as part of the comprehensive market conduct examination of the Company. All Massachusetts laws, regulations and bulletins cited in this report may be viewed on the Division’s website at www.state.ma.us/doi.

The comprehensive market conduct examination resulted in no findings or negative observations with regard to complaint handling, underwriting and rating, and claims handling. Examination results showed that the Company is in compliance with all tested Company policies, procedures and statutory requirements addressed in these sections. Further, the tested Company practices appear to meet industry best practices in each of these areas.

COMPANY OPERATIONS/MANAGEMENT

The examination noted no findings regarding the examination areas addressed in this section, and concluded that the Company is in compliance with all tested Company policies, procedures and statutory requirements. Further, the tested Company’s practices appear to meet industry best practices in most of these areas. The examination found that the corporate audit department’s audit plan has historically not been approved by the Audit Committee in a timely manner, although the 2006 audit plan was approved timely. Thus, we recommend that the Company continue requiring the corporate audit department to provide its risk assessment and audit plan to the Audit Committee on a timely basis. Finally, the Company conducts criminal background checks for prospective new employees. RNA recommends that the Company conduct a criminal background check for any employee for whom a criminal background check has not been conducted.

MARKETING AND SALES

The examination concluded that the Company is in compliance with most tested Company policies, procedures and statutory and regulatory requirements regarding marketing and sales. The examination noted one finding, and concluded that the Company does not always provide a replacement disclosure and policy summary to the replaced carrier within seven (7) days of the receipt of the application in the home office as required by 211 CMR 34.06. The Company has distributed a reminder notice to employees regarding this requirement. As a result, we recommend that the Company amend its new business procedures to include evidence of the mailing of the notice to the replaced carrier as a required element prior to the business being

submitted to underwriting, and implement monitoring procedures to ensure regulatory compliance.

Further, with regard to replacements, the examination noted that two replacements were not included on the Company's replacement registers. Thus, we recommend that the Company take steps to ensure that all replacements are included on its replacement registers.

The Company reviews and analyzes agents' replacement activity in connection with the distribution compliance department's on-site reviews of general agencies, in addition to performing other agency level replacement monitoring. We noted that the Company is not performing home office monitoring of all replacement activity that systematically identifies replacements at the agent level. However, the Company has indicated that it has initiated the process to develop such a monitoring system. We recommend that the home office monitoring process for replacement activity by agent be implemented as soon as possible and that such monitoring occur throughout the year with unusual activity timely investigated.

The Company should clarify its field policy that Agency Supervisory Officers ("ASOs") carefully evaluate replacement disclosures, including disclosure of accurate surrender charges on replaced contracts, and ensure that such disclosure is documented and provided to the applicant timely. Further, the Company's distribution compliance department should implement procedures for its on-site review of general agents requiring the examiners to review whether life and annuity surrender charges on replaced contracts have been properly and timely disclosed to applicants.

Finally the Company should consider changing its policy on commissions for policy replacements to adopt the industry best practice of paying reduced commissions on all internal replacements where the sale results in no new funds to the Company, unless the home office approves the sale as a defensive replacement.

The Company represented that its sales practices for non-variable life sales require producers to provide the buyer's guide to applicants at the application date. Further, the Company requires producers to provide approved sales materials containing required disclosures to applicants at the application date for single premium deferred annuity ("SPDA") sales. There is no evidence that the buyer's guide was provided to non-variable life applicants or that required disclosures were provided to SPDA applicants. Thus, we recommend that the Company consider revising its non-variable life applications and policy delivery receipts to include acknowledgement by the applicant of receipt of the buyer's guide. Further, the Company should consider revising SPDA applications to include required disclosures including full disclosure on surrender charges.

Finally, fixed annuity applications do not require that the producer obtain, nor any applicant provide, any background financial information. The producer may or may not obtain additional financial background information to assess whether the annuity meets the applicant's needs. As a result, the Company should consider amending fixed annuity applications to include basic questions about the applicant's net worth, liquidity, risk tolerance and investment time horizon to ensure that producers and the ASO evaluate this financial information when assessing the applicant's needs, particularly for those applicants who are seniors.

PRODUCER LICENSING

The examination concluded that the Company is in compliance with most tested Company policies, procedures and statutory requirements in the area of producer licensing. The examination noted one finding, and concluded that the Company does not always provide timely

notice of terminated agents to the Division in violation of M.G.L. c. 175, § 162T. Thus, the Company shall revise its procedures to ensure that the Division is notified timely of all agent terminations.

POLICYHOLDER SERVICE

The examination concluded that the Company is in compliance with most tested Company policies, procedures and statutory requirements in the area of policyholder service. The examination noted one observation, and concluded that the Company does not always timely process annuity beneficiary changes and life ownership changes with a witness signature as required by Company policy. As a result, the Company should ensure that Company policy is followed when processing beneficiary and ownership changes.

FOR INFORMATION PURPOSES ONLY

COMPANY BACKGROUND

Massachusetts Mutual Life Insurance Company (“Mass Mutual” or “the Company”) is a mutual life insurance company organized as a Massachusetts corporation and originally chartered in 1851. The Mass Mutual Financial Group (“MMFG”) is comprised of Mass Mutual and its subsidiaries. MMFG is a global, diversified financial services organization providing life insurance, annuities, disability income insurance, long-term care insurance, retirement and savings products, structured settlement products, investments, company-owned life insurance/bank-owned life insurance, mutual funds and trust services to individual and institutional customers. The Company offers its products and services in all 50 states of the United States and the District of Columbia. The Company is also licensed to transact business in Puerto Rico and some Canadian provinces.

The Company markets its products through a variety of distribution channels, with the core of its distribution system a career sales force of approximately 4,000 individual producers under contract in approximately 86 general agencies throughout the United States. Two of the general agencies are located in Massachusetts. The Company also maintains selling agreements with a variety of independent third party producers including banks, financial institutions, securities firms, broker-dealers and advisory firms. The Company has approximately 3,900 and 1,300 employees in its home offices in Springfield, Massachusetts and Hartford/Enfield, Connecticut, respectively.

The Company's principal lines of business are organized into two categories: (1) Protection Business and (2) Asset Accumulation Business. The Protection Business provides life insurance products, disability income products and long-term care products to individuals, corporations, and other institutions. The Asset Accumulation Business, covering financial services, retirement services, annuities, and large corporate markets, provides investment services to individuals and pension investment products and administrative services to sponsors of tax qualified retirement plans. Further, the Asset Accumulation Business provides advisory services for the Company's general investment account and separate account investments, as well as for various closed-end and open-end investment companies.

The Company is rated A++ (Superior) by A.M. Best Company, AAA (Exceptionally Strong) by Fitch Ratings, Aa1 (Excellent) by Moody's Investor Service, Inc., and AAA (Extremely Strong) by Standard & Poors Corp. The Company had \$113.5 billion in admitted assets and \$6.7 billion in surplus as of December 31, 2005.

The key objectives of this examination were determined by the Division with emphasis on the following areas.

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 addresses the audit function and its responsibilities.

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

- The Company has a corporate audit department that performs audits of many of the Company's operational functions. The department is managed by the Company's General Auditor and includes approximately 42 personnel located in the Springfield home office and several staff located outside the United States. The staff is organized primarily by line of business and also includes an information technology operations support group, an actuary, a group dedicated to strategic projects, and three staff who support the Company's Special Investigation Unit ("SIU").
- During the examination period the corporate audit department reported to the Company's Audit Committee and administratively to the Company's Chief Financial Officer. In November of 2005, the Company changed the administrative reporting from the Chief Financial Officer to the Company's General Counsel. The Company also changed the Audit Committee membership to require that it be comprised solely of independent directors. Lastly, the Board of Directors assumed sole responsibility for the hiring and termination of the General Auditor.
- Personnel from the corporate audit department meet with the Audit Committee at least twice a year without management present.
- The corporate audit department completes an annual audit plan that is approved by the Audit Committee. Although final approval of the audit plan is not usually obtained until the Audit Committee's June meeting, the chair of the Audit Committee is actively involved in the on-going audit planning process, and the Audit Committee is apprised of the audit plan progress during its regularly scheduled meetings.
- The audit plan is generally prepared using an informal risk assessment process with input from senior management, the compliance department, the Audit Committee, and the Company's independent auditor.
- The corporate audit department issues written audit reports, which are classified as one of three types depending on the audit results. A clean audit with no material findings results in a report with "no reservations." An audit with findings of a non-serious nature, but which has recommendations for follow-up, results in a report conclusion that is "reliable with reservations." Finally, an audit with serious findings results in a report that is "not reliable." All audit reports are circulated to relevant senior management, the independent auditor, the legal department, and the Company's Chief Risk Officer. A summary of the audit results is reported to the Audit Committee, and twice a year the Audit Committee receives a report summarizing "not reliable" reports and the status of the recommendations on those reports. All significant findings require management to implement corrective action within a specified time period. There are approximately 500 "required actions" being monitored by the corporate audit department and the Audit Committee as a result of audits conducted throughout the last two years.

- The Company's primary compliance function is performed within its distribution compliance department, which includes approximately 63 full-time staff. The leader of the department reports to the customer service senior vice-president, who reports to the head of the individual business department, who reports to the Chief Executive Officer. The department also has a dotted line reporting to corporate compliance department. The distribution compliance department monitors field compliance programs for the Company's producers, handles all customer complaints, reviews and approves all sales materials, and performs training. The Company's corporate compliance department implements the Company's anti-money laundering and privacy compliance initiatives. Staff within the distribution compliance department is also divided along geographic boundaries to allow them to focus on regional compliance.
- The Company's financial statements are audited annually by an independent auditor, and the Company has received unqualified opinions on their financial statements.

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: RNA reviewed summaries of the corporate audit reports issued in 2004 and 2005, and selected several reports for in-depth review and discussion with management. RNA reviewed the annual report the corporate audit department provided to the Audit Committee, and discussed the report with management. Finally, RNA reviewed the reports issued by the distribution compliance department on the two Massachusetts general agencies, and discussed these reports with management.

Transaction Testing Results:

Findings: None.

Observations: The in-depth review of selected corporate audit reports appeared to show clear disclosure of the findings and recommendations noted by the corporate audit department, along with timeframes to implement the recommendations. The corporate audit department appeared to follow up to ensure that key recommendations were implemented. The annual report the corporate audit department provided to the Audit Committee appeared to adequately summarize the activities of the corporate audit department from the previous year. The reports issued by the distribution compliance department on the two Massachusetts general agencies appeared to clearly disclose the department's findings and recommendations along with timeframes to implement the recommendations. Finally, the distribution compliance department appeared to follow up to ensure that key recommendations were implemented. RNA noted that the corporate audit department's risk assessment and audit plan historically was not approved by the Audit Committee until June of the year under audit; however, the 2006 risk assessment and audit plan was approved in December 2005.

Recommendations: The Company should continue to require the corporate audit department to provide its risk assessment and audit plan to the Audit Committee for approval consistent with the timely approval of the 2006 audit plan.

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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.

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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 98-11 and 2001-14.

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

Pursuant to 18 U.S.C. § 1033 of the Violent Crime Control and Law Enforcement Act of 1994 ("Act"), 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, and who willfully engages in the business of insurance as defined in the Act. In accordance with Division of Insurance Bulletins 98-11 and 2001-14, any entity conducting insurance activity in Massachusetts must notify the Division, in writing, of all employees and agents affected by this law. Individuals "prohibited" under the law may apply to the Commissioner for written consent, and must not engage or participate in the business of insurance unless and until they are granted such consent.

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

- The Company has adopted a written Fraud Prevention and Detection Plan ("Plan") which requires the Company to take all reasonable precautions to prevent, detect and thoroughly investigate potential insurance fraud.
- The Plan defines the duties of employees, agents and independent contractors to report suspected fraud to the Company's SIU, and the specific investigation procedures it must then complete. The Company's SIU Fraud Manual further defines the responsibilities of the SIU.
- The Company's policy is to seek Division approval regarding the hiring of any "prohibited person" in instances where the Company wishes to employ such a person.
- The Company's policy is to complete criminal and financial background checks for any individual prior to hiring them as an employee. In addition, the Company's employee Code of Conduct and Compliance Guide contains reporting requirements for employees with felony conviction(s). Company policy requires that all employees bi-annually acknowledge in writing their agreement and compliance with requirements of the employee Code of Conduct and Compliance Guide.

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: RNA reviewed the Company's policies and procedures for addressing anti-fraud and employee hiring due diligence.

Transaction Testing Results:

Findings: None.

Observations: The written Plan requires the Company to take reasonable precautions to prevent, detect and thoroughly investigate potential insurance fraud. The SIU Fraud Manual sets forth the related responsibilities of the SIU department. RNA confirmed that the Company completes criminal and financial background checks for prospective new employees, and that its policy is to seek the Division's approval regarding the hiring of any "prohibited person" in instances where the Company wishes to employ such a person. RNA also confirmed that the Company's employee Code of Conduct and its Compliance Guide contains reporting requirements for employees with felony conviction(s), and that all employees are required to periodically acknowledge in writing their agreement and compliance with requirements included in the Code of Conduct and in the Compliance Guide.

Recommendations: RNA recommends that the Company conduct a criminal background check for any employee for whom a criminal background check has not been conducted.

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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 statutory financial examination of the Company which is ongoing.

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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.

Objective: This Standard addresses the Company's efforts to adequately monitoring the activities of the contracted entities that perform a business function.

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

- The Company has certain arrangements where third parties other than producers perform a business function or action on behalf of the Company. The Company uses third parties to conduct medical examinations of applicants prior to policy issuance, and to complete background checks on prospective new employees and licensed producers prior to their appointment as agents.
- The Company's contracts with third parties conducting medical examinations delineate responsibilities between companies and their representatives in areas including contract duties, restrictions, general confidentiality requirements, and privacy requirements for all medical information and lab specimens.
- The Company monitors its general agencies for compliance with the Company's *Supervisory and Compliance Manual* through annual on-site visits conducted by the distribution compliance department and the career agency system department.. During these on-site visits, the agency is evaluated for compliance with requirements including their assumption of full responsibility for performing, evaluating and monitoring needs assessment and suitability procedures for all insurance and annuity sales.

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: RNA interviewed management about its use of third parties to perform Company functions and reviewed supporting documentation. RNA reviewed and discussed with management the reports issued by the distribution compliance department on the two Massachusetts general agencies.

Transaction Testing Results:

Findings: None.

Observations: It appears from review that the use of such third parties is conducted in compliance with Company policies and procedures. It appears from review of the reports issued on the two Massachusetts general agencies by the distribution compliance department that the Company is generally monitoring the activities of the general agencies in an adequate manner.

Recommendations: None.

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Standard I-6. Records are adequate, accessible, consistent and orderly and comply with record retention requirements.
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Objective: This Standard addresses the adequacy and accessibility of the Company's records. Retained documentation is evaluated in the various Standards.

Controls Assessment: The Company has adopted a Records Management/Retention Program Policy and Procedures Manual ("RMM") that illustrates the Company's policies and procedures regarding document retention and destruction.

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: RNA read the RMM and performed various procedures throughout this examination related to review of retained documentation.

Transaction Testing Results:

Findings: None.

Observations: The RMM adequately discloses the Company's policies, procedures, duties and responsibilities regarding document retention and destruction. Testing results relating to documentation evidence are also noted in the various examination areas.

Recommendations: None.

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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 lines of business written by a Company are in accordance with the authorized lines of business.

Pursuant to M.G.L. c. 175, § 32, domestic insurers must obtain a certificate authorizing it to issue policies or contracts. M.G.L. c. 175, § 47 also sets forth the various lines of business for which an insurer may be licensed.

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

Controls Reliance: Not applicable.

Transaction Testing Procedure: RNA discussed with the Division the lines of business that the Company writes in the Commonwealth, and reviewed the Company's annual statement premium writings to confirm that the Division's understanding was accurate.

Transaction Testing Results:

Findings: None.

Observations: According to the Division, the Company is licensed for the lines of business being written, and its annual statement reported premium supports that the Company is writing only the lines for which it is licensed.

Recommendations: None.

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Standard I-8. The company files all certifications with the Department of Insurance as required by statutes, rules, and regulations.

M.G.L. c. 175, § 25.

Objective: This Standard addresses the Company's efforts to file certifications with the Division as required.

M.G.L. c. 175, § 25 sets forth the form and content requirements for annual statements insurers file with the Division.

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

Controls Reliance: Not applicable.

Transaction Testing Procedure: RNA confirmed that certifications are filed with the Division in connection with the annual financial reporting process.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to file all required certifications with the Division.

Recommendations: None.

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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 conducted in accordance with M.G.L. c. 175, § 4.

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

Controls Reliance: Not applicable.

Transaction Testing Procedure: 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 excellent.

Recommendations: None.

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

M.G.L. c. 175I, §§ 1-22.

Objective: This Standard is concerned with the Company's policies and procedures to ensure it minimizes improper intrusion into the privacy of consumers as required by M.G.L. c. 175I, §§ 1-22. Various aspects of privacy requirements are addressed in Standards I-11 through I-17.

Controls Assessment: The following controls were noted in conjunction with the review of this Standard and Standards I-11 through I-17:

- The Company's definitions of Adverse Underwriting Decision, Personal Information and Pretext Interview appear to comply with Massachusetts law. Company policy prohibits pretext interviews except as allowed by law.

- The Company's policy is to provide the Privacy Policy and the Notice of Information Practices at the application date for new life and disability income business. The Privacy Policy and the Notice of Information Practices are part of the policy application package, and a completed application is required for all new life and disability income business. The Privacy Policy and the Notice of Information Practices are also provided at the application date for life and disability income reinstatements where new underwriting procedures are completed.
- Company policy requires that the Privacy Policy and the Notice of Information Practices be provided for all new contracts when the final policy or contract is delivered to the owner.
- The Company's Privacy Policy notes that, in certain circumstances, it may collect personal information from other parties, and may disclose that information to third parties without authorization. Further, the Company's Privacy Policy states that it shares personal information with affiliates and with other financial institutions with which they jointly market products. The Company does not share information with non-affiliated third parties. Thus, the Company does not allow the customer to opt out of any information sharing, nor does it ask specific questions designed to obtain information for marketing or research as part of its sales practices.
- The Company's Notice of Information Practices states that it collects certain types of personal information from third parties and gives examples of these third parties. The Notice of Information Practices also notes that it may disclose personal information in some cases, that a right of corrective action exists, and that the applicant has a right to a written explanation of any adverse underwriting decision.
- The Annual Privacy Notice is provided to all customers prior to the annual policy or contract anniversary date.
- The Company requires that the HIPAA/Privacy Disclosure be signed by the applicant at time of application for all new life, disability income and long-term care applications where medical underwriting is required. The Company further requires that the HIPAA/Privacy Disclosure be signed by the policyholder when all disability income and long-term care claims are submitted.
- The Company provides life, disability income and long-term care applicants a Notice of Adverse Underwriting Decision when the Company declines to provide coverage, agrees to provide a coverage amount less than requested, terminates coverage or offers to provide insurance at higher than standard rates. The Notice of Adverse Underwriting Decision includes all statutory requirements.
- The Company discloses in the Notice of Adverse Underwriting Decision and the Notice of Information Practices that the applicant, has the right to have any factual error in information obtained by the Company corrected, and any misrepresentation or misleading entry amended or deleted. The Company discloses, in its Notice of Adverse Underwriting Decision and in its Notice of Information Practices, that applicants have the right to correct information errors and to have misrepresented or misleading entries amended or deleted.
- Company policy does not permit adverse underwriting decisions based on the existence of a previous adverse underwriting decision, on the fact that the individual had insurance through the residual market or on the basis of sexual orientation or perceived orientation.
- Company policy is to disclose non-public personal health information it obtains only as required or permitted by law to industry regulators, law enforcement, anti-fraud organizations, and third parties who assist the Company in transaction processing.
- The Company's policy prohibits the disclosure to applicants of information provided to it by medical professionals regarding mental health or possible alcohol or drug addiction, unless the medical professional had previously disclosed those concerns to the patient.

- The Company's policy prohibits seeking information concerning any individual's previous adverse underwriting decision unless the reason(s) for the previous adverse underwriting decision(s) are also requested.
- The Company provides its Privacy Policy and electronic privacy policies on the Company's website.
- The Company conducted an information systems risk assessment to consider, document and review information security threats and controls. The evaluation is designed to encourage continual improvements to information systems security.
- Company policy requires that information technology security practices safeguard nonpublic personal and health information, and communicates these practices in training programs, monthly compliance presentations and various memoranda as needed.
- Only individuals approved by Company management are granted access to the Company's key electronic and operational areas where nonpublic personal and health information is located.

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: RNA reviewed policies and procedures requiring that the Notice of Adverse Underwriting Decision be provided when applications are declined and when coverage is offered at higher than standard rates. RNA tested five life and three disability income underwriting declinations for evidence that the Company provided timely Notice of Adverse Underwriting Decision. As part of new business testing, RNA also noted six disability income applications and one life application where the Company offered coverage at higher than standard rates, which would require it to provide the Notice of Adverse Underwriting Decision. We reviewed underwriting and claims documentation for any evidence of the use of pretext interviews.

Transaction Testing Results:

Findings: None.

Observations: For the five life and three disability income underwriting declinations tested, the Notice of Adverse Underwriting Decision was provided when the Company declined to provide coverage. The Notice of Adverse Underwriting Decision was also provided for the six disability income applications and one life application where the Company offered coverage at higher than standard rates. In testing of claims and new business processing, RNA noted no instances where the Company was conducting pretext interviews.

Recommendations: None.

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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.

The objective of this Standard relates to privacy matters and is included in Standards I-10 and I-12 through I-17.

* * * * *

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.

Objective: This Standard addresses policies and procedures to ensure privacy of non-public personal information.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed documentation supporting its privacy policies and procedures. RNA tested five life and three disability income underwriting declinations for evidence that the Company offered to provide consumers with requested information supporting the reason(s) for the declinations. RNA also sought any evidence that personal information was improperly provided to parties other than the applicant.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that for each of the underwriting declinations tested, the Company offered to make available driving records, consumer reporting information and results of lab results and medical tests conducted for the purpose of obtaining insurance when requested by the applicant. We noted no instances where information was improperly provided to parties other than the applicant.

Recommendations: None.

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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.

Objective: This Standard addresses requirements to provide privacy notices.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA reviewed the Company's compliance with statutory privacy disclosure requirements in conjunction with new business testing of 41 life and 20 disability income applications.

Transaction Testing Results:

Findings: None.

Observations: The Company represented that, to the best of its knowledge, the agent provided the Privacy Policy and the Notice of Information Practices at the application date for the applications included in new business testing. The Company further represented that for all insurance and annuity sales tested, the Privacy Policy and the Notice of Information Practices was also provided when the final policy or contract was delivered to the customer. We also noted that the Company has procedures for providing the Annual Privacy Notice to the customer by mail prior to the annual policy or contract anniversary date.

Recommendations: None.

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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.

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

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance, and reviewed supporting documentation with regard to opt out rights.

Transaction Testing Results:

Findings: None.

Observations: The Company's Privacy Policy states that it shares personal information with affiliates and other financial institutions with whom it jointly market products. The Company does not allow the customer to opt out of any information sharing, and it does not ask specific questions of applicants designed to obtain information for marketing or research. We noted no instances where information for marketing purposes was improperly shared with third parties.

Recommendations: None.

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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.

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

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA reviewed the Company's compliance with statutory and regulatory requirements pertaining to collection and use of nonpublic personal financial information in conjunction with new business testing of 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales, and when testing 45 paid disability income claims, six denied disability income claims and one paid long-term care claim.

Transaction Testing Results:

Findings: None.

Observations: In testing of new business sales and claims, RNA noted that that the Company's collection and use of nonpublic personal financial information was reasonable and proper in evaluating the applications and claims.

Recommendations: None.

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

M.G.L. c. 175I, §§ 1-22.

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

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance and reviewed supporting documentation. RNA sought any evidence that nonpublic personal health information was improperly disclosed in conjunction with underwriting declinations, new business and claims testing. RNA also reviewed compliance with the use of the HIPAA/Privacy Disclosure in conjunction with new business testing of 41 life and 20 disability

income applications, as well as in conjunction with testing of 45 paid disability income claims, six denied disability income claims and one paid long-term care claim.

Transaction Testing Results:

Findings: None.

Observations: In review of privacy procedures related to new business applications and claims tested, we noted no instances where the Company improperly disclosed nonpublic personal health information. RNA noted that the HIPAA/Privacy Disclosure was received and signed by each applicant for all new life or disability income applications where medical underwriting was required. In addition, testing of claims indicated that the claimant obtained and signed the HIPAA/Privacy Disclosure.

Recommendations: None.

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

M.G.L. c. 175I, §§ 1-22.

Objective: This Standard is concerned with the Company's information security efforts to ensure that nonpublic consumer information is protected.

Controls Assessment: See Standard I-10.

Controls Reliance: See Standard I-10.

Transaction Testing Procedure: RNA interviewed Company personnel with responsibility for privacy compliance and reviewed supporting documentation. Review of information technology access and authorization controls is also included in the scope of the concurrent statutory financial examination of the Company.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the Company routinely conducts an information systems risk assessment to consider, document and review information security threats and controls. Further, the Company has procedures to implement and monitor information technology security practices to safeguard nonpublic personal and health information, and communicates such practices to employees and producers in training programs, monthly compliance presentations and various memoranda. Finally, only individuals approved by Company management are granted access to the Company's key electronic and operational areas where such information is located, and documentation supports that such access is frequently monitored by management.

Recommendations: None.

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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 from the date of its last examination. The record must indicate the total number of complaints, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint and the time to process each complaint.

Controls Assessment: The following controls were noted in review of complaint Standards:

- Written policies and procedures govern the complaint handling process. The Company's definition of complaint is any statement (written or oral) made by a customer or a person acting on their behalf, alleging a grievance regarding the solicitation or servicing of insurance products or securities.
- The Company records all complaints in a consistent format in its complaint register.
- The complaint log, which includes all complaints that the Company receives directly and those it receives from the Division, includes the date opened, the date closed, the person making the complaint, the insured, the policy number, state of residence, the number of days to respond, the NAIC problem code stating the nature of the complaint and a summary of the resolution.
- Company personnel regularly review the complaint log to ensure compliance with statutory requirements.
- The Company responds to Division complaints within 14 calendar days when possible, and in a timely manner once all required information is obtained and evaluated.
- The Company provides its toll free telephone number and address in its written responses to consumer inquiries and on its website.

The complaint data for Massachusetts complaints closed by the Division in 2004 and during the first six months of 2005 is as follows:

Massachusetts DOI Complaints January 1, 2004 to June 30, 2005

Underwriting and Rating	2
Sales and Marketing	2
Policyholder Service	5
Claims	3
Total	12

Massachusetts DOI Complaint Resolution	Justified	Not Justified	Total
Underwriting	0	2	2
Sales and Marketing	0	2	2
Policyholder Service	0	5	5
Claims	0	3	3
Total	0	12	12

The determination of whether a complaint was “Justified” or “Not Justified” was made by RNA.

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: RNA interviewed management and staff responsible for complaint handling, and examined documentary evidence of the Company’s processes and controls. RNA reviewed each of the 12 Massachusetts complaints filed with and closed by the Division from January 1, 2004 to June 30, 2005, and three complaints made directly to the Company, to evaluate compliance with M.G.L. c. 176D, § 3(10). For each complaint, RNA reviewed the Company’s complaint file noting their response date and the documentation supporting the resolution of the complaint. For the complaints filed with the Division, RNA compared the Company’s complaint register to the Division’s complaint records to ensure that the Company’s register was complete.

Transaction Testing Results:

Findings: None.

Observations: For all complaints tested, RNA noted that the Company appears to maintain proper complaint handling procedures and a complete listing of complaints in accordance with M.G.L. c. 176D, § 3(10).

Recommendations: None.

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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: (a) the Company has documented procedures for complaint handling as required by M.G.L. c. 176D, § 3(10); (b) the procedures in place are sufficient to enable satisfactory handling of complaints received as well as to conduct root cause analyses in areas developing complaints; (c) there is a method for distribution of and obtaining and recording responses to complaints that is sufficient to allow response within the time frame required by state law, and (d) the Company provides a telephone number and address for consumer inquiries.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA interviewed management and staff responsible for complaint handling, and examined evidence of the Company's related processes and controls. RNA reviewed each of the 12 Massachusetts complaints filed with and closed by the Division from January 1, 2004 to June 30, 2005 and three complaints made directly to the Company, to evaluate this Standard. A sample of forms and billing notices sent to policyholders was reviewed to determine whether they comply with the requirement that the Company provide 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. Further, the Company appears to respond to complaints timely.

Recommendations: None.

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Standard II-3. The company should take adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.
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Objective: This Standard addresses whether the Company response to the complaint fully addresses the issues raised and whether policyholders with similar fact patterns are treated consistently and fairly.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA reviewed each of the 12 Massachusetts complaints filed with and closed by the Division from January 1, 2004 to June 30, 2005, and three complaints made directly to the Company, to evaluate this Standard.

Transaction Testing Results:

Findings: None.

Observations: Documentation for all complaints tested appeared to be complete including the original complaint, related correspondence and the Company's complaint summary. Complainants with similar fact patterns appeared to be treated consistently and reasonably.

Recommendations: None.

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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 time standard in statute or regulation. However, the Division has established a practice of requiring an insurer to respond to any notice of complaint that it sends within 14 calendar days of receipt. For complaints it receives directly, Company policy is to diligently respond to the complaint.

Controls Assessment: Refer to Standard II-1.

Controls Reliance: Refer to Standard II-1.

Transaction Testing Procedure: RNA reviewed each of the 12 Massachusetts complaints filed with and closed by the Division from January 1, 2004 to June 30, 2005, and three complaints filed directly with the Company, to evaluate their timely response.

Transaction Testing Results:

Findings: None.

Observations: Resolution of all complaints tested appeared to be reasonably timely and within the 14 calendar day period directed by the Division.

Recommendations: None.

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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. 176D, § 3; M.G.L. c. 175, §181; 211 CMR 42.09; 211 CMR 65.08; 211 CMR 95.11 and 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 advertising materials.

Pursuant to M.G.L. c. 176D, § 3 and M.G.L. c. 175, §181, 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. 211 CMR 42.09 requires that advertising and marketing for individual disability income and long term care products not be misleading. 211 CMR 65.08 requires the Company to implement auditable marketing and compliance monitoring procedures, requires advertising to be truthful, and prohibits twisting, high-pressure tactics and cold-lead advertising for long term care coverage. 211 CMR 95.11 prohibits the use of sales or advertising materials for variable life products which are false, misleading, deceptive or inaccurate. Pursuant to Division of Insurance Bulletin 2001-02, an insurer who maintains an Internet website must disclose on the website the name of the company as it appears on the certificate of authority and the address of its principal office.

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

- The distribution compliance department reviews, approves and maintains a log of all home office producer sales materials and general agency advertising.
- The Agency Supervisory Officer ("ASO") must be provided access to all letters that agents send to customers, although prior approval of the letters is not required. Agent electronic mail is filtered using information technology controls where identification of key words may trigger a review by the ASO.
- The Company discloses the Company's name and address on its website.

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: RNA obtained lists of home office and Massachusetts general agency approved sales and advertising materials. From the lists, RNA reviewed ten pieces of advertising and sales material from the home office, and ten pieces of advertising and sales material from the two Massachusetts general agencies, from the examination period for evidence of proper home office approval prior to use. RNA also reviewed the Company's website for disclosure of its name and address. Finally, RNA sought evidence of the use of unapproved sales and marketing materials as part of new business testing.

Transaction Testing Results:

Findings: None.

Observations: The results of testing showed that the Company's process to approve advertising and sales materials prior to use is functioning in accordance with its policies, procedures and statutory requirements. The Company's website disclosure complies with the requirements of Division of Insurance Bulletin 2001-02. Finally, the results of new business testing showed no evidence of the Company or its agents' use of unapproved advertising and sales materials.

Recommendations: None.

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

211 CMR 65.08.

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

211 CMR 65.08 requires the Company to provide training to all agents selling long-term care coverage and to maintain evidence of their completion of such training.

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

- The Company coordinates and develops training courses for traditional insurance products on topics including needs-based selling, and Mass Mutual University provides over 500 courses for agents concentrating on variable products and other securities. The general agency and sales managers select attendees for the mostly optional training, although Company policy requires all agents selling long-term care coverage to complete required training.
- The Company has developed extensive training programs for career agents. Many of the topics relate to compliance, field underwriting best practices, and business ethics. The Company maintains records of agent continuing education credits, and courses are approved by most insurance regulators to qualify for agents' continuing education requirements.
- Producer orientation seminars are offered for inexperienced and newly appointed agents. These seminars provide basic information about Company policies and practices including compliance, product offerings, use of the agents' FieldNet intranet, business submission procedures and sales training.
- Career development schools are periodically offered to agents who have met minimum production levels and who have been agents for six to 18 months. The seminars focus on business planning and implementation, target market development, client development and product training.
- The Company offers an annual leader's conference for its high volume producers, as well as an annual general agents' conference which focuses on agency development.

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: RNA interviewed individuals with responsibility for training and obtained documentation and training materials supporting the Company's training and orientation programs. RNA selected five producers selling long-term care coverage, and reviewed evidence of each producer's completion of required training.

Transaction Testing Results:

Findings: None.

Observations: The Company's producer training materials appear to be properly designed and in compliance with Company policies. The Company's training and orientation program appears to be robust and well designed. The Company maintained evidence of completion of required training for each of the five long-term care producers selected.

Recommendations: None.

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

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

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

- The Company's weekly newsletter to career agents entitled, *The Word*, provides information on Company policies and practices, new laws and regulations, product updates and information, sales and marketing tips, agent sales statistics, agent and agency profiles and producer training.
- The Company's FieldNet internet portal allows producers to complete applications on-line; to obtain Company policies and procedures regarding sales, marketing and underwriting, including the *Supervisory and Compliance Manual*; and to assist policyholders with customer service requests and filing 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 Procedure: RNA reviewed four issues of *The Word*, and reviewed the Company's FieldNet internet portal for accuracy and reasonableness.

Transaction Testing Results:

Findings: None.

Observations: Based upon review, communications to producers appear to be accurate and reasonable, and no improper or misleading information was noted.

Recommendations: None.

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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; 211 CMR 34.04; 211 CMR 42.08 and 42.11.

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

M.G.L. c. 175, § 204 addresses the promulgation of regulations governing the replacement of life insurance and annuities. Pursuant to 211 CMR 34.04, the agent or broker must submit to the insurer as a part of the application: (a) a statement signed by the applicant regarding whether the transaction involves the replacement of existing life insurance or annuities; and (b) a signed statement as to whether the agent or broker knows that the transaction involves or may involve a replacement. In sales involving external replacement, producers must provide a copy of the replacement notice to applicants at the time of application.

For individual disability income and long-term care insurance, 211 CMR 42.08 and 42.11 require the application to ask whether the sale involves a replacement, and requires the replacing insurer or producer to furnish a proper replacement notice to the applicant.

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

- The Company's applications require a response from the applicant and producer as to whether or not the policy or contract applied for will replace another policy or contract.
- Copies of replacement disclosure forms provided to, and signed by, the applicant on the application date are to be submitted by the producer with the application.
- Company policy requires that general agents take responsibility for evaluating all replacement sales to ensure that they are in the applicants' best interests.

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: As part of new business testing, RNA selected a sample of 36 replacement sales for testing. These included 17 life replacements (15 from the replacement register and two from general sales), 17 annuity replacements (14 from the replacement register and three from general sales), and two disability income replacements from general sales from the examination period to evaluate the Company's compliance with its policies, procedures and regulatory requirements.

Transaction Testing Results:

Findings: None.

Observations: The results of testing showed that there was evidence of signed disclosure forms and other replacement requirements for each of the 36 tested replacements as required by 211 CMR 34.04 and 211 CMR 42.08 et seq.

Recommendations: None.

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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; 211 CMR 34.05 and 34.06; 211 CMR 42.08 and 42.11.

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

M.G.L. c. 175, § 204 addresses the promulgation of regulations governing the replacement of life insurance and annuities. Pursuant to 211 CMR 34.05, the Company shall inform its producers of the requirements of 211 CMR 34.04 pertaining to agents and brokers. In addition, 211 CMR 34.06 requires the Company to obtain a statement signed by the agent or broker as to whether the transaction involves or may involve a replacement. In sales involving an external replacement, producers must provide a copy of the replacement notice to the applicant at the time of application. For external replacements, the replacing insurer shall submit a policy summary to the existing insurer and a written communication advising of the replacement or proposed replacement by the earlier of seven working days from the date the application is received in the replacing insurer's home or regional office or from the date the contract is issued.

211 CMR 42.08 and 42.11 requires that applications for individual disability income and long term care insurance ask whether the sale involves a replacement, and require the replacing insurer or producer to furnish a proper replacement notice to the applicant.

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

- Written policies and procedures govern replacement handling, and the Company's definition of replacement meets regulatory requirements. A subsequent contract issued to the same owner is considered to be a replacement if it is issued between 13 months prior to, or after the sale.
- All replacements are to be consistently recorded in the Company's replacement registers.
- The Company's applications require applicants and producers to state whether or not the policy or contract applied for will replace another policy or contract.
- Producers are required to submit copies of replacement disclosure forms provided to, and signed by, the applicant on the application date with the application.
- The Company reviews all submitted applications for undisclosed replacements. During the underwriting process, telephone interviews of applicants conducted at the direction of the underwriting department inquire about replacement.
- Written company policy requires that notice to the replaced carrier be sent within two to seven business days for life applications, and within three business days for annuity applications, from the date the application is received "in good order" in the home office.
- Written Company policy requires that general agents take responsibility for evaluating all replacement sales to ensure that they are in the applicants' best interests. The distribution compliance department monitors the procedure through annual audits of the general

agencies. The Company performs limited review of the suitability of replacement sales in connection with its underwriting evaluation.

- The Company provides a 20 day free look on all external replacements.
- Company policies and procedures require that reduced commissions be paid on most internal replacements to discourage producers from replacing existing Company policies or contracts. The types of internal replacements where full commissions are paid include the following:
 - Purchases of new policies where loan proceeds from an existing policy are used to purchase the new policy, as long as the old policy is not replaced.
 - Replacements of life policies that qualify for the Company's Full Compensation Voucher Program, which annually allows high performing agents up to three vouchers at \$200,000 face value each to receive a full commission.
 - Replacements of any Mass Mutual life product or retirement services contract with a Mass Mutual annuity product, or vice versa.
- The Company's policy is to furnish a policy summary to life policyholders upon receiving notice from a replacing carrier of their intention to replace.

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: RNA selected a sample of 36 replacement sales as part of new business testing. These included 17 life replacements (15 from the replacement register and two from general sales), 17 annuity replacements (14 from the replacement register and three from general sales), and two disability income replacements from general sales during the examination period to evaluate the Company's compliance with its replacement policies, procedures, and regulatory requirements. RNA further selected a sample of 16 producers with relatively high replacement volume during the examination period to evaluate the review procedures conducted by the Company on high replacement activity.

Transaction Testing Results:

Finding: The results of testing noted that for four life replacements and two annuity replacements of the 27 external life and annuity replacements, the Company did not provide a replacement disclosure and policy summary to the replaced carrier within seven days of the receipt of the application in the home office as required by 211 CMR 34.06. The Company distributed a reminder memorandum to employees regarding this requirement during the examination.

Observations: The results of testing showed the following:

- 34 of the 36 replacement sales, except for two life replacements, were included on the Company's replacement registers.
- For each of the 36 replacements tested, there was evidence of signed replacement disclosure forms as required by 211 CMR 34.04 and 211 CMR 42.08.
- For 21 of the 27 life and annuity external replacements tested, the Company provided notice to the replaced carrier within seven days of its receipt of the application in the home office, as required by 211 CMR 34.06.
- Commissions on all internal replacements tested were paid in accordance with Company policy. Full commission was paid for one life replacement in accordance with the Full Compensation Voucher Program. Full commissions

were paid for three annuity replacements that replaced life policies or retirement services contracts.

- The Company reviews and analyzes agents' replacement activity in connection with the distribution compliance department's on-site reviews of general agencies, in addition to performing other agency level replacement monitoring. Further, the Company generates a "book of business" report for the benefit of the general agencies, and for use during future on-site visits to the general agencies. The "book of business" reports, or other similar monitoring reports, are not used for timely home office identification of agents who have a high volume of replacement activity. The Company is currently developing such a process.
- For one annuity replacement, the Company's replacement/change form for the sale neglected to disclose a \$1,569 surrender charge on a replaced variable annuity. The ASO who approved the sale neglected to challenge whether the lack of disclosure about the surrender charge was appropriate. There is no written documentation supporting that the policyholder knew about and understood the surrender charge, although the Company represents that the agent informed the policyholder about the surrender charge.

Recommendations: RNA recommends the following:

- The Company should amend its new business procedures to include evidence of the mailing of the notice to the replaced carrier as a required element pursuant to 211 CMR 34.06 and implement monitoring procedures to ensure regulatory compliance.
- The Company shall ensure that all replacement sales are included on the Company's replacement registers.
- The Company should implement the home office monitoring process of agents who have a high volume of replacement activity as soon as possible. Such monitoring should occur throughout the year with unusual activity timely investigated.
- The Company should clarify its field policy that ASOs carefully evaluate replacement disclosures, including disclosure of accurate surrender charges on replaced contracts and should ensure that such disclosure is documented and provided to the applicant timely.
- The Company's distribution compliance department should implement procedures for its on-site review of general agents that include requiring the examiners to review whether life and annuity surrender charges on replaced contracts have been properly and timely disclosed to applicants.
- The Company shall consider changing its commission policy to adopt the industry best practice of paying reduced commissions on all internal replacements where the sale results in no new funds to the Company, unless the home office approves the sale as a defensive replacement.

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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; 211 CMR 42.09; 211 CMR 65.09 and 211 CMR 95.11.

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

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.

211 CMR 42.09 requires that individual disability income and long-term care insurance applicants receive disclosure forms at policy delivery unless such forms were delivered when the application was made. Such forms require disclosure of information regarding certain policy benefits, terms, premiums, exclusions and limitations. Further, if a policy is issued other than as applied for, disclosure must be made to the applicant. In addition, 211 CMR 65.09 requires that long-term care applicants be provided with a policy illustration, a long-term care financing options guide, a coverage outline, and, in certain instances, disclosure of suitability standards used by the Company. Both regulations set forth disclosure requirements for Medicare-eligible applicants.

Pursuant to 211 CMR 95.11, Applicants for variable life policies shall receive a summary of policy features at the application date. This summary discusses separate account investment policies and historical returns; any applicable annual, front-end, back-end, surrender or other charges; Federal tax aspects; a summary of how insurance cost is determined; illustrations, and assumptions for any promised guarantees.

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

- The Company has written policies and procedures addressing the use and distribution of illustrations, policy summaries and buyer's guides.
- The Company reviews all submitted applications to ensure that all applicable questions are answered and that required forms and information are consistently filed.
- Agents provide a buyer's guide to applicants for non-variable life products at time of sale, but the Company does not maintain documentation showing that the guide was provided. The Company also sends the buyer's guide and policy to the agent for delivery to the policyholder once the policy is issued for all life policies.
- Applicants for ordinary life policies with anticipated dividends or cash value are required to sign illustrations provided at the application date. The illustrations include required policy information regarding coverage, minimum premiums, cost indexes and guaranteed values. For whole and universal life applications, the illustration must be signed by the applicant for the application to be "in good order." If the applicant ultimately receives a different rate class than quoted, the applicant must sign a revised illustration with the policy delivery receipt.
- Variable life product applications do not require a signed illustration to be "in good order," as producers provide a prospectus to the applicant at the application date.
- Applicants for disability income policies receive policy summaries and other required disclosures at the application date, and applicants for long-term care policies receive illustrations and other required disclosures at the application date.
- Applicants for variable annuities receive prospectuses including illustrations at the application date. Applicants for fixed annuities receive contract summaries when the contracts are issued, and producers are to provide applicants with required disclosures contained in approved sales materials at the application date.

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: RNA interviewed Company personnel with responsibility for new business processing and obtained supporting documentation. RNA reviewed life insurance advertising materials used by the Company for reference to availability of a life insurance buyer's guide and policy summary. RNA selected 100 new business sales including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales for the examination period and verified that each application submitted was signed and complete. Further, RNA reviewed the policy summaries, illustrations and disclosures and verified that they were timely provided to the applicants where required. Finally, RNA noted whether the contracts received were consistent with those applied for, and that any changes resulted in full disclosure to applicants.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, life insurance advertising materials used by the Company include a reference to availability of a life insurance buyer's guide and policy summary. RNA noted that the applications submitted were signed and complete, and that the producer and/or the Company timely provided policy illustrations and/or summaries and other disclosures to applicants where required. Contracts received by applicants were issued consistent with their applications, or any changes resulted in full disclosure to the applicants. The Company represented that producers for non-variable life sales provided the buyer's guide to applicants at the application date, and that producers for SPDA sales provided approved sales materials containing required disclosures to applicants at the application date. The applications or other documentation do not provide evidence that the buyer's guide was provided to non-variable life applicants, or that required disclosures were provided to SPDA applicants.

Recommendations: The Company shall consider revising its non-variable life applications and/or policy delivery receipts to include acknowledgement by the applicant of receipt of the buyer's guide. The Company shall also consider revising its SPDA applications to include all required disclosures including surrender charges.

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Standard III-7. The company has suitability standards for its products when required by applicable statutes, rules and regulations.
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Objective: This Standard is concerned with whether the Company maintains suitability or needs assessment standards for its products.

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

- The Company's *Supervisory and Compliance Manual* contains policies and procedures which require agents and their supervisors ensure that products meet the needs of applicants. While insurance underwriters review all applications to ensure that they are complete and acceptable, the Company does not perform any additional needs assessment, nor does the Company challenge the assessment made by the producer or the

general agent. Thus, contractual responsibility for suitability and needs assessment lies with the producers and general agents.

- Most of the Company's product applications require submission of information regarding the applicant's income, net worth, liquidity, family status and source of funds to assist in determining their needs. Fixed annuity applications do not require the applicant to provide any financial information.
- The Company's distribution compliance department performs annual audits of the general agents to monitor their suitability and needs assessment 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 Procedure: RNA interviewed Company personnel with responsibility for new business processing and obtained supporting documentation. RNA selected 100 new business sales including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales from the examination period for testing. RNA verified that the application submitted for each of the selected sales was signed and completed in accordance with Company policy. RNA further reviewed the application package and confirmed that the policy or contract was issued consistent with the application, and that sales documentation appeared to support that the variable product was suitable or the non-variable product met the needs of the customer. Finally, RNA reviewed the audit reports issued by the distribution compliance department on the two Massachusetts general agencies for evidence that suitability and needs assessment procedures were adequately monitored.

Transaction Testing Results:

Findings: None.

Observations: The application submitted for each new business sale tested was signed and completed in accordance with Company policy, and each contract or policy was issued consistent with the application. Documentation on the application and attachments for each sale supported that the variable products appeared to be suitable, and the non-variable products appeared to meet the needs of the applicants. Since the fixed annuity applications do not require that any financial information be provided, the producer may or may not obtain additional financial information to assess whether the annuity meets the applicant's needs. Finally, based on review of the audit reports issued by the distribution compliance department on the two Massachusetts general agencies, the Company appears to be adequately monitoring the general agents and their duty to complete suitability and needs assessment procedures.

Recommendations: The Company should consider amending fixed annuity applications to include basic questions about the applicant's net worth, liquidity, risk tolerance and investment time horizon to ensure that producers and the ASO evaluate this information when assessing the applicant's needs, particularly for senior applicants.

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

No work performed. This Standard is not covered in scope of examination because the Company does not offer such products anywhere it is licensed.

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

211 CMR 55.06.

Objective: This Standard is concerned with the required disclosures related to accelerated benefits coverage.

211 CMR 55.06 requires that a disclosure statement concerning accelerated benefit provisions on life insurance, and waiver of surrender charges for early withdrawals of annuity contracts, be provided to the applicant at the time of application. See Standard VI-6 for testing of use of filed policy forms.

Controls Assessment: See Standard VI-6 for controls over policy form content and filing.

Controls Reliance: See Standard VI-6 for controls over policy form content and filing.

Transaction Testing Procedure: RNA interviewed Company personnel to understand the process for requesting accelerated benefits coverage.

Transaction Testing Results:

Findings: None.

Observations: Discussions with management appear to show that the Company has procedures to comply with accelerated benefit disclosure requirements.

Recommendations: None.

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

Gramm-Leach-Bliley ("GLB") Act and Rule 12 CFR Parts 14, 208, 343, and 536.

Objective: This Standard is concerned with ensuring that policy application forms used by depository institutions provide required disclosures.

GLB Act and Rule 12 CFR Parts 14, 208, 343, and 536 require written disclosures to consumers. For notices unrelated to an extension of credit, the disclosure notice must inform the consumer that insurance and annuities are not deposits, other obligations of, or guaranteed by the bank or its

affiliates; that insurance and annuities are not insured by the Federal Deposit Insurance Corporation (“FDIC”) or any agency of the United States, the bank, or its affiliates; and that there may be potential for investment risk, including the possible loss of value in certain cases.

For notices related to an extension of credit, the bank must inform the consumer that it cannot condition the extension of credit upon the consumer also purchasing an insurance policy or annuity from the bank or its affiliate. The bank must inform the consumer that it cannot condition the extension of credit upon the consumer not obtaining an insurance policy or annuity from an entity not affiliated with the bank. In addition, the disclosure notice must inform the consumer that insurance and annuities are not deposits, other obligations of, or guaranteed by the bank or its affiliates; that insurance and annuities are not insured by the FDIC or any agency of the United States, the bank, or its affiliates; and that there may be potential for investment risk, including the possible loss of value in certain cases.

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

- The Company has written policies and procedures for sales of Company products by depository institutions, and the Company reviews new business submissions from depository institutions for completeness and use of required Company forms.
- Company policy requires that depository institutions disclose that the insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the depository institution, the FDIC, or any other agency of the United States.
- Company policy requires that depository institutions disclose risks including the possible loss of value for products involving investment risk. The Company has prepared product information for consumers, which includes all required disclosures. The Company requires that depository institutions not tie insurance or annuity sales to extensions of credit when selling Company products.

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: RNA interviewed Company personnel with responsibility for underwriting, new business processing and contract issuance. As few of the Company’s sales are generated by producers at depository institutions, business generated from the depository institutions was not specifically identified for testing. None of the 100 new business files tested was generated by producers at depository institutions.

Transaction Testing Results:

Findings: None.

Observations: Based on review, it appears that the Company has adopted procedures to ensure that depository institutions make required sales disclosures.

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 department of insurance records.

M.G.L. c. 175, §§ 162I and 162S; Division of Insurance Bulletins 98-11 and 2001-14; 18 U.S.C. § 1033.

Objective: This Standard compares the Company's and the Division's agent licensing records.

M.G.L. c. 175, § 162I requires that all persons who solicit, sell or negotiate insurance be licensed for that authority line. Further, no producer may act as a Company agent unless appointed by them pursuant to M.G.L. c. 175, § 162S. Pursuant to 18 U.S.C. § 1033 of the Violent Crime Control and Law Enforcement Act of 1994 ("Act"), it is a criminal offense for anyone "engaged in the business of insurance" to willfully permit a "prohibited person" to conduct insurance activity without the 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 Division of Insurance Bulletins 98-11 and 2001-14, any entity conducting insurance activity in Massachusetts must notify the Division in writing, of its agents and employees who are affected by this law. Individuals "prohibited" under the law may apply to the Commissioner for written consent, and must not engage or participate in the business of insurance unless and until they are granted such consent.

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

- The Company's producers include agents in the career agency system ("CAS"), the third party producer distribution ("TPD") channel and a third category which includes disability income sales centers, national accounts and strategic alliances. CAS includes approximately 4,000 individual producers under contract in approximately 86 general agencies throughout the U.S, including two in Massachusetts.
- The Company requires that any producer who sells insurance for the Company be licensed, and it verifies that the producer is licensed by the National Association of Securities Dealers as appropriate.
- CAS general agencies have written contracts requiring them to maintain errors and omissions ("E&O") coverage and perform standard duties and responsibilities, including supervision of individual sub-producers. Each individual sub-producer contracts with the general agency using a standard agreement, and the contract is approved by the Company prior to appointment.
- The Company requires that producers who sign a CAS general agent or sub-producer contract be appointed as an agent within 15 days from the date the contract is executed.
- Criminal, civil litigation, securities, and financial background checks are conducted on newly appointed CAS agents, and on disability income sales center producers.
- The TPD channel consists of entities that do not have exclusive selling arrangements with the Company, such as securities brokers and financial planners. All such entities have written contracts with the Company, which require the TPD to maintain E&O coverage,

- to perform standard duties and responsibilities including supervising individual sub-producers, and to perform financial and criminal background checks on its sub-producers.
- The Company maintains disability income sales centers staffed with Company employees who provide sales support to CAS producers, or who directly sell group disability income products. National accounts and strategic alliances include producers in banks and credit unions.
- The Company also allows producers not appointed as its agents to sell Company products in limited situations when licensed financial institution employee producers sell annuity products.
- The Company's seeks the Division's approval regarding the appointment of any "prohibited person" when the Company wishes to appoint such an agent.
- A Company database tracks all agent appointments and producer licenses, and the Company periodically reconciles its agent records to those from insurance regulators.
- The Company's distribution compliance department performs annual audits of the general agents to monitor compliance with various Company policies and procedures, including those pertaining to producer licensing and appointment.

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: RNA interviewed Company employees with responsibility for producer contracting and processing of agent appointments. RNA selected 100 new business sales including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales from the examination period for testing. RNA verified that the selling producer for each of the sales was included on the Division's list of the Company's appointed agents.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the producer for each sale tested was included on the Division's list of Company appointed agents. RNA noted that the Company provides notice to agents of the requirements of 18 U.S.C. § 1033.

Recommendations: None.

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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; Division of Insurance Bulletins 98-11 and 2001-14; 18 U.S.C. § 1033.

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

M.G.L. c. 175, § 162I requires that all persons who solicit, sell or negotiate insurance be licensed for that authority line. Further, no producer may act as an agent of the Company unless appointed by the Company pursuant to M.G.L. c. 175, § 162S. See also Standard IV-1 for discussion of 18 U.S.C. § 1033 and related Division of Insurance Bulletins 98-11 and 2001-14.

Controls Assessment: Refer to Standard IV-1.

Controls Reliance: Refer to Standard IV-1.

Transaction Testing Procedure: RNA interviewed Company employees with responsibility for producer contracting and processing of appointments, and reviewed the Company's standard agent contracts. RNA selected 100 new business sales including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales from the examination period for testing. RNA verified that the selling producer for each sale was included on the Division's list of the Company's appointed agents at the time of sale.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the producer for each sale tested was properly licensed and appointed when the application was taken.

Recommendations: None.

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

M.G.L. c. 175, § 162R and 162T.

Objective: This Standard addresses termination of agents and the requirement that companies notify the regulator and the agent of such terminations.

M.G.L. c. 175, § 162T requires that the Company notify the Division in writing within 30 days of the effective date of the agent's termination, including the reason for any "for cause" terminations as defined in M.G.L. c. 175, § 162R.

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

- The Company's producer contracts and appointments are "perpetual" until terminated with notice, or "for cause."
- The Company's written policy is to notify the Division of all agent terminations and the reason for any "for cause" termination.
- The Company periodically reconciles its agent records to those from insurance regulators.
- The Company's distribution compliance department performs annual audits of the general agents to monitor compliance with various Company policies and procedures, including those pertaining to supervision and termination of producers.

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: RNA interviewed company employees with responsibility for processing agent terminations. RNA selected 10 terminations from the Division's records, two terminations from a review of distribution compliance reports of the two Massachusetts general agencies, and 10 terminations from the Company's records during the examination period to compare the termination dates in the Division's and the Company's records. RNA also inquired whether any terminations were "for cause" and if the reasons for such terminations were timely reported to the Division.

Transaction Testing Results:

Findings: The results of testing showed that 16 of the 22 terminations were timely reported to the Division, while six were either not timely or were never reported in violation of M.G.L. c. 175, § 162T. None of the terminations tested was "for cause."

Observations: None.

Recommendations: The Company shall adopt new procedures to ensure that the Division is timely notified of all agent terminations in accordance with M.G.L. c. 175, § 162T.

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Standard IV-4. The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.
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Objective: The Standard addresses the Company's policy for ensuring that producer appointments and terminations do not unfairly discriminate against policyholders.

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

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

Transaction Testing Procedure: RNA interviewed individuals with responsibility for producer contracting and processing of appointments. RNA selected ten terminations from the Division's records, two terminations from a review of distribution compliance reports of the two Massachusetts general agencies, and ten terminations from the Company's records during the examination period. RNA reviewed documentation for each of the terminations 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: RNA's testing 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 addresses whether Company records of terminated agents adequately document the action taken.

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

Controls Assessment: Refer to Standard IV-3.

Controls Reliance: Refer to Standard IV-3.

Transaction Testing Procedure: RNA interviewed company employees with responsibility for processing agent terminations. RNA selected ten terminations from the Division's records, two terminations from a review of distribution compliance reports of the two Massachusetts general agencies, and ten terminations from the Company's records during the examination period to search for evidence of any "for cause" terminations.

Transaction Testing Results:

Findings: None.

Observations: RNA noted through testing that Company records adequately document the reasons for an agent's termination, and that none of the terminations tested was "for cause."

Recommendations: None.

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Standard IV-6. Debit producer accounts current (account balances) are in accordance with the producer's contract with the company.

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

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

- The Company's policies are billed on a direct basis mitigating the possibility for excessive balances owed by producers.
- In accordance with contract provisions, the Company allows the agent to obtain draws against future commissions. Such draws are monitored to ensure that outstanding amounts are not excessive.

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: RNA interviewed individuals with responsibility for producer contracting and commission processing. RNA reviewed agent contracts and commission activity for 13 agents for selected months to ensure that commissions were paid in accordance with the producer contract.

Transaction Testing Results:

Findings: None.

Observations: Based upon review, agent commissions appeared to be paid in accordance with the producer contract.

Recommendations: None.

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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, §§ 108, 110B, 187C and 187D; 211 CMR 65.10.

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

M.G.L. c. 175, §108 requires that individual health and disability income policies provide a 31 day grace period on premium payments after the due date before lapse can occur. Pursuant to M.G.L. c. 175, §110B, no individual life, accident, health and disability income policy may lapse for nonpayment of premium until after three months from the premium due date, unless within 10 days prior to the due date the Company, has mailed a notice to the policyholder showing the premium due and the due date, with notice that the policy will lapse if no payment is made on or before the due date. M.G.L. c. 175, §187C and 187D require written notice to the policyholder for Company cancellations, including those for non-payment of premium. 211 CMR 65.10 requires that long-term care policies provide notice of premium due at least 30 days prior to the due date, and allows policyholders to designate one additional person to receive lapse or termination notices.

Controls Assessment: The following controls are pursuant to written Company policy and were noted in review of this Standard:

- The Company bills most life premiums on an annual, semi-annual or quarterly basis, with some policy premiums paid electronically by pre-authorized check ("PAC") and some employer groups list-billed for employees' individual policies.
- Billing notices for direct billed whole and term life policies are generated and mailed to the policyholder 20 days prior to the premium due date and 25 days prior to the premium due date for direct billed variable and universal life policies. The billing notice states that the policy may lapse unless payment is made by the due date, and an additional reminder notice is sent five days prior to the due date if payment has not yet been received.
- The Company mails overdue life insurance premium notices 20 days after the due date if it has not received payment, with notice that the policy will lapse 62 days after the original due date if no payment is made. The producer is also notified of the overdue premium for conservation efforts.
- Single premium fixed annuities and variable annuities do not require periodic payments or billing notices, but reminder notices are sent to customers to encourage additional payments.
- Most disability income policyholders pay premium monthly via PAC, with the remainder billed quarterly, semi-annually or annually.
- Billing notices for disability income policies are generated and mailed to the policyholder 15 days prior to the premium due date. The notice also states that the policy will lapse unless payment is made by the due date.
- Overdue premium notices for disability income policies are mailed 10 days after the due date if no premium has been received. Another notice is mailed 31 days after the due

date stating the policy will lapse if payment is not made. Another notice is mailed 52 days after the premium due date stating that payment must be made immediately or the policy will lapse in the next 10 days. The agent is also notified when premiums are overdue for conservation efforts.

- The Company mails billing notices for long term care policies at least 30 days prior to the premium due date, and allows the policyholder to designate one additional person to receive policy lapse and termination notices.
- The Company has established Key Performance Indicators (“KPIs”) to monitor the timely processing of these transactions. These KPIs are integrated into the Company’s written policies and procedures for each department.

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: RNA discussed billing procedures with Company personnel and obtained supporting documentation including KPI results. RNA selected 15 lapses (ten life and five disability income) that occurred during the examination period to test whether adequate notice was given prior to lapse. RNA discussed billing procedures with management and corroborated their assertions through review of Company documents, sample premium billing notices and complaints.

Transaction Testing Results:

Findings: None.

Observations: The Company gave timely notice to the policyholder prior to the lapse of each of the 15 tested policies in compliance with statutory requirements. Premium billing notices appeared to be mailed with adequate advance notice and included required disclosure of potential lapse in the event of non-payment. The Company’s KPI results indicate that the Company is generally meeting its performance standards.

Recommendations: None.

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

M.G.L. c. 175, § 187H; 211 CMR 34.06 and 211 CMR 42.05.

Objective: This Standard addresses the Company’s procedures to ensure that customer surrender requests are processed timely.

M.G.L. c. 175, §187H requires companies to give policyholders a 10 day free look on life policies with low face amounts, while Division policy requires that a 10 day free look be given on all life policies and annuity contracts. Further, 211 CMR 42.05 requires that a 10 day free look be given on disability income and long-term care insurance policies, and 211 CMR 34.06 requires that a 20 day free look be given on life and annuity replacements. Review of procedures pertaining to policy issuance is included in Underwriting and Rating Standard VI-9.

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

- Upon request to surrender an insurance policy or annuity, the Company sends the customer required forms, which must be signed by the policy owner, and communicates the surrender request to the agent to enable the conservation of the business. Annuity partial surrenders under \$25,000 can be requested over the phone or via fax authorization. The surrender is effective on the date the Company receives the signed form, and a check for any cash surrender value on the effective date plus any return premium due is sent within five days, or on the same day for variable life and annuity surrenders.
- A 10% annual withdrawal is allowed from annuities with no surrender charges.
- All customers have the right to return a newly purchased policy within 10 days of its receipt, or within 20 days for replacement sales. Applicable premium down payments are then returned to the customer within 30 days.
- The Company checks the United States Treasury Department's Office of Foreign Asset Control ("OFAC") list before any surrender payment is made to ensure that the policyholder is not a prohibited party with which the Company may not do business.
- Company policy requires that transfers of funds to other insurers or financial institutions for 1035 exchanges be evidenced by a signed form from the policy owner authorizing the transfer of ownership to the new institution, who will issue a new policy or contract as a tax-free exchange under IRS regulations. The transfer is effective on the date the completed form is received by the Company, which sends a check for the value of the policy as of that date to the new financial institution within five days.
- The Company has established KPIs to guide the processing of these transactions.

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

Transaction Testing Procedure: RNA discussed policy surrender and exchange procedures with Company personnel and obtained supporting documentation including KPI results. RNA selected 23 surrenders (15 annuity, five life and three disability income) and four free looks (three life and one annuity) that occurred during the examination period to ensure that surrenders were processed accurately and timely.

Transaction Testing Results:

Findings: None.

Observations: The 27 policy surrender and free look transactions tested appeared to be processed accurately, timely and in compliance with statutory requirements. The Company's KPI results indicate that the Company is generally meeting its related performance standards.

Recommendations: None.

* * * * *

Standard V-3. All correspondence directed to the company is answered in a timely and responsive manner by the appropriate department.
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Objective: This Standard addresses the Company's procedures to provide timely and responsive information to customers. Complaints are covered in the Complaint Handling section.

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

- The Company's customer service and call center staff respond to phone calls and written correspondence which is not complaint or claim related. The staff has access to computer systems to enable them to view contract history, policy values and other information.
- The Company has established and monitors compliance with KPIs to ensure that phone calls and written correspondence are answered timely.

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: RNA discussed correspondence procedures with Company personnel and obtained supporting documentation including KPI results. The Company's response to correspondence related to the various examination areas is addressed for each specific Standard.

Transaction Testing Results:

Findings: None.

Observations: RNA's review of the Company's KPI results shows that it is generally meeting its performance standards and has adequate staff and procedures to timely respond to customer inquiries.

Recommendations: None.

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

M.G.L. c. 175, § 108 and 132(11); 211 CMR 65.10.

Objective: This Standard addresses consistent reinstatement processing in compliance with policy provisions.

M.G.L. c. 175, §§ 108 (individual disability income) and 132(11) (life) state that policies must allow reinstatement. 211 CMR 65.10 requires that long-term care policies allow for reinstatement for five months after policy termination if the policyholder was cognitively impaired or functionally incapacitated before the grace period expired.

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

- Company policy provides that life policies lapse for non-payment 62 days after the premium is due. The policyholder must undergo various levels of underwriting prior to reinstatement, which can be applied for up to five years from the termination date. Annuity contracts can not be reinstated.
- Company policy requires that individual disability income reinstatements within the first six months after termination include a completed short form application confirming no changes in policyholder medical status or history, job status and earned income within that period. For reinstatements between six months and one year after termination, a full

application must be completed to obtain the same rates and coverage offered as prior to the lapse. One year after termination, reinstatement is not available.

- The Company's long-term care policies allow for reinstatement for five months after policy termination if the policyholder was cognitively impaired or functionally incapacitated before the grace period expired.
- The Company has established and monitors KPIs to ensure that reinstatements are processed timely and accurately.

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: RNA discussed reinstatement procedures with Company personnel and obtained supporting documentation including KPI results. RNA selected eight reinstatements (five life and three disability income) from the examination period to ensure that reinstatements were handled consistently, timely and in accordance with policy provisions.

Transaction Testing Results:

Findings: None.

Observations: The Company consistently and timely processed each of the eight reinstatement transactions in accordance with policy provisions. The Company's KPI results indicate that it is generally meeting its performance standards.

Recommendations: None.

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

M.G.L. c. 175, §§ 110H, 123, 126, 139 and 142; 211 CMR 95.08(12).

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

M.G.L. c. 175, § 123 requires a disinterested witness for beneficiary changes; M.G.L. c. 175, § 126 limits beneficiary changes once a married woman is named as beneficiary; 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 and 144A address loan interest rates for non-variable whole life policies and interest rates on fixed annuities. M.G.L. c. 175, § 110H requires notice to the policyholder for accident and sickness insurance, including disability income coverage cancelable at age 65, at least 60 days prior to cancellation, and 211 CMR 95.08(12) governs policy loans on variable life policies.

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

- Company policy provides for life and annuity beneficiary and ownership changes to be effective upon the signing and mailing of a properly completed form. Company policy requires a witness signature for life beneficiary and ownership changes, and letters confirming the change are sent to the old and the new owners.

- Changes in insurance policy and annuity contract name and address, dividend payments, and contract loans under \$25,000, can be made via phone. Policy loans over \$25,000 require completion of a form with a notarized signature.
- Interest rates on variable life policies, fixed annuities and non-variable whole life policy loans are designed to comply with statutory requirements.
- The Company gives written notice prior to maturity for disability income policies that are cancelable at age 65.
- The Company gives life policyholders advance notice of policy maturity, with options to defer payment until death, receive immediate payment, or annuitize the policy proceeds. The policyholder must make such optional selections using a signed written response.
- The Company established and actively monitors KPIs to ensure that transactions are processed timely and accurately.

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: RNA discussed policy change procedures with Company personnel and obtained supporting documentation including KPI results. RNA selected seven beneficiary changes (three life and four annuity), seven ownership changes (five life and two annuity), and eight loan transactions (five life and three annuity) from the examination period to ensure that the Company processed transactions accurately, timely and in accordance with statutory requirements and policy provisions.

Transaction Testing Results:

Findings: None.

Observations: The eight tested loan transactions were processed accurately and timely. The seven tested beneficiary changes were generally processed timely and in accordance with statutory requirements, but one annuity change was processed in 14 business days exceeding the Company's policy of processing such transactions within 10 business days. The seven tested ownership changes were generally processed timely and in accordance with Company policy, except that one life change was processed without the witness signature required by Company policy. The Company's KPI results indicate that it is generally meeting its performance standards.

Recommendations: The Company should remind Company personnel of its policy requiring a witness signature in order to process ownership changes. In May 2006, the Company reminded appropriate Company personnel of this requirement via email.

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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, §§ 144 and 144A; Division of Insurance Bulletin 2000-02.

Objective: This Standard evaluates notification to life and annuity owners regarding non-forfeiture options and requires application of these options in accordance with the contract.

M.G.L. c. 175, § 144 allows life policyholders to elect to receive cash value upon policy surrender, to take a specified paid-up non-forfeiture benefit or to receive an actuarially equivalent benefit in the event of default. M.G.L. c. 175, § 144A requires similar options for annuities. Division of Insurance Bulletin 2000-02 covers no-lapse guarantees on variable whole and universal life policies.

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

- The Company uses policy and contract forms that are designed to meet statutory and regulatory requirements, and files these with the Division for approval prior to use.
- The Company provides applicants for life policies or annuities with several non-forfeiture benefits to select from at the application date.

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: RNA discussed non-forfeiture procedures with Company personnel and reviewed supporting documentation. As part of life and annuity new business testing, we ensured that policies sold included written disclosure of required non-forfeiture options.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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

M.G.L. c. 200A, §§ 5A, 7-7B, 8A and 9.

Objective: This Standard addresses efforts to locate missing contract owners and beneficiaries and to comply with escheatment and reporting requirements.

M.G.L. c. 200A, §§ 5A, 7-7B, 8A and 9 state that a matured life policy or annuity contract is presumed abandoned if unclaimed for more than three years after the funds become payable. Annual reporting to the State Treasurer's Office regarding efforts to locate owners is required, and the statutes require payments to the State Treasurer's Office for escheated property.

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

- Company policy requires that unclaimed maturities, un-cashed checks including death claims and premium refunds be reported and escheated when the owner can not be found.

- The Company has implemented procedures to locate lost owners via Company records and public databases. Once unclaimed amounts have been outstanding for 270 days, the Company conducts further research and sends a letter to the last known address in an attempt to locate the owner.
- The Company annually reports escheatable funds to the State Treasurer on May 1 as required by law. Prior to escheatment of funds, a final attempt is made to locate the owner.

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: RNA discussed the Company's procedures for locating missing policyholders and escheatment of funds with Company personnel and reviewed supporting documentation.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have processes to locate missing policyholders and beneficiaries, and the Company appears to make reasonable efforts to locate such individuals. The Company appears to report unclaimed items and escheat them as required by Law.

Recommendations: None.

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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 addresses periodic disclosure to the policyholder of contract information.

211 CMR 95.13 requires that certain disclosures be provided to variable life policyholders including an annual report with cash surrender value, face value, death benefit, partial surrenders, policy loans, interest charges, and any optional payments allowed. A summary of the performance of each separate account (including investment returns, investments held, expenses charged, and any change in investment objectives) is required. Illustration and contract summary requirements are also addressed in Marketing and Sales Standard III-6 of this report.

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

- Annual statements disclosing face value, riders, policy expiration, cash surrender value, loans, dividends paid, and other key information are mailed to most life policyholders and owners of fixed annuities on their contract anniversary date.
- Variable life and annuity contracts receive quarterly statements which disclose contract values and underlying fund performance.

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: RNA discussed annual and quarterly statement disclosure procedures with Company personnel and reviewed examples of such disclosures.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to have adopted adequate procedures to provide policyholders with timely annual and quarterly statements in compliance with Company policies and regulatory requirements.

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, 187C and 187D.

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

M.G.L. c. 175, § 119B requires that proceeds payable under life policies include reimbursement for unearned premiums paid. M.G.L. c. 175, § 119C requires interest to be paid on excess premium beginning 30 days after death. M.G.L. c. 175, § 187C requires that return premium be made in accordance with the policy upon cancellation. M.G.L. c. 175, § 187D precludes remittance of unearned premiums where the premium was not paid. Interest on unearned premium at death is also tested in Standard VII-6 of this report.

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

- The Company's policy administration systems automatically calculate the unearned premium on cancelled policies and unearned premium after an insured's death. Such amounts are returned to owners or beneficiaries.
- The Company has established and actively monitors KPIs to ensure that returns of unearned premium are processed timely and accurately.

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: RNA discussed return premium calculation procedures with Company personnel and obtained supporting documentation including KPI results. RNA selected eight surrenders (five life and three disability income) and three life free looks from the examination period to ensure that return premiums were properly calculated and timely returned.

Transaction Testing Results:

Findings: None.

Observations: Return premium for each of the surrenders and free looks tested was properly calculated and timely returned. The Company's KPI results indicate that it is generally meeting its performance standards.

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. This Standard is not applicable as 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 the 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.

211 CMR 55.06(1)(b) and 55.110

This Standard is similar to Standard VII-12 and is therefore addressed in that Standard.

* * * * *

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's rating plan.

M.G.L. c. 175, § 108; M.G.L. c. 176D, § 3(7); 211 CMR 42.06 and 211 CMR 65.07.

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

Pursuant to M.G.L. c. 176D, §3(7), it is an unfair method of competition to unfairly discriminate between individuals of the same class and equal life expectancy in rates charged for any life or annuity contract, or between individuals of the same class and of the same risk in the amount of premium, fees, or rates charged for any accident or health insurance policy. M.G.L. c. 175, § 108 prohibits the issuance or delivery of any individual disability income or long-term care policy until rates have been on file with the Division for 30 days, or until the Division has approved the policy within that period. Further, 211 CMR 42.06 and 65.07 require that rates be filed with the Division.

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

- The Company has written underwriting policies and guidelines which are designed to assure reasonable consistency in classification and rating of new and renewal business.
- Life policy underwriting generally includes two preferred classes, with some products having a third preferred smoker class and two standard classes. Premium surcharges or discounts are used to modify rates based upon the underwriter's evaluation of claim risks and other factors such as discounts for multiple life policies.
- The Company determines rates and classes for individual disability income policies based on occupation, years of work experience, and health of the applicant. Premium surcharges are used to increase rates where claim risk is greater, such as for individuals in high risk occupations. Spousal discounts, group or association multi-life discounts and first year life/disability income discounts when such policies are purchased concurrently, are available.
- The Company uses software to automatically compute all product rates based on applicant information and rating classifications assigned by the underwriter.
- The Company has a process to log and document Division approval of all product 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 Procedure: RNA interviewed Company personnel with responsibility for determining rate classes as part of the underwriting process. RNA selected 100 new business sales including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales from the examination period for testing. These sales included products for which actuarial rate setting documentation was filed with the Division. RNA selected 10 life and five disability

income sales from the new business sales, re-rated the premiums charged and verified that the Company's rate classifications complied with statutory requirements. Related product filings were also reviewed for evidence that they were submitted to and approved by the Division.

Transaction Testing Results:

Findings: None.

Observations: The Company appears to be charging premiums in accordance with rate information filed with the Division, and their rate classification process appears to comply with statutory requirements. Related product filings were also submitted to, and approved by, the Division.

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; 211 CMR 42.09; 211 CMR 65.09, and 211 CMR 95.11.

This Standard addresses mandated disclosures for individual insurance policies which are required in accordance with statutes, regulations and Company policy. Requirements to provide illustrations, policy summaries, disclosures and buyer's guides are included in Standard III-6 of this report.

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

No work performed. This Standard was not covered in the scope of this examination, as it focused on individual business.

* * * * *

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

No work performed. This Standard was not covered in the scope of this examination because the Company does not sell credit products in Massachusetts.

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

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

Objective: This Standard prohibits illegal rebating, commission cutting or inducements in Company correspondence to producers and in advertising/marketing materials.

Pursuant to M.G.L. c. 175, §§ 182, 183 and 184, no Company, or agent thereof may pay, allow, or offer to pay or allow, any valuable consideration or inducement not specified in the contract, or any other special favor. Similarly, under M.G.L. c. 176D, § 3(8), it is an unfair method of competition to make or offer an insurance or annuity contract other than as expressed in the insurance contract, or to pay, allow or give, any premium rebate, valuable consideration or inducement not specified in the contract as inducement for such a contract.

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

- The Company has procedures to pay producers' commissions in accordance with home office approved written contracts.
- The producer contracts and home office policies and procedures are designed to comply with provisions contained in statutory underwriting and rating requirements, which 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 Procedure: RNA interviewed company personnel with responsibility for commission processing and producer contracting. RNA inspected producer contracts, new business materials, advertising materials, producer training materials and manuals for indications of rebating, commission cutting or inducements. RNA reviewed commission activity for 10 life and three individual disability income agents for selected months to ensure that the related commission payments were reasonable and did not indicate any unusual activity.

Transaction Testing Results:

Findings: None.

Observations: Commission payments appear to be reasonable and did not indicate unusual activity. Further, it appears that the Company's processes to prohibit illegal acts including special inducements and rebates are functioning in accordance with Company policies, procedures and statutes.

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, 108, 132, and 144A; 211 CMR 42.06, 211 CMR 65.07, 211 CMR 95.06, and Division of Insurance Bulletin 2001-05.

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

Pursuant to M.G.L. c. 175, § 2B, no policy form of insurance may be delivered to more than 50 policyholders until it has been on file with the Division for 30 days, or the Division approves the form during that time. Further, no life, endowment or annuity form may be delivered unless it complies with readability guidelines. M.G.L. c. 175, § 22 sets forth unauthorized policy provisions, and M.G.L. c. 175, § 108 sets forth a 30 day filing requirement, and identifies

mandated provisions for individual disability income and long-term care insurance. M.G.L. c. 175, § 132 similarly sets forth a 30 day filing requirement, and identifies mandated provisions for life, endowment and annuity forms. M.G.L. c. 175, § 144A sets forth the required provisions for annuity contracts.

211 CMR 42.06, 211 CMR 65.07, and 211 CMR 95.06, include policy form requirements for individual disability income, long-term care, and variable life products, respectively, including the proper form and content of such policies. Division of Insurance Bulletin 2001-05 requires that form filings be accompanied by a fully-completed form-filing checklist.

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

- The Company uses forms, rates, contract riders, endorsement forms, and illustrations that are developed by teams from its actuarial, marketing, legal, compliance and information technology departments.
- The Company's written underwriting guidelines are designed to assure reasonable consistency in classification of risks.
- The Company documents Division approval of all such forms, contract riders, endorsement forms and illustrations to comply with statutory provisions.

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: RNA interviewed individuals with responsibility for preparing and obtaining Division approval for forms, contracts, riders, endorsement forms, and illustrations. RNA selected 100 new business sales for testing, including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales for the examination period. RNA selected 10 of the most commonly used life and five of the most commonly used annuity forms, and verified that these contract forms, riders, endorsement forms and illustrations were approved by the Division and that such forms are used.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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Standard VI-7. The company's 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, §§ 108A, 108C, 108G, 108H, 120, and 120A -120E; M.G.L. c. 176D, § 3(7); 211 CMR 32.00 et seq.

Objective: This Standard addresses unfair discrimination in underwriting.

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 for life or endowment insurance, annuities, or on dividends or other benefits. M.G.L. c. 175, §§ 108A, 108C, 108G, 108H, 120, and 120A-120E prohibit discrimination in the issuance of life, individual disability income and long-term care insurance against those with mental retardation (life only), blind persons, individuals with DES exposure, domestic abuse victims, as well as on the basis of genetic tests. Pursuant to M.G.L. c. 176D, § 3(7), it is an unfair method of competition to unfairly discriminate between individuals of the same class and equal life expectancy in rates charged for any life or annuity contract, or between individuals of the same class and of the same risk in the amount of premium, fees, or rates charged for any accident or health insurance policy. Finally, mortality tables must conform to the requirements set forth in 211 CMR 32.00 et seq.

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

- Company policy prohibits unfair discrimination in underwriting in accordance with statutory requirements, and its written underwriting guidelines are designed to assure reasonable consistency in classification and rating of risks.
- Company policy is to utilize mortality tables that conform to regulatory requirements.

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

Transaction Testing Procedure: RNA interviewed individuals with responsibility for underwriting and classification of risks. RNA selected 100 new business sales from the examination period for testing, including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales. For insurance sales, RNA verified that the policy form was approved by underwriting with no evidence of discriminatory rates or contract provisions. RNA reviewed annuity sales for any evidence of unfair discrimination.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

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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 addresses whether the Company issues life policies and annuities timely and accurately.

M.G.L. c. 175, §§ 123 and 131 require a written application for issuance of life policies, and a signed application to be attached to a life or annuity contract. M.G.L. c. 175, § 130 requires that no life policy or annuity issued be dated more than six months prior to the application date if the applicant would rate at an age younger than the age at the nearest birthday on the application date. See Standard V-4 for testing of reinstatements and Standard VI-10 for testing of insurance applications rejected by the Company.

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

- The Company has written underwriting guidelines and procedures that require compliance with M.G.L. c. 175, §§ 123, 130 and 131.
- All new business applications and supporting information submitted to the Company are reviewed by the new business department for accuracy and completeness using an “in good order” checklist. Once all the required information is received, insurance applications are considered “in good order” and are assigned to an underwriter for further review, while annuity applications are fully processed in the new business department.
- Company underwriters review all insurance applications to ensure that they are complete and internally consistent, and obtain any additional information needed to make an underwriting decision.
- The Company established and monitors KPIs to ensure that insurance policies, riders and annuity contracts are issued timely and accurately.

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: RNA interviewed individuals with responsibility for underwriting and policy issuance. RNA selected 100 new business sales from the examination period for testing, including 41 life sales, 34 annuity sales, 20 disability income sales and five long-term care sales. RNA reviewed the insurance policies or annuity contracts issued for each sale to ensure that they were reasonably timely, accurate and complete.

Transaction Testing Results:

Findings: None.

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

Recommendations: None.

* * * * *

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

M.G.L. c. 175, §§ 108A, C, G, and H; M.G.L. c. 175, §§ 120, 120A -120E; M.G.L. c. 175I, § 12; M.G.L. c. 176D, § 3(7).

Objective: This Standard addresses whether application denials are fair.

Pursuant to M.G.L. c. 175, §120, no Company may discriminate between applicants of the same class and equal life expectancy with regard to premiums or rates for life or endowment insurance, annuities, or on dividends or other benefits. M.G.L. c. 175, §§ 108A, 108C, 108G, 108H, 120, and 120A-120E prohibit discrimination in the issuance of life, individual disability income and long-term care insurance against those with mental retardation (life only), blind persons, individuals with DES exposure, domestic abuse victims, as well as on the basis of genetic tests.

Pursuant to M.G.L. c. 176D, §3(7), it is an unfair method of competition to unfairly discriminate between individuals of the same class and equal life expectancy in rates charged for any life or annuity contract, or between individuals of the same class and of the same risk in the amount of premium, fees, or rates charged for any accident or health insurance policy. M.G.L. c. 175I, § 12 states that an adverse underwriting decision for life, disability income and long-term care insurance applicants 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.

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

- The Company has written underwriting guidelines and policies that prohibit discrimination in accordance with statutory requirements.
- Company underwriting approval processes and procedures, training of home office underwriters and producer communications 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 Procedure: RNA interviewed individuals with responsibility for underwriting, policy issuance, policy application, and rejections. RNA selected five life and three individual disability income applications rejected by the Company during the examination period to ensure that the reason for the rejection was in accordance with the Company's written underwriting guidelines. Further, RNA verified that written notice of reasons for an adverse decision was provided to the applicant in accordance with statutory requirements. Finally, RNA verified that the initial premium was returned to the applicant after an application rejection.

Transaction Testing Results:

Findings: None.

Observations: Based on the results of testing, it appears that the Company's processes to prohibit unfair discrimination in underwriting and selection of risks are functioning in accordance with Company policies, procedures and statutory requirements, and that written notice of reasons for adverse underwriting decisions was provided to applicants.

The Company appears to provide a timely return of initial premium to rejected applicants.

Recommendations: None.

* * * * *

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

M.G.L. c. 175, §§ 108 (3)(a)(2) and 132(2).

Objective: The Standard addresses whether the reasons for a cancellation or non-renewal are valid according to policy provisions and state laws.

M.G.L. c. 175, § 108 (3)(a)(2) requires that an individual disability income policy continue in-force subject to its policy terms by the timely payment of premium, and further requires that a policy is incontestable as to statements contained in the application after being in-force for two years. M.G.L. c. 175, § 132(2) requires that a life insurance 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) to contest the payment of disability or accidental death benefits. Insurance policies issued in Massachusetts are contestable after two years in-force when evidence of insurance fraud exists.

Controls Assessment: The Company does not have a contractual right to cancel any policy absent the conditions set forth above, but may in some cases rescind the policy. Refer to Standard VI-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 Procedure: RNA selected 10 life and five disability income lapses for non-payment from the examination period to test for compliance with Company guidelines and statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing, RNA noted no instances of improper coverage cancellation for non-payment of premium.

Recommendations: None.

* * * * *

Standard VI-12. Rescission is not made for non-material misrepresentation.

M.G.L. c. 175, §§ 108 (3)(a)(2) and 132(2).

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

M.G.L. c. 175, § 108 (3)(a)(2) requires that an individual disability income policy continue in-force subject to its policy terms by the timely payment of premium, and further requires that a policy is incontestable as to statements contained in the application after being in-force for two years. M.G.L. c. 175, § 132(2) requires that a life insurance 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) to contest the payment of disability or accidental death benefits. Insurance policies issued in Massachusetts are contestable after two years in-force when evidence of insurance fraud exists

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

- The Company does not have a contractual right to cancel insurance coverage absent the conditions set forth above, but may in some cases, rescind the policy.
- The Company's underwriting process considers the risk of material misrepresentation by applicants, and attempts to corroborate information received including health status.
- Cases considered for rescission are reviewed by at least two individuals in underwriting.
- The rare decisions to rescind policies are reviewed by the legal staff.
- Rescissions are only made for material misrepresentations within the first two years after the policy is issued.

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: Because grounds for rescission in Massachusetts are limited and such incidents are rare, RNA did not directly test the Company's rescission procedures, but looked for evidence of improper rescission in tests of complaints, lapses, declinations and claims.

Transaction Testing Results:

Findings: None.

Observations: Based upon review and testing, RNA noted no instances of improper rescission.

Recommendations: None.

* * * * *

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

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

Controls Assessment: Refer to Standard III-6 and Standard VI-9.

Controls Reliance: Refer to Standard III-6 and Standard VI-9.

Transaction Testing Procedure: Refer to Standard III-6 and Standard VI-9.

Transaction Testing Results: Refer to Standard III-6 and Standard VI-9.

Recommendations: Refer to Standard III-6 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 36.04-36.06 and 36.08.

Objective: This Standard addresses procedures to ensure that the Company does not use medical records indicating AIDS-related concerns to discriminate against applicants without medical evidence of disease.

211 CMR 36.04 sets forth prohibited practices with respect to AIDS-related testing and information. CMR 36.05, an applicant must give prior written informed consent before an insurer may conduct an AIDS-related test. 211 CMR 36.06 specifies 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 36.08 prohibits requesting any information about the applicant's, policyholder's or beneficiary's sexual orientation.

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

- The Company's new business submission requirements address compliance with 211 CMR 36.04-36.06 and 36.08 in life insurance underwriting.
- The Company has a specific form including required Massachusetts disclosures found in 211 CMR 36.05 that is provided at the time an application 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 for 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 Procedure: RNA selected new business sales including 41 life sales and 20 disability income sales from the examination period to verify that the Company obtained signed Massachusetts AIDS testing disclosure notices from the applicants. In testing of underwriting denials, we looked for evidence of unfair discrimination.

Transaction Testing Results:

Findings: None.

Observations: Based on testing, it appears that the Company obtains the Massachusetts AIDS testing disclosure notice from applicants in accordance with Company policies, procedures and statutory requirements. RNA noted no evidence of unfair discrimination in the denial of coverage.

Recommendations: None.

* * * * *

FOR INFORMATION PURPOSES ONLY

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) and M.G.L. c. 175, § 108.

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

Pursuant to M.G.L. c. 176D, § 3(9)(b), unfair claims settlement practices include failure to promptly address communications for insurance claims. M.G.L. c. 175, § 108, requires disability income claim forms to be sent to a claimant within 15 days of receiving notice.

Controls Assessment: The following controls were noted in review of all claims Standards:

- Written policies and procedures govern the Company's claims handling processes.
- When a life or annuity death claim is reported through an agent, by mail, or through the Company's 800 phone number, the claim is registered in the claim tracking system. A contract is researched to determine its status and to ascertain if other policies or contracts are in-force. The contract is then "pending" in the applicable policy administration system, a claims examiner is assigned based on a predetermined dollar authority limit, and a claim form is sent to the claimant.
- When a disability income or long-term care claim is reported through an agent or the company's 800 phone number, the claim is registered, and a claim form is sent to the claimant. A phone call is made to the claimant after 10 days to ensure that the claimant received the form, which includes the HIPAA/Privacy Disclosure allowing the Company to communicate with the claimant's attending physician and obtain his or her statement. Follow up letters are sent to the claimant every 30 days until the claim form is received. After 90 days without receipt of the claim form, and after final notice is provided to the claimant that information must be submitted or the claim will be closed, the claim is then closed.
- Once the Company receives the life or annuity death claim form in the home office, the claims examiner investigates the claim to ensure that it includes the death certificate, a signed claim form, and any other information needed. The Massachusetts Department of Revenue website is checked to ensure compliance with the Intercept Program requirements for unpaid child support and taxes. The Company contests few claims, as most are received after the two-year contestable period has passed. When such claims are investigated, a referral to the SIU and/or legal department is made. The claim settlement amount includes the payment of interest at 3% from the date of death, and may also include return premium amounts, pro-rata dividends, or netting of policy loans amounts as applicable. A checklist documenting the examiner's review and approval is completed and included in the claim file. One of the Company's key performance indicators requires the processing of life claims within two days, and annuity claims within seven days. Variable product death claims are processed on the day received.
- Once the Company receives a disability income or long-term care claim form, medical records are ordered, and the claim is appropriately investigated. Any cases of suspected

fraud are concurrently sent to a SIU investigator. Claim documentation and history notes are maintained. All disability income claims are evaluated based on total and partial disability using the definitions in the policy. Partial disability coverage pays a proportionate benefit based on prior and post disability earned income. Total disability occurs when the insured is 75% or more disabled, while partial disability is deemed to have occurred at less than 75% disabled. Occupational experts that conduct on-site visits are used when needed to assess the extent of disability. The Company's disability income key performance indicators are used to monitor compliance with Company customer service goals.

- A supervisory and peer review function ensures that all but the smallest claims are reviewed to ensure compliance with Company policies and procedures.
- The Company has implemented a Quality Assurance function to ensure consistency in handling life and annuity death and disability income claims, and to monitor compliance with Company policies and procedures.
- The payees for all claim disbursements are checked against the OFAC list as required by Law.
- The Company offers a life insurance accelerated benefit rider which allows early payment of a death benefit when an insured is living but has a terminal illness, or a total and permanent disability. Such benefit requests must be validated by an attending physician's statement. A statement providing required disclosures is sent to the claimant at time of the request for accelerated benefits.
- The Company periodically surveys claimants to ask about their experience when filing a claim. The results are analyzed, and necessary follow up items are monitored.

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

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability claims including six denials, and one long-term care claim from the examination period to verify that the initial contact by the Company was timely.

Transaction Testing Results:

Findings: None.

Observations: The claim transactions tested were processed according to the Company's policies and procedures, and the initial contact by the Company was timely. Based on the results of testing, it appears that the Company's processes to handle death, disability income and long-term care claims are functioning in accordance with its policies, procedures and 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 claims investigations.

Pursuant to M.G.L. c. 176D, § 3(9)(c), unfair claims 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 Commonwealth regarding unpaid taxes. Finally, Division of Insurance Bulletin 2001-07 requires that, upon receipt of a claim and proof of death, the Company is required to diligently search its records and those of its Massachusetts subsidiaries and affiliates, for additional policies insuring the same individual.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claim investigations and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that investigations are reasonable, searches for multiple policies involving the claimant are conducted and statutory Intercept Program searches are completed.

Transaction Testing Results:

Findings: None.

Observations: The Company timely investigated the tested claims, searched for multiple policies involving the claimant and completed statutory Intercept Program searches. Based on the results of testing, it appears that the Company's processes to investigate claims, search for multiple policies involving the claimant and complete statutory Intercept Program searches are functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: None.

* * * * *

Standard VII-3. Claims are settled in a timely manner.

M.G.L. c. 176D, § 3(9)(f) and M.G.L. c. 175, § 108.

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

Pursuant to M.G.L. c. 176D, § 3(9)(f), unfair claims settlement practices include failure to effectuate prompt, fair and equitable claim settlements. Pursuant to M.G.L. c. 175, § 108,

complete claims must be settled within 45 days of submission or a notice must be sent to the claimant noting reasons for non-payment.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claim settlement practices and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims and one long-term care claim from the examination period to verify that claim settlements were timely.

Transaction Testing Results:

Findings: None.

Observations: The settlement of the tested claims was timely. Based on the results of testing, it appears that the Company settles claims in a timely manner in compliance with Company policies, procedures and statutory requirements.

Recommendations: None.

* * * * *

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 addresses the timeliness of the Company's response to all claim correspondence.

Pursuant to M.G.L. c. 176D, §§ 3(9)(b) and 3(9)(e), respectively, unfair claims settlement practices include failure to promptly address communications for insurance claims, and failure to affirm or deny claim coverage within a reasonable time after the claimant has given proof of loss.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that policyholder claim correspondence was answered timely.

Transaction Testing Results:

Findings: None.

Observations: For the claims tested, RNA noted that correspondence for the tested claims was answered timely. Based on the results of testing, it appears that the

Company's claims handling processes are functioning in accordance with its policies, procedures, and in compliance with statutory and regulatory requirements.

Recommendations: None.

* * * * *

Standard VII-5. Claim files are adequately documented.

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

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims handling processes and obtained documentation supporting such processes. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that claim files were adequately documented.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that files for the tested claims were adequately documented according to the Company's policies and procedures. Based on the results of testing, it appears that the Company's claim handling processes for documenting claim files are functioning in accordance with their policies and procedures.

Recommendations: None.

* * * * *

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

M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f); M.G.L. c. 175, §§ 110F and 119C.

Objective: This Standard addresses whether appropriate claim amounts including applicable interest have been paid to the appropriate beneficiary/payee.

Pursuant to M.G.L. c. 176D, §§ 3(9)(d) and 3(9)(f), respectively, unfair claims settlement practices include refusal to pay claims without conducting a reasonable investigation, and failure to effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear. M.G.L. c. 175, § 119C requires that once it has received proof of death, the Company must pay interest on claims beginning 30 days after the insured's death. Finally, M.G.L. c. 175, § 110F requires that benefits due under a disability policy not be reduced by an increase in Federal social security benefits once payment of benefits has commenced.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims correspondence, documentation and handling. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that claim files were adequately handled and documented.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that files for the tested claims were adequately handled. Based on the results of testing, it appears that the Company's claims handling processes are functioning in accordance with their policies, procedures, and are in compliance with statutory and regulatory requirements.

Recommendations: None.

* * * * *

Standard VII-7. Company claim forms are appropriate for the type of product.

Objective: The Standard addresses the use of claim forms that are appropriate for the policy.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand the claim forms used and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that claim forms were appropriate for the policies.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that that claim forms for the tested claims 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.
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Objective: The Standard addresses the reserving of filed claims.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand its claim reserving practices. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims and one long-term care claim from the examination period to evaluate claims reserving policies and procedures. The Division's financial examiners and actuaries are also testing reserving in conjunction with the ongoing financial examination.

Transaction Testing Results:

Findings: None.

Observations: RNA noted that the tested claims appeared to be reasonably reserved, and that the Company's processes to establish reserves are functioning in accordance with its policies and procedures.

Recommendations: None.

* * * * *

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 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. 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 was entitled to receive. Finally, M.G.L. c. 176D, § 3(9)(n) considers failure to provide a reasonable and prompt explanation of the basis for denying a claim an unfair claims settlement practice.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claim denial processes and obtained supporting documentation. The Company did not deny any Massachusetts life or annuity death claims filed during the examination period; therefore, no denied death claims were tested. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to evaluate whether full or partial claim denials were handled in accordance with policy provisions and statutory requirements.

Transaction Testing Results:

Findings: None.

Observations: Full or partial denials for the tested claims appeared to be handled in accordance with policy provisions and statutory requirements. The results of testing indicate that the Company's processes to deny claims are functioning in accordance with its policies, procedures and statutory requirements.

Recommendations: None.

* * * * *

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

Objective: The Standard addresses the Company's procedures for issuing claim checks.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand claims payment processes and obtained supporting documentation. The Company does not generally require a release when a claim is settled.

Transaction Testing Results:

Findings: None.

Observations: Based upon review of claims payment processes, claim handling procedures appear appropriate.

Recommendations: None.

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

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

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand the claims handling process and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to review claims handling practices.

Transaction Testing Results:

Findings: None.

Observations: RNA noted no instances in the tested claims where a claimant was forced to institute litigation to receive claim payments, or forced to accept less than amount due under the policy. The results of testing appear to show that the Company's claim payment processes do not require claimants to institute litigation to receive claim payments, or to accept less than amount due under the policy.

Recommendations: None.

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

211 CMR 55.06(1)(b) and 55.110.

Objective: The Standard addresses required disclosures when accelerated benefits are requested.

211 CMR 55.06(1)(b) and 55.110 require carriers to issue a disclosure statement to policyholders containing specific information when a request is made for an accelerated benefit payment.

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand the process for life policyholders to request accelerated benefits and obtained supporting documentation.

Transaction Testing Results: RNA did not perform testing as there are few requests for accelerated benefits in Massachusetts. Based upon discussions with the Company and review of documentation, the Company appears to have procedures to comply with these requirements.

Recommendations: None.

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

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

Controls Assessment: See Standard VII-1.

Controls Reliance: See Standard VII-1.

Transaction Testing Procedure: RNA interviewed Company personnel to understand the claims handling process and obtained supporting documentation. RNA selected 15 paid life and annuity death claims, 45 paid disability income claims, 20 reported disability income claims (including 6 denials), and one long-term care claim from the examination period to verify that there is no unfair discrimination against claimants.

Transaction Testing Results:

Findings: None.

Observations: RNA noted no evidence in the tested claims that the Company is unfairly discriminating against claimants. Testing indicates that the Company's claim handling practices do not discriminate against claimants with similar qualifying events covered under its policies.

Recommendations: None.

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FOR INFORMATION PURPOSES ONLY

SUMMARY

Based upon the procedures performed in this comprehensive examination, we have 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. We have made recommendations to address various concerns in several of the above areas.

FOR INFORMATION PURPOSES ONLY

ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with Rudmose & Noller Advisors, LLC, 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 to the undersigned, Dorothy K. Raymond of the Division’s Market Conduct Section participated in this examination and in the preparation of the report.

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

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