

**MARKET CONDUCT EXAMINATION**  
**OF**  
**AVIVA LIFE INSURANCE COMPANY**  
**AS OF**  
**NOVEMBER 13, 2005**

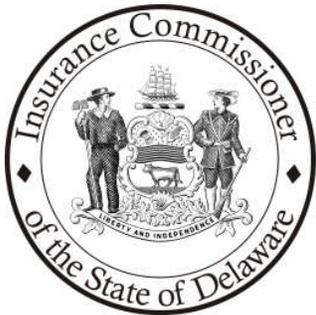
I, Matthew Denn, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of DECEMBER 31, 2006 of the

**AVIVA LIFE INSURANCE COMPANY**

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

ATTEST BY: *Antoinette Handy*

DATE: 13 MARCH 2008



*In Witness Whereof,* I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 13TH DAY OF MARCH 2008.

*Matthew Denn*

*Insurance Commissioner*

**REPORT ON EXAMINATION**  
OF THE  
**AVIVA LIFE INSURANCE COMPANY**  
AS OF  
**December 31, 2006**

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

Consideration has duly been 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.

A handwritten signature in black ink, appearing to read "Matt Denn", written in a cursive style.

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MATTHEW DENN  
INSURANCE COMMISSIONER

DATED this 13TH Day of MARCH 2008.

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## **SALUTATION**

Honorable Matthew Denn  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Denn;

In compliance with the instructions contained in Certificate of Examination Authority Number 05.717, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

### **Aviva Life Insurance Company**

hereinafter referred to as the "Company" or as "Aviva". Aviva Life Insurance Company is incorporated under the laws of the State of Delaware. This examination reviewed the operations of Aviva. The on-site phase of the examination was conducted at the following location:

- 108 Myrtle St., North Quincy, MA

The examination is as of November 13, 2005

Examination work was also performed off site and at the offices of the Delaware Department of Insurance hereinafter referred to as the "Department" or as "DDOI."

This report of examination thereon is respectfully submitted.

## **SCOPE OF EXAMINATION**

The basic business areas that are subject to a Delaware Market Conduct Examination vary depending on the type on insurer. For all insurers, these areas include:

- Company Operations/Management
- Complaint Handling
- Marketing and Sales
- Producer Licensing)
- Policyholder Service
- Underwriting and Rating
- Claims

Additional areas may be included for an insurer writing Health coverage. Each business area has standards that can be examined and measured, typically utilizing sampling methodologies.

This examination is a Delaware Baseline Market Conduct Examination. It is comprised of two components. The first is a review of the Company's countrywide complaint patterns. This is not a pass/fail test. It is aimed at determining if there is a detectable pattern to the complaints the Company receives from all sources.

The second component is an analysis of the management of the various business areas subject to market conduct examination through a review of the written procedures of the Company. This includes an analysis of how the Company communicates its instructions and intentions to its lower echelons, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas where review indicators suggest that the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance.

All business areas noted above are addressed to some extent by one or more of the procedures reviewed thus providing a comprehensive view of the Company and its component operations.

This examination report is a report by test rather than a report by exception. This means that all areas tested are described and results indicated. Substantial departure from the norm may result in a supplemental review focused on the area so noted.

## **HISTORY AND PROFILE**

Aviva Life Insurance Company ("Aviva Life") is the principal insurance Company in the Aviva USA insurance holding Company system and became part of the holding Company system upon a divestiture transaction dated June 1, 2001. It is a wholly owned subsidiary of Aviva USA Corporation, which is indirectly but wholly owned by Aviva, plc, the ultimate parent. Control was acquired and is maintained by stock ownership.

Prior to 2003, Aviva was named CGU Life Insurance Company of America. The Company has also been formerly known as Commercial Union Life Insurance Company of America and Employers' Life Insurance Company of America.

The Company maintains an active life, accident and health license in Delaware.

The Company markets term, whole and universal life insurance as well as fixed deferred and single premium immediate annuities. The Company has not offered any health or

disability products during the examination period. The Company does not offer securities.

## **METHODOLOGY**

This examination is based on the Standards and Tests for a Market Conduct Examination found in Chapter XVII of the Delaware Market Conduct Examiners Handbook. This chapter is derived from applicable Delaware Statutes, Rules, and Regulations as referenced herein and the NAIC Market Conduct Examiners Handbook.

Some standards were measured using a single type of review, while others used a combination of all of the types of review. The types of review used in this examination fall into three general categories. The types of review are: generic, sample, and electronic.

A "Generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "sample" review indicates that a standard was tested through direct review of a random sample of files using sampling methodology described in the Delaware Market Conduct Examiners Handbook and the NAIC Market Conduct Examiners Handbook. For statistical purposes, an error tolerance level of seven percent (7%) was used for claims reviews and a ten percent (10%) tolerance was used for other types of review. The sampling techniques used are based on a ninety-five (95%) confidence level. This means that there is a 95% confidence level that the error percentages shown in the various standards so tested are representative of the entire set of records from which it was drawn. Note that the statistical error tolerance is not indicative of the DDOI's actual tolerance for deliberate error.

An "electronic" review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically reviews one hundred percent (100%) of the records of a particular type.

Standards were measured using tests designed to adequately measure how the examinee met the standard. The various tests utilized are set forth in the Delaware Market Conduct Examiners Handbook. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under Delaware law, and its source in the NAIC Market Conduct Examiners Handbook are stated and contained within a bold border.

Each Standard is accompanied by a "Comment" describing the purpose or reason for the Standard. The "Result" is indicated and the examiners' "Observations" are noted. In

some cases a "Recommendation" is made. Comments, Results, Observations and Recommendations are reported within the appropriate Standard.

## A. COMPANY OPERATIONS/MANAGEMENT

*Comments:* This examination report is not designed to be a pass/fail report with two exceptions. Those exceptions apply to the standards that state:

- “The Company is licensed for the lines of business that are being written.”
- “The Company cooperates on a timely basis with examiners performing the examinations.”

### Standard A7

*NAIC Market Conduct Examiners Handbook - Chapter XV, §A, Standard 7 & Chapter XVII. §A, Standard 7.*  
**The Company is licensed for the lines of business that are being written.**  
18 Del. C. §318(a), §505(b), §508(b).

*Comments:* The review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company’s operations are in conformance with the Company’s certificate of authority.

*Results:* **Pass**

*Observations:* The Company is licensed for the lines of business being written.

*Recommendations:* None

### Standard A 09

*NAIC Market Conduct Examiners Handbook - Chapter VIII. §A, Standard 9.*  
**The Company cooperates on a timely basis with examiners performing the examinations.**  
18 Del. C. §318(a), §320(c), §508(b), §520(b)3.

*Comment:* The review for this standard is by “generic” methodology. This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is cooperating with the state in the completion of an open and cogent review of the Company’s operations. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing cost.

*Results:* **Pass**

*Observations:* During the course of the examination the Company was provided with memos and exceptions. If a response could not be provided in the requisite time frame set forth by the examiners the Company responded with an expected due date and reason for the delay. The Company's communication with the examiners was very responsive. The Examiners experienced no delays during the course of the examination.

*Recommendations:* None

## **B. COMPLAINTS/GRIEVANCES**

*Comments:* Evaluation of the Standards in this business area are based on the Company's response to various information requests (IR items) and complaint files at the Company. 18 Del. C. §2304(17) requires the Company to "...maintain a complete record of all complaints received." The statute also requires that "this record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." Delaware's definition of a complaint is: "...any written communication primarily expressing a grievance."

*Observations:* The Company provided a database with 450 logged complaints for the period of examination. A random sample of fifty (50) complaints was taken from the master log and reviewed to compare the accuracy of the databases and to look for any complaint patterns. During the review of the 50 sampled complaints two items were noted as reoccurring issues 1) billing errors and 2) agent misrepresentations. Billing errors occurred in twelve percent (12%) of the sample group, while claims of agent misrepresentations were forty-two percent (42%) of the complaints. Most of the agent misrepresentation files seem to be related to an annuity owner's failure to fully understand the rate of return provision inherent in an annuity. The complaint trend findings were presented to the Company, and the Company provided the following statement;

"A large percentage of the misrepresentation cases contained in the complaint sample were caused by a former General Agent in the state of Florida. Aviva became aware of sales practices it considered inappropriate. As a result of our concerns Aviva surveyed the clients that purchased Aviva products through the General Agent. Any response to our survey that evidenced inappropriate sales practices was logged as a complaint, researched and resolved accordingly. Because of our pro-active stance, and the logging of responses as complaints, the number and percentage of sample cases categorized as misrepresentation was abnormally high during that period.

Please note that Aviva terminated its relationship with the General Agent and its affiliated agents as a result of this investigation. Aviva believes that its overall consumer complaint activity is low in comparison to companies of similar size and product distribution."

## REVIEW OF PROCEDURES

The management of well-run companies generally have some processes that are similar in structure. These processes generally take the form of written procedures. While these procedures vary in effectiveness from Company to Company, the absence of them or the ineffective application of them is often reflected in the failure of the various Standards that follow this section. The processes usually include:

- a planning function where direction, policy, objectives and goals are formulated;
- an execution or implementation of the planning function elements;
- a measurement function that considers the results of the planning and execution; and
- a reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

The absence of written procedures that provide direction for Company staff in its various operational areas tends to produce inconsistent application of the intended process. The same is generally true for the absence of a means to measure the results of the application of procedures and determine that the process is performing as intended.

The reviews in this section are not pass/fail measurements. Rather, they are intended to reflect those management strengths and weaknesses that have a bearing on regulatory compliance issues.

### **Procedure 01 – Audit Procedure (Internal and External)**

*Observations:* The Company provided an outline of the audit (internal and external) process. The procedure provided details the following items: a) maintain separate written procedure for internal and external audits b) internal audit processes designed with the Board of Directors (BOD) objectives in mind, while external processes are developed by the external auditors c) audit committee meets quarterly to discuss findings d) audit reports are issued after each engagement with recommendations e) audit plans are sent for approval by senior management on a yearly basis and f) the process is updated on a regular basis. The internal audit staff is comprised of two individuals, and the head of internal audit maintains a certification in internal audit.

The procedures provided appear to be clear, readable, and follow a direct format. The procedures were developed by the parent Company located in England and at anytime their assistance may be called upon. All audit procedures both internal and external appear compliant with applicable statutes and regulations. The Company places together audit plans based upon areas of concern, cost consideration, and shifting workload resources when developing the plan.

Based upon operational reports sent to the BOD the Company appears to maintain constant review of all business operations. Failures are to be noted and comparisons are used to test current business operation results. The audit committee meets on a quarterly

basis to confirm audit procedures and set the audit plan. Further the Company maintains a monthly review for oversight and reviews current procedures to ensure their applicability.

*Recommendations:* None

**Procedure 02 – Assertions of Privilege Procedure.**

*Observations:* The Company does not have a written Assertion of Privilege (AOP) procedure.

*Recommendations:* It is recommended the Company develop an AOP procedure and form conclusions when AOP can and cannot be applied by the Company. Further the procedures should be reviewed, reported upon, and revised as needed to meet the requirements of the corporate environment.

**Procedure 03 – Company records, central recovery and backup procedure.**

*Observations:* The Company maintains procedures related to record retention, which are then separated into two categories; retention and recovery. Record Retention procedures provide a breakdown by department detailing the periods of time record medium needs to be stored. Central Recovery procedures provide guidance for performing an actual back up. The process contained within the procedures can be grouped into the following sub categories; 1) removal of tapes 2) processing tapes returned from Iron Mountain (offsite storage) 3) on-site archiving 4) procedures for fireproofing. All the procedures reviewed for record retention are well documented. The central recovery procedures are written from an IT perspective and uses jargon related to central recovery.

The Company did not provide any information as to the distribution of the procedures. Please refer to the recommendation below. According to the Company; "The last distribution of the Record retention manual was in 2002 and no formal list of distribution can be located. Central back-up recovery procedures are distributed to the IT infrastructure team and posted on the Information Technology Business Continuity Plans. The distribution of the actual procedures is limited to the IT Technical Infrastructure Service Team."

All of the Company's retention and recovery efforts appear to comply with all applicable statutes and regulations. Record retention is decentralized at the department level. The Company maintains a record retention officer who reports to the General Counsel.

The central recovery process is monitored daily. The IT department is in charge of the back up process and maintains a control log. Each Department's management has the central role in record retention and is empowered to address recovery related issues accordingly. From a central recovery standpoint, there are annual technology recovery test producing formal action reports which are sent to management. Additionally, periodic tests are performed on an ad hoc basis and reported to IT Management.

*Recommendations:* It is recommended the Company update and distribute procedures related to record retention and recovery.

#### **Procedure 04 – Computer Security Procedure**

*Observations:* The Company maintains two separate functions related to computer security, a) Information Security Policy and Guidelines and b) Internal Security policy. The Information Security Policy and Guideline is designed for all associates to ensure security, confidentially and to prevent access to unauthorized use of corporate information. The procedure aims to ensure that data, hardware, software, user ids, passwords, and virus protection are in place. The Internal Security Policy is designed to keep physical items safe and secure.

The procedures provided are well constructed and easily express the Company's view on security. The distribution (for both policies) was handled via email with a read receipt. All new associates receive the policies in the new associate package and a follow up session is scheduled for security awareness. The Company procedures related to computer security appear to be compliant with all applicable statutes and regulations.

On a semi-annual basis the Company performs an audit of their computer systems. The report reviews the current security status of an application and grades the current program. The report is divided into nine (9) major categories and then further divided down by sub categories.

Information Security Guidelines and Policy was adopted in 2002 and updated in August 2004. It is scheduled for an annual review during Q4 2005. The Internal Security Policy was adopted in 2003 and is scheduled for review during Q4 2005.

*Recommendations:* None

#### **Procedure 05 – Anti Fraud Procedure**

*Observations:* The Company maintains two distinct plans to limit possible fraud cases and has developed an anti-fraud and anti money laundering procedures. Each plan contains clear objectives and responsibilities to reduce the fraud threat.

Every associate within the Company is charged with the responsibility to reduce fraud. The Company provided all associates a presentation to understand the importance of compliance related fraud. The compliance program was dated July 2005 while all anti-fraud procedures were updated in 2003 and 2004.

Management holds a critical role in anti-fraud procedures, and the Company has a Special Investigation Unit (SIU), which assists in reviewing possible fraud cases. The SIU equally relies on the assistance of management, and specifically the claims

department to report fraudulent cases. The Company also reviews policyholder and applicant information against a terrorist database to assist in the anti-money efforts.

To ensure the effectiveness of the procedures the Company performs audits on a regular basis. On a quarterly basis anti-fraud efforts are reported to the parent Company in England. Additional testing occurs monthly as reports are compared against information contained within a terrorist database and daily fraud alert reviews.

*Recommendations:* None

#### **Procedure 06 – Disaster Recovery Procedure.**

*Observations:* The Company provided their disaster recovery (DR) plans for review. The Company coordinates an incident response through what it refers to as *Gold, Silver and Bronze* teams. The framework distinguishes between strategic, externally focused activities (GOLD), internally focused management of the incident and recovery (SILVER), and the detailed operations of recovery (BRONZE). Such a structure is designed to clarify roles and responsibilities and reduce duplication of effort in the incident management and recovery process.

The plans were initially adopted in 2001 and have been updated on a yearly basis since. Each associate is given clear and direct instructions on what to do in the event of an incident. The plans are also audited on a semi-annual basis or whenever significant changes are made. The reviews normally coincide with training so the team members are aware of changes.

In March 2005 a DR test was planned and the results did not meet Company expectations. An action plan was developed and remediation procedures were placed into action to correct the process and ensure suitability.

*Recommendations:* None

#### **Procedure 07 – MGA Oversight and Control Procedure**

*Observations:* The Company does not utilize MGA's.

*Recommendations:* None.

#### **Procedure 08 – Vendor Oversight and Control Procedure.**

*Observations:* The vendor oversight procedures in place by the Company begin with a department discovering a vendor added benefit. The business unit requesting vendor services contacts the Company's Vendor Due Diligence (VDD) officer who assists the business unit in obtaining a proper vendor. According to established procedures the VDD reviews vendor applications along with the Information Security Officer (ISO).

This will allow the VDD and ISO to review the types of information the vendor will access while still ensuring all corporate and statutory privacy standards remain in effect.

The VDD in 2002 developed a signature form to track vendors and to ensure proper security functions were in place. Vendor control is necessary with the Company using over two hundred (200) different vendors in the past three (3) years. Each year the Company audits vendors who maintain the most access to critical personal and corporate information. This process has taken place five (5) times in the past three (3) years. The audits are performed by the ISO. After each audit, the ISO provides a written report to the VDD setting forth the details of the audit and findings regarding the vendor's information security procedures.

Pursuant to all audits the ISO and VDD meet to discuss the audit and analyze for the elimination any weak points in consumer privacy protections. Any items of concern are properly addressed to senior management and with vendors who work to develop action plans and remedial steps to secure and limit access/use of private information. In the event remedial actions do not occur the Company may elect to terminate the vendor agreement and inform the Board of Directors of their concerns.

*Recommendations:* None

#### **Procedure 09 – Customer and Consumer Privacy Protection Procedure**

*Observations:* The Company's goal in privacy protection is to ensure customer and consumer information remains guarded. To effectively guard consumer information the Company maintains privacy procedures which relate to a) Company associates and b) vendors with access for consumer information. All information is maintained through the Company's privacy officer.

The privacy officer provides procedures to Company associates on privacy training upon hiring and with additional follow-up reviews. Department management has increased responsibilities when outside vendors are used. Vendors must also show compliance with Gramm-Leach-Bliley, only review consumer information related to legitimate business purposes, maintain control procedures for distributing non-public personal information, and provide disclosures amongst affiliated and non-affiliated third parties.

On a yearly basis the Company informs their policyholders of the steps taken to ensure consumer privacy is maintained. Keeping insureds informed about privacy is in compliance with Delaware's related insurance statutes and federal privacy procedures. The privacy procedures were developed in 2001 and last updated in 2003.

*Recommendations:* None

### **Procedure 10 – Insurance Information Management Procedure**

*Observations:* The policies and procedure in place for Information Management have been noted above and cover other areas related to the examination. In particular, details of information management are discussed throughout IR003 Company Records, Backup, and Recovery, IR004 Computer Security, IR008 Vendor Management, and IR009 Consumer Privacy.

*Recommendations:* None

### **Procedure 11 – Complaint Handling Procedure.**

*Observations:* The Company currently has three (3) versions of their Complaint Policy and Procedures. The procedures are separated for specific use by members of the Company's complaint handling department, the actions producers should take when confronted with a complaint and a corporate policy for complaint determination and routing.

Each procedure format provides the groundwork for complaints to be properly handled and routed. All procedures are made available internally within the Company's intranet and for their agent/producers on the Company's secured website "Avivaedge." The procedures currently in use were last revised in 2004 and 2005 respectively. Whenever changes are required the Company will issue field bulletins.

Management's current standard on all incoming complaints is to forward the complaint to the Market Conduct Unit within twenty-four (24) hours of receipt and to send an acknowledgement letter to the applicable parties. Each complaint is logged into a database, assigned an analyst, and a review is made to include all internal associated departments. To ensure compliance with timeframe constraints weekly management meetings review open complaints.

*Recommendations:* None

### **Procedure 13 – Advertising, Sales and Marketing Procedure**

*Observations:* The Company uses two procedures in the production of sales and advertising materials. Sales and advertising materials are produced either externally, i.e., a producer or internally. Each set of procedures contains a stringent sign off process prior to being placed into the field. To ensure Company demands are being met all sales related materials are reviewed by a Company Market Conduct Analyst.

Access to the sales and marketing procedures is obtained internally within the Company's intranet, and by producers via the Company's AvivaEdge website. The intranet and internet distribution options ensure the most current versions of the procedures are being utilized.

Recommendations: None

#### **Procedure 14 – Agent Produced Advertising Procedure**

*Observations:* See Procedure 13.

*Recommendations:* None

#### **Procedure 15 – Producer Training Procedure.**

*Observations:* The Company maintains a clear and concise producer training manual. The manual is well written and covers numerous items for the Company's use to ensure the business selected is made with purpose and integrity. Controls are in place to ensure that if an agent has any questions they have available resources within the Company.

The Company maintains a recording and reporting system for agent activities. However, the Company does not utilize the system to monitor agent activity. This type of practice is very reactive in nature and needs to be addressed by the Company.

*Recommendations:* It is recommended the Company develop sufficient controls to monitor its agent activity.

#### **Procedure 16 – Replacements.**

*Observations:* The Company maintains two replacement procedures; one for internal use and a second one for external/producer use. Both procedures include a well documented process to determine if a replacement is in the best interest of the applicant. The new business department of the Company reviews replacement applications and uses the internal replacement procedure hosted on the Company's intranet site as a guide. Producers are able to access this procedure as well through the secured "AvivaEdge" website. The agents also receive bulletins via email when any procedural changes occur.

Replacement procedures have been in place since 2001 revised in 2003 and since then have remained in compliance with the NAIC's model regulation related to replacements. Management maintains further controls through monthly reviews of replacement cases, which are tracked in a replacement database.

*Recommendations:* None

#### **Procedure 17 – Illustrations**

*Observations:* The Company maintains a simple, yet accurate process to ensure illustrations meet not only an applicant's needs, but also any regulatory requirements. Information on the illustration must agree with the application and the policy and be

signed by the applicant. This helps to ensure accuracy between documents. If any changes are made they must also be signed by the applicant.

This process maintains a self auditing ability. A policy will not be issued unless the illustration agrees with the application and policy print. Management's role is to ensure the illustrations meet regulatory requirements and to provide agents with updated forms as changes occur.

*Recommendations:* None

### **Procedure 20 – Producer Selection, Appointment and Termination Procedure**

*Observations:* The Company maintains their appointment/termination procedure within the corporate intranet site. The procedure covers the selection process, which derives through recommendations of independent agents by general agents. The termination processes are largely based on agents under performance and/or failure to maintain Aviva's standard for Errors & Omission (E&O) coverage. Further details within the procedures provide access on the agent database including locating agent records within the database and performing changes to an agent's record.

The procedures were initially developed in 2004 and updated in 2005 with the enhancement of the Company's automated work distribution (AWD) system. The Company monitors the activities of their agents through the use of quarterly reports to determine production and E&O coverage. If requirements are not being met the Company will notify an agent within a predetermined time period and then proceed with necessary steps for agent termination.

*Recommendations:* None

### **Procedure 21 – Producer Defalcation Procedure**

*Observations:* The Company does not maintain producer defalcation procedures. The Company's initial response included reviews of their corporate anti-fraud procedures. However producer defalcation is a separate issue and should be addressed as such. The Company generally prohibits individual agents from accepting funds on the Company's behalf then remitting the difference. However, there are no formal procedures installed. The Company does allow its financial institution agency distribution system to collect premiums and remit net premiums.

*Recommendations:* It is recommended the Company develop a producer defalcation procedure, include this provision within agent contracts, and monitor and review agent activity.

## **Procedure 22 – Prevention of Use of Persons with Felony Conviction Procedure**

*Observations:* The Company maintains two procedures related to preventing employment of persons with felony convictions. A written manual was developed for testing agent/producer records while Human Resources checks associates through a third party vendor. All information recorded during the felony check process is performed through the Company's AWD system to track the reporting process. According to the Company they maintain a "do not hire" list, developed based upon the names of individuals for whom background checks have been completed and a criminal history was discovered that prohibited an appointment.

The Company's procedures related to agent criminal record checks are well documented. Each step is laid out with a graphic example to ensure the proper process is being utilized. The internal process involves checking credit and criminal records through a back-end website secured with login and password verification. The current procedure was originally implemented in early 2004, with the introduction of AWD, and was most recently updated in July 2005.

The Company notes within their producer felony prevention procedure that Delaware's Felony Prevention Act was implemented to ensure felons are not involved in the selling, soliciting, or negotiating of insurance. Testing occurs on a weekly basis to finalize outstanding information related to appointments and to remain in compliance with the Felony Prevention Act's requirements. The report process assists Company management in conforming to hiring/appointment statutory requirements.

*Recommendations:* None

## **Procedure 23 – Policyholder Service Procedure.**

*Observations:* The Company provided detailed information related to its policyholder service procedures. The Company currently maintains three (3) separate policy procedures based upon the Company's three (3) policy systems. The Company's new annuity payout system is in the planning stages, but scheduled to be completed in 2006.

The procedures provided are detailed, organized, and written to allow for proper policyholder procedures to be met. The procedures are accessible within an administration folder located on the Company's network. The Company works to maintain current procedures with the processing systems, updated as of July 2005.

Each procedure reviewed appears to be compliant with all applicable statutes and regulations. To ensure functionality the Company performs multiple reviews. First daily reviews take place to ensure the proper migration of information occurred during the nightly processing cycle. Second, monthly status reports are provided through quality control meetings to provide management information as to whether or not policyholder service standards are being met.

Internal controls are built into the policyholder service procedures and automatically reports information when the Company's standards are not met. The policyholder service is built around information submitted to the Company. When items are incomplete the controls are in place to prevent the issuance of the policy until expectations are met.

*Recommendations:* None

#### **Procedure 24 – Premium Billing Procedure.**

*Observations:* The Company does not maintain written premium billing procedures. All premium procedures are coded into the Company's two administrative systems. All billing notices are driven by tables built into system coding. The two systems send billing notices twenty-four (24) and thirty (30) days prior to the premium due dates.

In the event of a programming error the administrative system notifies processing areas via the Company's automated work distribution (AWD) system and the responsible parties then resolve any issues and take the necessary corrective actions.

*Recommendations:* None

#### **Procedure 25 – Correspondence Routing Procedure.**

*Observations:* The Company does not maintain a written procedure for Correspondence Routing. Most general routine letters are coded into the administrative systems. The Company has developed a procedure for non-standard correspondence, albeit in a non-comprehensive bulleted format.

Reviews take place on all outgoing correspondence and any correspondence that is not using a standard approved template is noted in a monthly Quality Control Report and reported to the unit manager. Self audit of non-standard communication occurs when the correspondence is written, and any variations are corrected by the Senior Correspondence Specialist.

*Recommendations:* None

#### **Procedure 26 – Policy Issuance Procedure**

*Observations:* The Company maintains Policy Issuance procedures for both Life and Annuity new business. Procedural manuals are viewed and stored within the Company's intranet. Distribution of the procedures is a standard part of new employee training. Procedures are revised as needed and were last updated in July 2005. Tracking of policy

issuance processing is performed through the use of the Company's Automated Work Distribution (AWD) system. Final policy checks are performed with the assistance of the Company's Quality Control (QC) service area prior to delivery.

Measuring of Policy Issuance processing takes place with the assistance of AWD, where management is able to perform reviews on policy transactions. The QC reviews each policy prior to delivery and tests sample policy files to maintain a service standard. Reports are provided on weekly basis to department management who then provide monthly aggregate policy production reports to senior management.

*Recommendations:* None

### **Procedure 27 – Reinstatement Procedure**

*Observations:* The Company maintains a written administrative procedure for the processing of reinstatements. Once a reinstatement is presented, the file is treated in a fashion similar to a new applicant underwriting process. The underwriting department reviews the policy contract to determine the necessary information needed for reinstatement. The current procedure was implemented in early 2004 with the introduction of the Company's Automated Work Distribution System (ADW), and last updated in July of 2005.

Reinstatement applications are entered into AWD and reviewed throughout the reinstatement process. Delays in confirming or denying reinstatements are tested daily through an administrative system which reports errors from the previous business day. Managers use the reports not only to test for errors but also to ensure consistency within the reinstatement processing cycle.

*Recommendations:* None

### **Procedure 28 – Insured or Member Requested Claim History Procedure**

*Observations:* Not Tested

*Recommendations:* N/A

### **Procedure 30 – Premium Determination and Quotation Procedure**

*Observations:* The Company does not maintain a written procedure for premium determination and quotation. The Company does have a process in place where they are able to provide premium quotes. The quotation process is similar to a full underwriting where an application is submitted along with health related questions answered by the applicant. All questions presented to the applicant are standardized based upon the Company's Life Insurance Underwriting Form. Once the quote is provided to an

applicant the Life Insurance Underwriting Form can then be used to collect an applicant's signature to obtain medical information required for a full underwriting.

Reviews of each premium quotation are typically performed by a senior underwriter. Each quote provided attempts to provide the most relevant premium rate based upon the application and subject to full underwriting. Senior management takes a direct role when complex applications are submitted for quotation.

*Recommendations:* None

### **Procedure 31 – Policyholder Disclosures Procedure**

*Observations:* The Company maintains separate policyholder disclosure procedures for both current in-force policies and new business. The policyholder disclosure procedures are built into the Company's Administrative System. The administrative system selects which notices are to be placed into a given policy pursuant to the guidelines expressed within the system's commands. When new contracts are coded into the issue system, compliance reviews policy outputs to ensure that the proper notices are being printed. In addition, the Administration Quality Control department tests policy packages before they are mailed out.

The system prints policy disclosures in the same way it would prepare a policy print. Any programming errors would consistently result in incorrect policy print and disclosures for every policy. Because of this, the Quality Assurance Division reviews each output for all products to ensure the system has been accurately coded to include the correct notices. If an error occurs, the IT Department is responsible for the proper (re)programming. Additional measures are in place through the use of compliance audits prior to a production release.

*Recommendations:* None

### **Procedure 32 – Underwriting and Selection Procedure**

*Observations:* The Company does not maintain a written procedures manual for Underwriting and Selection however the Company stated they are in the early stages of creating a proprietary Underwriting manual. The Company has an underwriting process which uses both age/amount guidelines and a rating table classification. Additionally the Company subscribes to multiple reinsurance underwriting manuals for additional risk selection decisions. The reinsurance manuals are accessible through the internet with secured passwords.

Information presented on an application is subject to review, and the Company sends life applications through the Medical Information Bureau in an effort to assist the Company from Anti-selection. Each file is reviewed by a senior underwriter and audited through

the Company's Automated Work Distribution (AWD) system. Additional file reviews occur monthly by the Chief Underwriter (CU) and the Director of Underwriting (DU). The monthly CU & DU review of recently completed underwriting files is designed to provide timely oversight of the current underwriting process.

**Recommendations:** It is recommended that the Company complete its Underwriting and Selection procedures, that these procedures be formalized in writing, and that these procedures include a measurement process to allow management a means of knowing if the procedure is performing as intended.

### **Procedure 33 – Rate and Form Filing Procedure**

*Observations:* The Company has a well documented, written form filing manual that describes the process for filing policy forms and endorsements. This manual was developed by the Product Compliance Department to ensure that forms are not made available until approval is granted by the appropriate state regulator. The Company's administrative system includes coded state approval tables designed to ensure the Company only issues approved products and its agents only sell state approved products and forms.

All form and rate filings are performed by the Compliance Department who then tracks the filing results. Correspondence from the states is reviewed by Compliance management, who then directs the staff to review correspondence and verify accuracy. Rejected filings are promptly researched and responded to while approvals are logged in a product and general database. The product development team is informed of approvals, and new forms are then programmed into the administrative system.

The testing of new policy forms is performed by the IT department, which includes printing new policy pages from the administrative system to ensure various systems are properly updated. Printed policy pages are then forwarded to Product Compliance for a final review. Product Compliance will then alert New Business via the Company's website of all newly state approved products and appropriate related forms.

*Recommendations:* None

### **Procedure 34 – Termination Procedure**

*Observations:* The Company's process related to Terminations is part of the Claims Processing procedure. The termination process is closely related to how the Company treats rescissions and surrenders. During the review of terminations, recessions, cancellations, and surrenders the processes in place do not differentiate between each policy ending category.

*Recommendations:* It is recommended that the Company either separate the procedures out as individual procedures or classify the procedures within the existing procedure as to whether they are Company or Consumer initiated.

### **Procedure 35 – Underwriting File Documentation Procedure**

*Observations:* The Company maintains an Underwriting File Documentation Procedure on their Automated Work Distribution (AWD) System. This is a first generation procedure developed with AWD in 2004. Prior to that date no written procedures were maintained. Procedures were developed to standardize terminology and promote consistency in case reviews.

Management has established goals and objectives and strives to measure underwriters on a biannual basis. The Chief Underwriter uses a self audit form to double check consistency of staff underwriters and to make recommendations when necessary.

*Recommendations:* None

### **Procedure 36 – Underwriting Training Procedure**

*Observations:* The Company does not maintain a written procedure for underwriting training. The Company prefers to hire only experienced underwriters that have been previously trained by other Life Companies and then familiarizes them with Aviva's own underwriting standards. When new underwriters are hired basic training is provided related to anatomy and medical conditions. Additional training consists of sample cases being provided for review by a senior underwriter who will also make any necessary recommendations. With increased experience the face amount approval limits are raised without the need for an internal referral.

All Underwriters are to receive continued training on medical, financial, and avocation risks in order to further develop their risk selection skills. The Director of Underwriting is responsible for overseeing the training process. Management also reviews the results of reinsurance audits, and on occasion, independent outside benchmarking exercises to detect any potential procedural gaps in the training process. Each Underwriter is reviewed twice a year to assess their performance against established goals and personal and business objectives in measuring performance.

*Recommendations:* It is recommended that the Company formalize its procedure manual for Underwriter Training. It is also recommended that the Company develop and utilize a measurement structure to test the effectiveness of the Underwriter Training Procedure. The process should be structured to demonstrate to management that the procedure it has structured is performing as intended.

#### **Procedure 40 – Staff Training Procedure**

*Observations:* The Company does not have a written procedure concerning staff training. The Company does have a staff training process separated into two components. First is New Associates training, where new associates spend approximately four (4) weeks participating in a variety of exercises designed to provide a base knowledge of the Company's products, systems and customer service expectations. The second component is a corporate level training and development program. The Company offers leadership courses based on the following two categories: 1) seminars describing the Company's infrastructure within the U.S. and how the Company interacts on a world wide basis; and, 2) leadership development classes designed specifically for managers to enhance their management skills.

A staff training report process is in place where managers provide feedback to the Training Department as new Associates move into their roles on a full-time basis and begin to demonstrate the skills learned through training. Reporting takes place monthly and is included in the Company's Key Performance Indicators (KPI) report, which is provided to senior management. Senior management can then identify deficiencies in processing transactions, and develop training regimens to correct any issues.

Feedback on leadership courses is solicited from a sample of course attendees on a quarterly basis. The data collected is then used to identify changes that can be made for future programs, or used for new ideas in seminar development.

The Company uses attendance logs to identify Associates who have attended various training classes. This data is reported on the monthly Key Performance Indicators (KPI) reports provided to senior management. The Director of Learning and Development is responsible for training provided at a corporate level.

*Recommendations:* It is recommended that the Company formalize its current training processes by developing written procedures. The Company should also create a measurement structure to ensure that the procedure is working as intended.

#### **Procedure 42 – Adjuster Training Procedure**

*Observations:* Not Tested

*Recommendations:* None

#### **Procedure 43 – Claim Handling Procedure**

*Observations:* The Company maintains written Claim Handling procedures for its Annuities and Life Insurance products. The procedures are designed for step by step process development. The Company makes the procedures readily available in the

Claims Department for use by those employees subject to its provisions. The process for all claims is similar in nature for life and annuities. Claim paperwork is received by the Company and is routed to the Claims department through their Automated Work Distribution (AWD) system. The claim paperwork is reviewed for completion and supporting documentation as referenced in the Claim handling procedures.

The management and control of claim handling procedures is vested in the Claims Manager. The manager uses the AWD Management Reporting tools and the Company's Claims system to review the status of all pending and completed Claim requests as a control procedure. Reviews occur on a daily basis within the AWD system to ensure the timely and accurate processing of Claims. The additional reports are reviewed weekly for the volume of Claims processed as completed or pending. The Claims Manager meets weekly with senior management regarding claim workflows, and determines if service standards are being met based upon Key Performance Indicator reports.

The Company provided the Examiners with a summary of the Claims process. The procedure is clear, readable, and designed to be compliant with applicable Delaware statutes and/or regulations. The current version is dated January 2003.

*Recommendations:* None

#### **Procedure 44 – Internal Claim Audit Procedure**

*Observations:* There are no written procedures for an internal claim audit procedure. The claim audit process is built into the claims handling procedures. A senior claims analyst reviews every claim that is processed by a claims representative for accuracy. Once the senior claim analyst verifies the claim the payment is approved and paid from the Oracle Claims System.

Review of the process is the responsibility of the Claims Manager. The manager uses the Company's Automated Work Distribution (AWD) system and the Oracle Financial Reporting system to review the status of all pending, completed claim requests and payments. This review occurs on a daily basis to ensure the timely and accurate processing of Claims. On a monthly basis senior management reviews the status of pending and completed claims as part of the overall control process.

*Recommendations:* None

#### **Procedure 45 – Claim File Documentation Procedure**

*Observations:* The Company does not maintain a claim file documentation procedure. The Company recognizes that certain types of information are necessary to properly adjudicate a claim however there is no current procedure.

*Recommendations:* It is recommended the Company develop and maintain a procedure related to claim file documentation.

#### **Procedure 46 – Subrogation and Deductible Reimbursement Procedure**

*Observations:* Not Reviewed

*Recommendations:* N/A

#### **Procedure 47 – Reserve Establishment Procedure**

*Observations:* The Company maintains a current reserve establishment procedure. Procedures set forth are for the claims department to notify finance to ensure a settlement cost is established. On a monthly basis the Company reviews current in force policies to make any adjustments in predetermining outstanding liabilities.

*Recommendations:* None

### **SUMMARY**

**Aviva Life Insurance Company (Aviva)** is a Delaware domiciled Company. The Company is a direct diversified writer of Life, Annuity, Health and Accident products. Aviva maintains its central record location in North Quincy, MA.

The examination was a limited scope market conduct examination of the following business areas: Company Operations/Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Service, Underwriting and Rating, and Claims.

Significant issues arising during the course of the examination include:

- Lack of written procedures for Assertions of Privilege.
- Lack of written procedures for Company Records, Backup & Recovery
- Lack of written procedures for Producer Training
- Lack of written procedures for Producer Defalcation
- Lack of written procedures for Termination/Cancellation Procedures
- Lack of written procedures for Underwriting and Selection
- Lack of written procedures for Underwriter Training
- Lack of written procedures for Staff Training
- Lack of written procedures for Claim File Documentation

Recommendations have been made to address the areas of concern noted during the examination. These are summarized below.

## **LIST OF RECOMMENDATIONS**

### **Recommendation P-2, Assertions of Privilege Procedure**

It is recommended the Company develop an AOP procedure and form conclusions when AOP can and cannot be applied by the Company. Further the procedures should be reviewed, reported upon, and revised as needed to meet the corporate environment.

### **Recommendation P-3, Company Records, Backup & Retention**

It is recommended the Company update and distribute procedures related to record retention and recovery.

### **Recommendation P-15, Producer Training**

It is recommended the Company develop sufficient controls to monitor its agent activity.

### **Recommendation P-21, Producer Defalcation**

It is recommended the Company develop a producer defalcation procedure and include this provision within agent contracts.

### **Recommendation P-32, Underwriting & Selection**

It is recommended that the Company complete its Underwriting and Selection procedures, that these procedures be formalized in writing, and that these procedures include a measurement process to allow management a means of knowing if the procedure is performing as intended.

### **Recommendation P-34, Terminations & Cancellations**

It is recommended that the Company either separate the procedures out as individual procedures or classify the procedures within the existing procedure as to whether they are Company or consumer initiated.

### **Recommendation P-36, Underwriter Training**

It is recommended that the Company formalize its procedure manual for Underwriter Training. It is also recommended that the Company develop and utilize a measurement structure to test the effectiveness of the Underwriter Training Procedure. The process should be structured to demonstrate to management that the procedure it has structured is performing as intended.

### **Recommendation P-40, Staff Training**

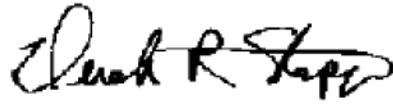
It is recommended that the Company formalize its current training processes by developing written procedures. The Company should also create a measurement structure to ensure that the procedure is working as intended.

### **Recommendation P-45, Claim File Documentation**

It is recommended the Company develop and maintain a procedure related to claim file documentation.

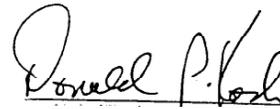
**CONCLUSION**

The examination was conducted by Donald P. Koch, Derek R. Stepp, and James R. Koch and is respectfully submitted,



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Derek Stepp, CIE  
Market Conduct Examiner-in-Charge  
Insurance Department  
State of Delaware



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Market Conduct  
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