

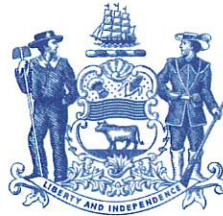
DELAWARE DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT
Nationwide Life and Annuity Insurance Company

NAIC #92657
One Nationwide Plaza, 1-35-206
Columbus, OH 43215-2220

As of

September 30, 2017

Trinidad Navarro
Commissioner



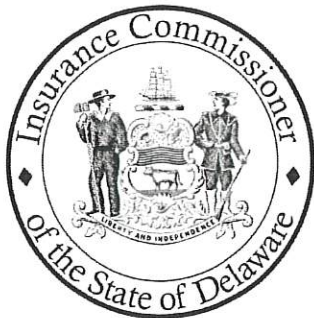
Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of September 30, 2017 on

Nationwide Life and Annuity Insurance Company

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

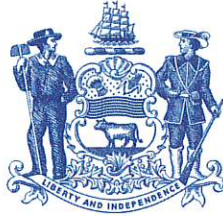
Attest By:



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 15th day of October, 2018.

Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
Nationwide Life and Annuity Insurance Company

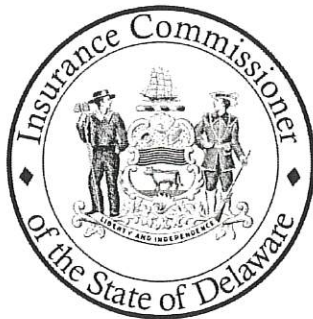
AS OF

September 30, 2017

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 15th day of October, 2018.

Handwritten signature of Trinidad Navarro in blue ink.

Trinidad Navarro
Insurance Commissioner

Table of Contents

EXECUTIVE SUMMARY	2
SCOPE OF EXAMINATION.....	5
METHODOLOGY	5
COMPANY HISTORY AND PROFILE	6
COMPANY OPERATIONS AND MANAGEMENT	6
COMPLAINTS HANDLING.....	7
MARKETING AND SALES.....	7
PRODUCER LICENSING	7
POLICYHOLDER SERVICES	8
UNDERWRITING AND RATING.....	8
CONCLUSION.....	15

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 92657-ANN-17-590, and pursuant to statutory provisions including 18 *Del. C.* §§ 318-322, a market conduct examination has been conducted of the affairs and practices of:

Nationwide Life and Annuity Insurance Company NAIC #92657

The examination was performed as of September 30, 2017.

The examination was performed on-site at the Nationwide offices in Columbus, OH and off-site 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

According to the 2016 Annual Statement for the State of Delaware, Nationwide Life and Annuity Insurance Company, hereinafter referred to as the Company or Nationwide, reported direct business life insurance premiums in the amount of \$12,274,224 and annuity considerations in the amount of \$ 43,641. As of the 2016 Annual Statement, Nationwide Life and Annuity Insurance Company reported direct business life insurance premiums in the amount of \$1,151,868,986 and annuity considerations in the amount of \$5,217,313 for all states, territories and Canada.

The examination 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 suitability, replacement, and surrender transactions.

All exceptions were noted in the area of Underwriting and Rating.

The following exceptions were noted:

- 1 Exception

18 *Del. Admin. C.* § 1204 - 5.2.1 Duties of Agents and Brokers.

Where replacement is involved, the agent or broker shall:

5.2.1 Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" (Delaware Insurance Form R, attached as Exhibit A), or other substantially similar form approved by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and a copy left with the applicant.

The Company accepted a replacement form which was dated after the application.

- 6 Exceptions

18 *Del. Admin. C.* § 1204 - 7.1.2.1.2 Duties of Insurers That Use Agents or Brokers.

7.1.2.1.1 A list of all the applicant's existing life insurance or annuities to be replaced, and

7.1.2.1.2 A copy of the Replacement Notice provided the applicant pursuant to section 5.2.1.

Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

The Company failed to list existing policies on the replacement form.

- 4 Exceptions

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.

The Company failed to send the existing insurer written communication advising of the replacement or proposed replacement of the policy within seven working days.

- 2 Exceptions

18 *Del. Admin. C.* § 1210 - 5.1 Policies to be illustrated.

5.0 Policies to be Illustrated

5.1 Each insurer marketing policies to which this regulation is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

The Company failed to notify the Commissioner that a filing will not be marketed with an illustration.

- 5 Exceptions

18 *Del. Admin. C.* § 1210 - 9.1.1 Delivery of Illustration and Record Retention.

9.1

9.1.1 If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

The Company utilized an illustration in the sale of a life insurance policy that was signed and dated after the application date (5 instances).

- 23 Exceptions

18 *Del. Admin. C. § 1210 - 9.2.1 Delivery of Illustration and Record Retention.*

9.2.1 If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

The Company failed to use an illustration at the time of application or not having a producer certification that an illustration was not used in 23 instances.

- 1 Exception

18 *Del. C. § 320(c) Conduct of examination; access to records; correction.*

(c) Every person being examined, the person's officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or the Commissioner's examiners, the accounts, records, documents, files, information, assets and matters of such person, in the person's possession or control, relating to the subject of the examination and shall facilitate the examination.

The Company failed to provide documents relating to the subject of the examination.

- 1 Exception

18 *Del. C. § 1703 License Required.*

A person shall not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.

The Company accepted an application where the producer was not licensed by the Company at the time of the application.

- 7 Exception

18 *Del. C. § 1715(b) – Appointments.*

(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.

The Company accepted an application for insurance from a producer not duly appointed by the Company within 15 days of receipt of the application.

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, 2015 through September 30, 2017, 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 sales 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 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 in regard to the exceptions noted.

COMPANY HISTORY AND PROFILE

Nationwide is a stock life insurance company organized under Ohio law, in March 1981, with its Home Office at One West Nationwide Boulevard, Columbus, Ohio 43215. Nationwide provides life insurance, annuities, and retirement products. Nationwide is admitted to conduct business in all states, except New York. Nationwide is a member of the Nationwide group of companies and all of its common stock is owned by Nationwide Financial Services, Inc. (NFS), a holding company. Nationwide Corporation owns all of NFS's common stock and is a holding company, as well. All of Nationwide Corporation's common stock is held by Nationwide Mutual Insurance Company (95.2%) and Nationwide Mutual Fire Insurance Company (4.8%), the ultimate controlling persons of the Nationwide group of companies. The Nationwide group of companies is one of America's largest insurance and financial services family of companies.

According to the 2016 Annual Statement for the State of Delaware, Nationwide Life and Annuity Insurance Company reported direct business life insurance premiums in the amount of \$12,274,224 and annuity considerations in the amount of \$43,641. As of the 2016 Annual Statement, Nationwide Life and Annuity Insurance Company reported direct business life insurance premiums in the amount of \$1,100,659,480 and annuity considerations in the amount of \$3,581,066 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 they conduct business for the State of Delaware, including:

- Company History and Profile
- Company Organization
- Internal Audit & Compliance
- Antifraud Program Compliance
- Managing General Agents (MGAs), General Agents (GAs), and Third-Party Administrators (TPAs)
- Company Records and Records Retention Policies and Procedures
- A statement that the Company's records are adequate, accessible, consistent, and orderly and comply with Delaware record retention requirements.
- Copies of the Annual Report for 2016 and specific state pages for 2014, 2015 and 2016.

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

No exceptions were noted.

COMPLAINTS HANDLING

The Company was requested to provide a list of all complaints from January 1, 2015 through September 30, 2017. The Company identified a total of 6 Delaware Complaints, which included one (1) DDOI complaint for the period. The entire universe of 6 complaint files was requested, received, and reviewed. The files were reviewed to determine compliance with Delaware laws and regulations.

The Examiners noted no exceptions.

MARKETING AND SALES

The Company was requested to provide a list of all advertising materials, including both printed and audio/visual materials, which were approved for use by field personnel for the examination period. The Company identified a total of 11,943 advertisements. That universe was then filtered to reflect only Annuity and Life materials, which resulted in a total of 6,107. From the filtered universe of 6,107, a random sample of 115 advertisements was requested, received, and reviewed. The materials were reviewed to determine compliance with Delaware laws and regulations.

The examiners also reviewed documentation for replacements, illustrations, suitability, annuity solicitation training, and fixed index annuity disclosure.

No exceptions were noted.

PRODUCER LICENSING

The Company provided a list of 973 active producers. The examiners reviewed a sample of 86 producers during the exam period. In addition, the examiners reviewed a random sample of 25 producers terminated during the exam period. The requested lists were compared to Departmental records of producers to verify appointments, terminations, and licensing. The examiners requested that the company provide proof of either appointment or termination. The company provided the documents needed.

No exceptions were noted.

POLICYHOLDER SERVICES

A) Individual Cash Value Life Insurance Contracts Surrendered

The Company was requested to provide a list of all Individual Cash Value Life Policies Surrendered during the experience period. The Company identified a universe of 315 Individual Cash Value Life Policies Surrendered. A random sample of 79 contract files was requested, received, and reviewed. The files were reviewed to ensure compliance with contract provisions, surrender laws and regulations, and proper processing of any cash value.

No exceptions were noted.

B) Individual Fixed Annuity Contracts Surrendered

The Company was requested to provide a list of all Individual Fixed Annuities Surrendered during the experience period. The Company identified a universe of 449 Individual Fixed Annuities Surrendered. A random sample of 84 contract files was requested, received, and reviewed. The files were reviewed to ensure compliance with contract provisions, surrender laws and regulations, and proper processing of any cash value.

No exceptions were noted.

UNDERWRITING AND RATING

A) Individual Cash Value Life Policies – New Issue

The Company was requested to provide a list of all Individual Cash Value Life New Issue Policies during the experience period. The Company identified a universe of 1,208 Individual Cash Value Life New Issue Policies. A random selection of 113 files was requested, received, and reviewed. The files were reviewed to determine compliance with issuance, underwriting, and replacement statutes and regulations.

The following exceptions were noted

1 Exception – 18 Del. Admin. C. § 1210 - 9.1.1 Delivery of Illustration and Record Retention.

9.1

9.1.1 If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

The Company utilized an illustration in the sale of a life insurance policy that was signed and dated after the application date in one instance.

Recommendation: It is recommended the Company revise its procedures to ensure that an illustration is used at the time of application in accordance with 18 *Del. Admin. C.* § 1210 - 9.1.1.

6 Exceptions – 18 *Del. Admin. C.* § 1210 - 9.2.1 – Delivery of Illustration and Record.

9.2.1 If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

The Company failed to use an illustration at the time of application or not having a producer certification that an illustration was not used in six instances.

Recommendation: It is recommended that the Company review its procedure to ensure proper usage of the producer acknowledgement and certification of an illustration at the time of application completion as required by 18 *Del. Admin. C.* § 1210 - 9.2.1.

2 Exceptions – 18 *Del. C.* § 1715(b) Appointments.

(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.

The Company accepted an application for insurance from a producer not duly appointed by the Company within 15 days of receipt of the application.

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

B) Individual Cash Value Life Policies – Replacements

The Company identified a universe of 97 cash value life insurance policies issued as replacements during the experience period. A random sample of 79 policy files, and 10

extra files, was requested, received, and reviewed. Only 66 of the total 89 were able to be used as replacements. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations.

The following exceptions were noted:

1 Exception – 18 Del. C. § 320(c) Conduct of examination; access to records; correction.

(c) Every person being examined, the person's officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or the Commissioner's examiners, the accounts, records, documents, files, information, assets and matters of such person, in the person's possession or control, relating to the subject of the examination and shall facilitate the examination.

The Company failed to provide documents relating to the subject of the examination.

Recommendation: It is recommended the Company revise its procedures to ensure that records are maintained and are readily accessible in accordance with 18 Del. C. § 320(c).

2 Exception – 18 Del. C. § 1715(b) Appointments

(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.

The Company accepted an application for insurance from a producer not duly appointed by the Company within 15 days of receipt of the application.

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

1 Exceptions – 18 Del. Admin. C. § 1204 - 5.2.1 Duties of Agents and Brokers

Where replacement is involved, the agent or broker shall:

5.2.1 Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" (Delaware Insurance Form R, attached as Exhibit A), or other substantially similar form approved by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and a copy left with the applicant.

The Company accepted a replacement form which was dated after the application.

Recommendation: It is recommended the Company revise its procedures to ensure the

replacement notice is presented to the applicant no later than the time of taking the application in accordance with 18 *Del. Admin. C.* 1204 § 5.2.1.

6 Exceptions – 18 *Del. Admin. C.* § 1204 - 7.1.2.1.2 Duties of Insurers That Use Agents or Brokers

7.1.2.1.1 A list of all the applicant's existing life insurance or annuities to be replaced, and

7.1.2.1.2 A copy of the Replacement Notice provided the applicant pursuant to section 5.2.1.

Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

The Company failed to list existing policies on the replacement form.

Recommendation: It is recommended the Company revise its procedures to ensure receipt of a listing of all the applicant's existing life insurance policies and/or annuities, along with the corresponding contract numbers, in accordance with 18 *Del. Admin. C.* 1204 § 7.1.2.1.2.

1 Exception – 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.

The Company failed to send the existing insurer written communication advising of the replacement or proposed replacement of the policy within seven working days.

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

2 Exceptions – 18 *Del. Admin. C.* § 1210 -5.1 Policies to be Illustrated

5.0 Policies to be Illustrated

5.1 Each insurer marketing policies to which this regulation is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration.

For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

The Company failed to notify the Commissioner that a filing will not be marketed with an illustration.

Recommendation: It is recommended the Company review its procedures to ensure that filings with the Commissioner are complete or amended in accordance with 18 *Del. Admin. C.* § 1210 -5.1

4 Exceptions – 18 *Del. Admin. C.* § 1210 - 9.1.1 Delivery of Illustration and Record Retention

9.1

9.1.1 If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

The Company utilized an illustration in the sale of a life insurance policy that was signed and dated after the application date in 4 instances.

Recommendation: It is recommended the Company revise its procedures to ensure that an illustration is used at the time of application in accordance with 18 *Del. Admin. C.* 1210 § 9.1.1.

17 Exceptions – 18 *Del. Admin. C.* § 1210 - 9.2.1 Delivery of Illustration and Record Retention

9.2.1 If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

The Company failed to use an illustration at the time of application or not having a producer certification that an illustration was not used in 17 instances.

Recommendation: It is recommended the Company review its procedures to ensure that an illustration is used, or the producer certification is submitted when no illustration is used in accordance with 18 *Del. Admin. C.* § 1210 - 9.2.1.

C) Individual Fixed Annuities - New

The Company provided a list of 276 individual fixed annuity contracts issued during the experience period. A random sample of 79 annuity contract files was requested, received, and reviewed. The reviewed found 8 of the files were identified as replacements, as such, an additional 10 files were requested, received, and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations.

The following exceptions were noted:

1 Exception – 18 *Del. C.* § 1703 License required

A person shall not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.

The Company accepted an application where the producer was not licensed by the Company at the time of the application.

Recommendation: It is recommended the Company ensure that producers are properly licensed in accordance with 18 *Del. C.* § 1703.

3 Exceptions – 18 *Del. C.* § 1715(b) Appointments

(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.

The Company accepted an application for insurance from a producer not duly appointed by the Company within 15 days of receipt of the application.

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

D) Individual Fixed Annuities - Replacements

The Company identified a universe of 29 fixed annuity contracts issued as replacements during the experience period. All 29 annuity contract files were requested. The files were reviewed to determine compliance with Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

3 Exceptions – 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.

The Company failed to send the existing insurer written communication advising of the replacement or proposed replacement of the policy within 7 working days.

Recommendation: It is recommended the Company ensure that the Notice Regarding Replacement is sent and maintained in accordance 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 revise its procedures to ensure the replacement notice is presented to the applicant no later than the time of taking the application in accordance with 18 *Del. Admin. C.* § 1204 - 5.2.1. (Underwriting and Rating – Individual Life Policies – Replacements)
2. It is recommended the Company revise its procedures to ensure receipt of a listing of all the applicant’s existing life insurance policies and/or annuities, along with the corresponding contract numbers, in accordance with 18 *Del. Admin. C.* § 1204 - 7.1.2.1.2. (Underwriting and Rating – Individual Life Policies – Replacements)
3. 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 accordance with 18 *Del. Admin. C.* § 1204 - 7.1.2.2. (Underwriting and Rating – Individual Life Policies – Replacements; Individual Fixed Annuities – Replacements)
4. It is recommended the Company review its procedures to ensure that filings with the Commissioner are complete or amended in accordance with 18 *Del. Admin. C.* § 1210 - 5.1 (Underwriting and Rating – Individual Life Policies – Replacements)
5. It is recommended the Company revise its procedures to ensure that an illustration is used at the time of application in accordance with 18 *Del. Admin. C.* § 1210 - 9.1.1. (Underwriting and Rating – Individual Cash Value Life – New Issue; Individual Cash Value Life – Replacements)
6. It is recommended the Company review its procedures to ensure that an illustration is used or the producer certification is submitted when no illustration is used in accordance with 18 *Del. Admin. C.* § 1210 - 9.1.1 and 9.2.1. (Underwriting and Rating – Individual Cash Value Life – New Issue; Individual Cash Value Life – Replacements)
7. It is recommended the Company revise its procedures to ensure that records are maintained and are readily accessible in accordance with 18 *Del. C.* § 320(c). (Underwriting and Rating – Individual Cash Value Life – Replacements)

8. It is recommended the Company ensure that producers are properly licensed in accordance with 18 *Del. C.* § 1703. (Underwriting and Rating – Individual Fixed Annuities – New Issue)
9. It is recommended the Company ensure that producers are appointed in accordance with 18 *Del. C.* § 1715. (Underwriting and Rating – Individual Cash Value Life – New Issue; Individual Cash Value Life – Replacements; and Individual Fixed Annuities – New Issue)

The examination conducted by Joseph Krug, Linda Armstrong, Stephen Misenheimer and Peter J Salvatore is respectfully submitted.



Peter J Salvatore, AIE, MCM, PAHM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance