

DELAWARE DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT

United of Omaha Life Insurance Company

NAIC #69868
3300 Mutual of Omaha Plaza
Omaha, NE 68175

As of

December 31, 2016

Trinidad Navarro
Commissioner



Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2016 on

United of Omaha Life Insurance Company

is a true and correct copy of the document filed with this Department.

Attest By: _____



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 2nd day of August, 2018.

Trinidad Navarro
Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
United of Omaha Life Insurance Company

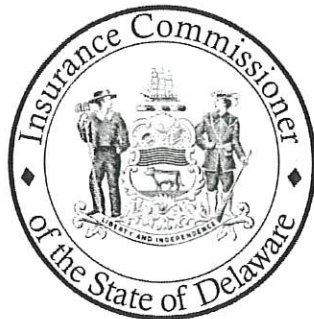
AS OF

December 31, 2016

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 2nd day of August, 2018.

A handwritten signature in blue ink that reads "Trinidad Navarro".

Trinidad Navarro
Insurance Commissioner

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The Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Exam Authority Number 69868-ANN-16-610, and pursuant to statutory provisions including 18 *Del. C.* §§ 318-322, a market conduct examination has been conducted of the affairs and practices of:

United of Omaha Life Insurance Company NAIC #69868

The examination was performed as of December 31, 2016.

The examination consisted of an off-site phase which was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the Department or DDOI, or other suitable locations.

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

The examination of United of Omaha Life Insurance Company, hereinafter referred to as United or the Company, was announced as part of a series of examinations on companies in the Annuity marketplace in Delaware. The examination focused on the Company's annuity and life insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, and Underwriting and Rating. This effort was conducted to gauge the Company's practices in the suitability, replacement, and surrender transactions.

All the exceptions noted were in relation to the following areas: Producer Licensing and Underwriting and Rating.

The following exceptions were noted:

- 7 Exceptions as Follows:
 - 3 – Individual Life Replacements
 - 2 - Individual Fixed New Issue
 - 2 – Individual Fixed Replacements

16 Del. Admin. C. §1204-7.1.2.2 Duties of Insurers that Use Agents or Brokers.

Each insurer that uses an agent or broker in a life insurance or annuity sale shall:

7.1.2 Where a replacement is involved:

7.1.2.2 Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity Policy is issued, whichever is sooner.

The Company failed to send the existing insurer a written communication advising of the replacement or proposed replacement of the policy within seven (7) working days of the date the application was received in the replacing insurer's home office...

- 1 Exception: Individual Life Replacements

18 Del. Admin. C. 1204-7.3 Replacement of Life Insurance.

The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," the Policy Summary, and any Ledger Statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of Policy Summaries or Ledger Statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three (3) years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is earlier.

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The Company failed to maintain evidence of the “Notice Regarding Replacement.”

- 6 Exceptions: Individual Life Replacements

18 Del. Admin. C. §1204-8.1 – Duties of Insurer with Respect to Direct Response Sales.

8.1 If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner. Form R (Exhibit A) modified by deleting the agent's name and signature block may be used by direct response insurers without obtaining prior approval so long as the text of the notice is not modified.

The Company failed to send to the applicant with the policy a Replacement Notice.

- 3 Exceptions: Producer Licensing and Appointments

18 Del. C. §1715 – Appointments.

(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

For failure to ensure that each producer is properly appointed.

DETAILS OF CODES IN VIOLATION:

The full text of legal citations noted throughout the report is shown below for reference.

18 Del. Admin. C. §1204-7.1.2.2 -Duties of Insurers that Use Agents or Brokers.

Each insurer that uses an agent of broker in a life insurance or annuity sale shall:

7.1.2 Where a replacement is involved:

7.1.2.2 Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity Policy is issued, whichever is sooner.

18 Del. Admin. C. §1204-7.3 - Duties of Insurers That Use Agents or Brokers.

The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," the Policy Summary, and any Ledger Statements used, and a replacement register, cross

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indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of Policy Summaries or Ledger Statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is earlier.

18 Del. Admin. C. §1204-8.0 – Duties of Insurer with Respect to Direct Response Sales.

8.1 If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner. Form R (Exhibit A) modified by deleting the agent's name and signature block may be used by direct response insurers without obtaining prior approval so long as the text of the notice is not modified.

18 Del. C. §1715 - Appointments.

(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. The group appointment provision of this section is only applicable upon implementation by this Department of an electronic appointment process.

(c) Upon receipt of the notice of appointment, the Insurance Commissioner shall verify within a reasonable time not to exceed 30 days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the Insurance Commissioner shall notify the insurer within 5 days of its determination.

(d) An insurer shall pay an appointment fee, in the amount and method of payment set forth in Chapter 7 of this title, for each insurance producer appointed by the insurer.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §§318-322 and covered the experience period of January 1, 2014, through December 31, 2016, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware annuity suitability, replacement and surrender laws and regulations related to the sale and marketing of individual cash value life insurance, individual fixed annuities, and individual variable annuities.

The examination was a targeted market conduct examination of the Company's life insurance and annuity business in the following areas of operation: Company Operations

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and Management; Complaint Handling; Marketing and Sales; Producer Licensing Policyholder Services; and Underwriting and Rating.

METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on the errors found in individual files, the examiners also focus on general business practices of the Company.

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referenced in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and to review written summaries provided on the exceptions found.

COMPANY HISTORY AND PROFILE

United of Omaha Life Insurance Company (United) was founded in 1926 and is licensed in all states except New York. United is also licensed in the District of Columbia, Puerto Rico and the Virgin Islands. Products are distributed through an agency sales force, group life sales offices, independent distribution networks, and direct response.

United currently sells a diversified portfolio of life, annuity, and disability income products to the individual and group market. Individual insurance product lines include life and annuity. Group insurance product lines include disability income, term life, dental, guaranteed investment contracts, and other group annuities and 401(k) products sold in the retirement benefits market. United has no employees. Services on behalf of

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United are performed by Mutual of Omaha Insurance Company, United's parent corporation, under an intercompany administrative services agreement.

United reported direct business life insurance premiums in the amount of \$8,009,751 and annuity considerations in the amount of \$5,151,985, according to the 2016 Annual Statement for the State of Delaware. As of the 2016 Annual Statement, Symetra Life Insurance Company reported direct business life insurance premiums in the amount of \$1,853,426,233 and annuity considerations in the amount of \$881,406,431 for all States, Territories, and Canada.

COMPANY OPERATIONS AND MANAGEMENT

The Company provided the requested information documenting its management and operational procedures in areas for which it conducts business for the State of Delaware, including:

- Company History and Profile
- Company Organization
- Internal Audit & Compliance
- Antifraud Program Compliance
- Managing General Agent (MGA), General Agents (GA), and Third-Party Administrator (TPA) Oversight
- Company Records and Records Retention Policies and Procedures
- A statement that the records of United of Omaha Life Insurance Company are adequate, accessible, consistent, and orderly and comply with Delaware record retention requirements.
- Copies of the Annual Reports for 2014, 2015, and 2016

The documents were reviewed to determine compliance with the State of Delaware Laws and Regulations and the NAIC Standards.

No exceptions were noted.

COMPLAINT HANDLING

The Company provided a list of 20 consumer complaints received during the experience period of January 1, 2014 through December 31, 2016. Of the 20 complaints, two (2) were forwarded from the Delaware Department of Insurance. All 20 complaint files were requested, received and reviewed. The Company also provided the complaint logs as requested. The Department's list of written consumer complaints forwarded to the Company was compared to the Company's complaint log.

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The complaint files and complaint logs were reviewed to determine compliance with Delaware statutes and regulations including, but not limited to, 18 *Del. Admin. C.* §2304 (17) and 18 *Del. Admin. C.* §2304 (26).

No exceptions were noted.

MARKETING AND SALES

The Company provided a list of 851 pieces of advertising materials utilized in Delaware during the examination period. The advertising materials may have consisted of: Letters, Direct Mailers, Brochures, Presentations, Radio and Television Scripts, Cards, Illustrations, Product Guides, Product Manuals and the Company's web page. A sample of 30 pieces of advertising materials was requested, received, and reviewed. The advertising materials were reviewed to ascertain compliance with 18 *Del. C.* §2303 - Unfair Methods of Competition, and Unfair or Deceptive Acts or Practices and 18 *Del. C.* § 2304 - Unfair methods of competition and unfair or deceptive acts or practices defined.

No exceptions were noted.

PRODUCER LICENSING

The Company provided a list of 1,392 active producers authorized to conduct business in Delaware at any time during the experience period of January 1, 2014 through December 31, 2016. A random sample of 113 producers was selected and compared to producers on record with the Delaware Department of Insurance to verify compliance with Delaware licensing and appointment statutes and regulations. For examination purposes, producer licensing exceptions found in the other sections of the examination are addressed in their respective sections.

The following exceptions were noted:

3 Exceptions - 18 *Del. C.* § 1715. Appointments.

Three producers identified by the Company as holding active appointments during the examination period did not have active appointments based on Department records.

Recommendation: It is recommended the Company ensure that each producer is properly appointed in accordance with 18 *Del. C.* §1715.

POLICYHOLDER SERVICES

A) Individual Cash Value Life Contracts Surrendered

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The Company provided a list of 337 individual fixed annuity contracts surrendered during the experience period. A random sample of 79 contract files were requested, received, and reviewed. The files were reviewed to determine compliance with contract provisions, Delaware surrender laws and regulations, and the proper processing of any cash surrender value payments.

No exceptions were noted.

B) Individual Fixed Annuity Contracts Surrendered

The Company provided a list of 33 individual fixed annuity contracts surrendered during the experience period. All 33 contract files were requested, received, and reviewed. The files were reviewed to determine compliance with contract provisions, Delaware surrender laws and regulations, and the proper processing of any cash surrender value payments.

No exceptions were noted.

UNDERWRITING AND RATING

A) Individual Cash Value Life Policies Issued – Non-Replacement

The Company provided a list of 3,466 cash value life insurance policies issued during the examination period. A random sample of 114 policy files was requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware underwriting and issuance statutes and regulations.

No exceptions were noted.

B) Individual Cash Value Life Policies Issued – Replacements

The Company provided a list of 180 cash value life policies issued as replacements during the examination period. A random sample of 79 policy files were requested, received and reviewed. The files were reviewed to determine compliance with the Delaware issuance, underwriting, and replacement statutes and regulations.

The following exceptions were noted:

1 Exception - 18 Del. Admin. C. §1204 -7.1.2.2. – Duties of Insurers That Use Agents or Brokers.

There was no evidence of a written communication advising the existing insurer of the replacement within 7 working days of the date the application was received in the replacing insurer's home office.

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Recommendation: It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven working days of the date the application is received in the replacing insurer's home office in compliance with 18 *Del. Admin. C.* 1204 § 7.1.2.2.

1 Exception - 18 *Del. Admin. C.* §1204-7.3 – Duties of Insurers That Use Agents or Brokers

The insurer failed to maintain evidence of the “Notice Regarding Replacement.”

Recommendation: It is recommended the Company review its procedures to ensure that evidence of the “Notice Regarding Replacement” is maintained in compliance with 18 *Del. Admin. C.* 1204 §7.3.

6 Exceptions - 18 *Del. Admin. C.* §1204-8.1 – Duties of Insurer with Respect to Direct Response Sales

The insurer failed to send a Replacement Notice to the applicant.

Recommendation: It is recommended the Company ensure the “Notice Regarding Replacement” is sent to the applicant pursuant to 18 *Del. Admin. C.* §1204 -8.1.

C) Individual Fixed Annuities – New Issue

The Company provided a list of 13 individual fixed annuity contracts issued, not including replacements, during the examination period. All 13 annuity contract files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

2 Exceptions - 18 *Del. Admin. C.* §1204 - 7.1.2.2 – Replacement of Life Insurance

There was no evidence of a written communication advising the existing insurer of the replacement within seven (7) working days of the date the application was received in the replacing insurer's home office.

Recommendation: It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven (7) working days of the date the application is received in the replacing insurer's home office in compliance with 18 *Del. Admin. C.* §1204 -7.1.2.2.

D) Individual Fixed Annuities - Replacements

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The Company identified a universe of 12 fixed annuity contracts issued as replacements during the examination period. All 12 annuity contract files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

2 Exceptions - 18 *Del. Admin. C.* §1204 - 7.1.2.2 – Duties of Insurers That Use Agents or Brokers.

There was no evidence of a written communication advising the existing insurer of the replacement within seven (7) working days of the date the application was received in the replacing insurer's home office.

Recommendation: It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven (7) working days of the date the application is received in the replacing insurer's home office in compliance with 18 *Del. Admin. C.* §1204-7.1.2.2.

CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the Exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven (7) working days of the date the application is received in the replacing insurer's home office in compliance with 18 *Del. Admin. C.* §1204-7.1.2.2. (Underwriting and Rating - Individual Cash Value Life Policies Issued – Replacements) (Underwriting and Rating - Individual Fixed Annuities – New Issue) (Underwriting and Rating - Individual Fixed Annuities – Replacements)
2. It is recommended the Company review its procedures to ensure that evidence of the “Notice Regarding Replacement” is maintained in compliance with 18 *Del. Admin. C.* §1204 - 7.3. (Underwriting and Rating – Individual Cash Value Life Policies Issued Replacements)
3. It is recommended the Company ensure that, in the case of a direct response sale, a Replacement Notice is sent to the applicant with the policy in accordance with 18 *Del. Admin. C.* §1204 -8.1. (Underwriting and Rating - Individual Cash Value Life Policies Issued – Replacements)
4. It is recommended the Company ensure that each producer is properly appointed in accordance with 18 *Del. C.* §1715. (Producer Licensing)

The examination conducted by Shelly Schuman, Joseph Krug, Steve Misenheimer, Ray Hartsfield, Pete Salvatore, and Linda Armstrong is respectfully submitted.



Linda Armstrong, JD, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance