DELaware Department of Insurance

MARKET CONDUCT EXAMINATION REPORT

Delaware Life Insurance Company
NAIC #79065

1601 Trapelo Road, Suite 30
Waltham, MA 02451

As of

December 31, 2016
I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2016 on Delaware Life Insurance Company is a true and correct copy of the document filed with this Department.

Attest By: 

In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 13th day of August, 2018.

Trinidad Navarro
Insurance Commissioner
REPORT ON EXAMINATION

OF THE

Delaware Life Insurance Company

AS OF

December 31, 2016

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

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

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

In Witness Whereof, I have hereunto set my hand

and affixed the official seal of this Department at the

City of Dover, this 13th day of August, 2018.

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

Dear Commissioner Navarro:

In compliance with the instructions contained in the Exam Authority Number 79065-ANN-16-605, and pursuant to statutory provisions including 18 Del. C. §§318-322, a market conduct examination has been conducted of the affairs and practices of:

    Delaware Life Insurance Company NAIC #79065

The examination was performed as of December 31, 2016. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

    1601 Trapelo Road, Suite 30
    Waltham, MA 02451

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

The report of examination herein is respectfully submitted.
EXECUTIVE SUMMARY

The Company, formerly known as Sun Life Assurance Company of Canada (U.S.), is a stock life insurance company incorporated under the laws of Delaware. It was incorporated on January 12, 1970 and commenced business on January 1, 1973.

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 the suitability, replacement, and surrender transactions.

All the exceptions noted were in the areas of Consumer Complaints, Marketing and Sales, Producer Licensing, Policyholder Services and Underwriting and Rating.

The following exceptions were noted:

- **8 Exceptions**
  18 Del. C. §320. 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.

  Failure to provide Commissioner's examiners the pertinent information relating to the subject of the examination.

- **95 Exceptions: 56 Replacements and 39 Non-Replacements**
  18 Del. Admin. C. § 1204 -5.1.2 Replacement of Life Insurance
  Each agent or broker who initiates the application shall, on the request of the prospective purchaser, furnish the Buyers Guide as described by Regulation 29 and shall submit to the insurer to which an application for life insurance or annuity is presented, with or as a part of each application:
  5.1.2 a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

  Accepting an application without the required agent’s statement on replacement that specifically questions whether the agent or broker knows a replacement is or may be involved in the transaction.

- **3 Exceptions: Replacements**
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.

For failure to ensure that a replacement notice was provided, dated or dated no later than at the time of taking the application.

- **84 Exceptions: Replacements**
  18 Del. Admin. C. §1204 - 7.1.2.2 Replacement of Life Insurance.
  Each insurer that uses an agent of broker in a life insurance or annuity sale shall:  
  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.

Failure by the insurer to send to each existing insurer a written communication advising of the replacement, or proposed replacement, of the policy within seven working days of the date the application is received in the replacing insurer's home office in five files. The Company is also cited for failure to send the written communication in fifteen files and for failure to send the required policy summary or ledger statement describing the proposed policy to the existing insurer in 65 files.

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

Failure to maintain accurate records of seven producer appointments.

- **2 Exceptions**
  (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.

Accepting two applications for insurance from a producer not duly appointed by the Company within 15 days of the receipt of the application.

- 2 Exceptions
  (c) Ongoing notification requirement. -- The insurer or the authorized representative of the insurer shall promptly notify the Insurance Commissioner in a format acceptable to the Insurance Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Insurance Commissioner in accordance with subsection (a) of this section had the insurer then known of its existence.

Failure to report terminated producers to the Insurance Commissioner.

- 10 Exceptions
  18 Del. C. §2304 (2) Unfair methods of competition and unfair or deceptive acts or practices defined.
  The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:
  (2) False information and advertising generally. -- No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.

Failure to provide a source for the basis of the statistic and/or claim contained in 10 advertisements.

- 4 Exceptions
  18 Del. C. §2304 (11) Unfair methods of competition and unfair or deceptive acts or practices defined.
  (11) False statements and entries. --
  c. No person shall advertise the capital or assets of any insurer without in the same advertisement setting forth the amount of the insurer's liabilities.

Failure to set forth the amount of the Company’s liabilities when the Company’s capital or assets were disclosed.
• 1 Exception
18 Del. C. §2304 (26) Failure to respond to regulatory inquiries.
(26) Failure to respond to regulatory inquiries. -- No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance regarding the denial of claims, cancellation, non-renewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this subsection shall not preclude the provision of additional information responsive to the inquiry.

Failure to respond to an inquiry from the Department of Insurance within 21 calendar days of such inquiry.

• 1 Exception
18 Del. C. §2708. Consent of insured; life, health insurance.
No life or health insurance contract upon an individual, except a contract of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing.

Failure to ensure that an application was signed by the applicant.

• 1 Exception
18 Del. C. §2709. Alteration of application, life and health insurance.
No alteration of any written application for any life or health insurance policy shall be made by any person other than the applicant without his/her written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

Failure to ensure that the alteration on an application was initialed by the applicant.

• 2 Exceptions
18 Del. C. §2712. Filing, approval of forms.
(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner.

Failure to ensure that the application forms used were filed and/or approved by the Department.
DETAILS OF CODES IN VIOLATION:

As several of the violations are repeated in multiple sections of the Report, they are summarized here for ease of reference:

18 Del. C. §320. 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.

18 Del. Admin. C. §1204 -5.1 Replacement of Life Insurance.
Each agent or broker who initiates the application shall, on the request of the prospective purchaser, furnish the Buyers Guide as described by Regulation 29 and shall submit to the insurer to which an application for life insurance or annuity is presented, with or as a part of each application:
5.1.2 a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

18 Del. Admin. Code §1204 -5.2 Replacement of Life Insurance.
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.

Each insurer that uses an agent or broker in a life insurance or annuity sale shall:
7.1.2 Where a replacement is involved:
7.1.2.1 Require from the agent or broker with the application for life insurance or annuity:
7.1.2.1.1 A list of all the applicant's existing life insurance or annuities to be replaced.
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.
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.
(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.
(b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. The group appointment provision of this section is only applicable upon implementation by this Department of an electronic appointment process.
(c) Upon receipt of the notice of appointment, the Insurance Commissioner shall verify within a reasonable time not to exceed 30 days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the Insurance Commissioner shall notify the insurer within 5 days of its determination.
(d) An insurer shall pay an appointment fee, in the amount and method of payment set forth in Chapter 7 of this title, for each insurance producer appointed by the insurer.

(a) Termination for cause. -- An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the Insurance Commissioner within 30 days following the effective date of the termination, using a format prescribed by the Insurance Commissioner, if the reason for termination is 1 of the reasons set forth in § 1712 of this title or the insurer has knowledge the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in § 1712 of this title. Upon the written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.
(b) Termination without cause. -- An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in § 1712 of this title shall notify the Insurance Commissioner within 30 days following the effective date of the termination, using a format prescribed by the Insurance Commissioner. Upon written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.
(c) Ongoing notification requirement. -- The insurer or the authorized representative of the insurer shall promptly notify the Insurance Commissioner in a format acceptable to the Insurance Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Insurance Commissioner in accordance with subsection (a) of this section had the insurer then known of its existence.
18 Del. C. §2304(2). Unfair methods of competition and unfair or deceptive acts or practices defined.
The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:
(2) False information and advertising generally. -- No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.

18 Del. C. §2304(11). Unfair methods of competition and unfair or deceptive acts or practices defined.
(11) False statements and entries. --
   a. No person shall knowingly file with any supervisory or other public official, or knowingly make, publish, disseminate, circulate or deliver to any person, or place before the public, or knowingly cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false, material statement of fact as to the financial condition of an insurer.
   b. No person shall knowingly make any false entry of a material fact in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of the affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.
   c. No person shall advertise the capital or assets of any insurer without in the same advertisement setting forth the amount of the insurer's liabilities.

18 Del. C. §2304 (26). Failure to respond to regulatory inquiries.
(26) Failure to respond to regulatory inquiries. -- No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance regarding the denial of claims, cancellation, non-renewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this subsection shall not preclude the provision of additional information responsive to the inquiry.

18 Del. C. §2708 Consent of insured; life, health insurance.
No life or health insurance contract upon an individual, except a contract of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing.
18 Del. C. §2709 Alteration of application, life and health insurance.
No alteration of any written application for any life or health insurance policy shall be made by any person other than the applicant without his/her written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

18 Del. C. §2712 Filing, approval of forms.
(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §§318-322 and covered the experience period of January 1, 2014 through December 31, 2016, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware annuity suitability, replacement and surrender laws and regulations related to the 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 asked to identify the universe of files for each segment of the review. Based on the universe size 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 referred to 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 review written summaries provided on the exceptions found.

COMPANY HISTORY AND PROFILE

The Company, formerly known as Sun Life Assurance Company of Canada (U.S.), is a stock life insurance company incorporated under the laws of Delaware. It was incorporated on January 12, 1970 and commenced business on January 1, 1973. The Company is a direct wholly-owned subsidiary of Delaware Life Holdings, LLC (the Parent), a Delaware limited liability company. Prior to August 2, 2013, the Company was a member of the Sun Life Financial Group.

On December 17, 2012, Sun Life Financial Inc. announced the execution of a definitive agreement to sell its domestic U.S. annuity business and certain life insurance businesses to the Parent, including all of the issued and outstanding shares of the Company and its subsidiaries, including Sun Life Insurance and Annuity Company of New York (now known as Delaware Life Insurance Company of New York (DLNY) (the Sale Transaction). After receiving all required regulatory approvals, the Sale Transaction closed on August 2, 2013 with an effective date of August 1, 2013. Effective July 21, 2014, following the receipt of all required board of directors, shareholder and regulatory approvals, the Company’s name changed from Sun Life Assurance Company of Canada (U.S.) to Delaware Life Insurance Company.

The Company is authorized to transact business in 49 States, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. While the Company is not authorized to transact business in the State of New York, its wholly-owned subsidiary, DLNY, is authorized to transact business in New York.

The business of the Company and its subsidiaries includes the issuance, administration and servicing of a variety of wealth accumulation products, protection products and institutional investment contracts. The Company’s product line includes variable annuities, fixed annuities, fixed index annuities, and variable life insurance. Sun Life Financial, Inc. discontinued new sales of its domestic U.S. annuity and individual life
products in December 2011, prior to the announcement of the Sale Transaction. Since the Sale Transaction, the Company has introduced new fixed and fixed index annuity products.

As of their 2016 annual statement for the State of Delaware, Delaware Life Insurance Company reported direct business life insurance premiums in the amount of $5,582,177, and annuity considerations in the amount of $7,260,522. As of their 2016 annual statement for all States, Delaware Life Insurance Company reported direct business life insurance premiums in the amount of $37,524,928, and annuity considerations in the amount of $1,837,851,676.

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:

- A written overview of the Company’s history and profile.
- A description of the management structure of the Company as it relates to life insurance and annuities, including the management structure that handles compliance issues.
- A list of all audits conducted within the last three (3) years.
- Documentation that all internal or external audits are up-to-date.
- A copy of the Company’s anti-fraud procedures and annual reports.
- Copies of contracts with any third-party entity conducting activities on behalf of the insurer during the examination period.
- Documentation that the Company is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the Company.
- Documentation that the Company’s records are adequate, accessible, consistent and orderly, and comply with state record retention requirements.
- A description of all fines, penalties and recommendations from any state for the last five (5) years and copies of market conduct examinations from the other states.
- Copies of the annual statements for the years 2014, 2015, and 2016.

The documents were reviewed to ensure compliance with the State of Delaware Laws and Regulations, and the NAIC Standards. No exceptions were noted.
COMPLAINTS HANDLING

The Company identified a universe of twelve consumer complaints received during the examination period. All twelve complaint files were requested, received, and reviewed. Of the twelve complaints, seven were forwarded from the Department. The Company also provided the complaint register as requested. The Department’s list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company’s complaint register. The complaint files and complaint logs were reviewed for compliance with the Delaware statutes and regulations including, but not limited to, 18 Del. C. §2304(17) and 18 Del. C. §2304(26). The following exception was noted:

1 Exception - 18 Del. C. §2304(26) Failure to respond to regulatory inquiries.

The Company failed to respond to an inquiry from the Department of Insurance within 21 calendar days of receipt of the inquiry in one file.

Recommendation: It is recommended that the Company review its procedures to ensure that all inquiries from the Department of Insurance are responded to within 21 calendar days of receipt of the inquiry as required by 18 Del. C. §2304(26).

MARKETING AND SALES

The Company provided a universe of 515 pieces of advertising materials utilized in Delaware. The advertising materials consisted of: Emails, Postcards, Brochures, Flyers, Presentations, Cards, Illustrations, Product Guides, Newspaper Ads, Charts, Disclosures, Guides, Handouts, Posters, Power Point Presentations, Rate Sheets, Screen Shots and Web Content. A sample of 86 pieces of advertising was requested, received and reviewed. The 86 advertising materials and the Company’s web site, https://www.delawarelife.com, were reviewed to ascertain compliance with 18 Del. C. §2303, Unfair Methods of Competition and 18 Del. C. §2304, Unfair or Deceptive Acts or Practices. The following exceptions were noted:

10 Exceptions - 18 Del. C. §2304(2). Unfair methods of competition and unfair or deceptive acts or practices defined.

There were 10 advertising materials that did not provide a source for the basis of the statistic and/or claim contained in the advertisement.

Recommendation: It is recommended that the Company review its procedures to ensure
that all advertising materials cite a source for the basis of the statistics contained in the advertisement as required by 18 Del. C. §2304(2).

4 Exceptions - 18 Del. C. §2304(11). Unfair methods of competition and unfair or deceptive acts or practices defined.

There were four advertising materials that indicated the capital or assets of the Company without setting forth the amount of the Company’s liabilities.

Recommendation: It is recommended that the Company review its procedures to ensure that all advertising materials indicate the Company’s liabilities whenever the capital or assets of the Company are disclosed as required by 18 Del. C. §2304(11).

Concern:

There were eight advertising materials that did not contain a disclosure stating that, “Not FDIC Insured; May Lose Value; No Bank/Credit Union Guarantee; Not a Deposit; Not Insured by any Federal Government Agency”. The Company indicated that none of the pieces were still in use. And that the Company will review its active consumer-facing pieces and ensure the noted disclosure were in place.

PRODUCER LICENSING

The Company provided a list 105 producers appointed with the Company in Delaware or authorized to conduct business in Delaware at any time during the examination period. All 105 producers were compared to departmental records of producers to verify compliance with the Delaware licensing and appointment statutes and regulations. For this examination’s purposes, producer licensing exceptions found in the other sections of the examination are addressed in their respective sections. The following exceptions were noted in this section only:


The Company listed four producers as active; however, Department records did not indicate their appointment during the examination period.

Recommendation: It is recommended that the Company ensure the producers are appointed pursuant to 18 Del. C. §1715.

The Company provided a list of 92 terminated producers. The entire list was compared to departmental records of producers to verify the notification of the terminations to the Insurance Commissioner. The following exceptions were noted:

The Company listed two producers as terminated; however, Department records, indicated an active status during the examination period.

Recommendation: It is recommended that the Company ensure the Insurance Commissioner is notified of producer terminations within 30 days following the effective date of the termination as required by 18 Del. C. §1716.

POLICYHOLDER SERVICES

A) Individual Cash Value Life Policies Surrendered

The Company provided a list of six individual cash value life insurance policies surrendered during the examination period of January 1, 2014 through December 31, 2016. All six policy files were requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions, surrender laws and regulations, and the proper processing of the net cash surrender value.

No exceptions were noted:

B) Individual Fixed Annuity Contracts Surrendered

The Company identified a universe of 108 individual fixed annuity contracts surrendered. All 108 contract files were requested, received, and reviewed. The files were reviewed to ensure compliance with contract provisions, surrender laws and regulations, and proper processing of any cash surrender value payment.

The following exceptions were noted:

7 Exceptions - 18 Del. C. §320. Conduct of examination; access to records; correction.

The Company was unable to provide the requested surrender notification letter/confirmation in seven surrender request transaction files.

Recommendation: It is recommended that the Company ensure to make freely available all the requested records, documents, files, and information relating to the subject of the examination as required by 18 Del. C. §320.

C) Individual Variable Annuity Contracts Surrendered
The Company provided a list of annuities surrendered during the experience period. The Company identified a universe of 289 individual variable annuity contracts surrendered during the experience period of January 1, 2014 through December 31, 2016. 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 the proper processing of any surrender cash value.

The following exception was noted:

**1 Exception - 18 Del. C. §320. Conduct of examination; access to records; correction.**

The Company was unable to provide the requested confirmation statement in one surrender request transaction file.

*Recommendation:* It is recommended that the Company ensure to make freely available all the requested records, documents, files, and information relating to the subject of the examination as required by 18 Del. C. §320.

**UNDERWRITING AND RATING**

**A) Individual Fixed Annuities Issued - New**

The Company provided a list of 315 individual fixed annuity contracts issued during the examination period of January 1, 2014 through December 31, 2016. From the universe of 315 fixed annuity contracts issued, 193 were determined to have been issued to senior consumers, age 65 and above. A random sample of 79 annuity contracts issued to senior consumers was requested, received and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

**56 Exceptions - 18 Del. Admin. C. §1204 -5.1.2 Replacement of Life Insurance.**

The agent’s statement on replacement on the application in 56 files does not specifically question whether the agent or broker knows a replacement is or may be involved in the transaction.

*Recommendation:* It is recommended that the Company ensure the application’s replacement statement specifically questions whether the agent or broker knows a replacement is or may be involved in the transaction in accordance with 18 Del. Admin. C. §1204 -5.1.2.

**1 Exception - 18 Del. C. §2708 Consent of insured; life, health insurance.**
The one file contained an application that was not signed by the applicant.

*Recommendation:* It is recommended that the Company ensure all applications are signed by the applicant in accordance with 18 Del. C. §2708.

1 Exception - 18 Del. C. §2709. Alteration of application, life and health insurance.

The one file contained an application that was altered without the applicant’s consent/initials.

*Recommendation:* It is recommended that the Company ensure all alterations on an application are initialed by the applicant in accordance with 18 Del. C. §2709.

2 Exceptions - 18 Del. C. §2712. Filing, approval of forms.

The evidence of annuity application form filing could not be established as of the issue date in two files.

*Recommendation:* It is recommended that the Company ensure all forms used are filed and approved in accordance with 18 Del. C. §2712.

B) Individual Fixed Annuity Contracts Issued - Replacements

The Company identified a universe of 65 fixed annuity contracts issued as replacements during the experience period of January 1, 2014 through December 31, 2016. All 65 annuity contract files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

39 Exceptions - 18 Del. Admin. C. §1204 -5.1.2 Replacement of Life Insurance.

The agent’s statement on replacement on the application in the 39 files does not specifically question whether the agent or broker knows a replacement is or may be involved in the transaction.

*Recommendation:* It is recommended that the Company ensure the application’s replacement statement specifically questions whether the agent or broker knows a replacement is or may be involved in the transaction in accordance with 18 Del. Admin. C. §1204 §5.1.2.

3 Exceptions - 18 Del. Admin. C. §1204 -5.2.1 Replacement of Life Insurance.

The notice regarding replacement form was not evident in one file, was dated after the application date in one file, and was not dated in one file.
Recommendation: It is recommended that the Company review its procedures to ensure the notice regarding replacement is presented to the applicant not later than at the time of taking the application as required by 18 Del. Admin. C. 1204 §5.2.1.

84 Exceptions - 18 Del. Admin. C. §1204 -7.1.2.2 Replacement of Life Insurance.

The written communication advising of the replacement to the existing insurer was not provided in 15 files, the communication was not made within seven working days in five files, and the required policy summary or ledger statement describing the policy was not sent to the existing insurer in 64 files.

Recommendation: It is recommended that the Company ensure the written communication advising of the replacement or proposed replacement of the policy be made within seven working days in compliance with 18 Del. Admin. C. §1204 -7.1.2.2.


Two individuals were identified as producers on the application forms; however Department records did not identify the individuals as having a valid appointment with the Company.

Recommendation: It is recommended that the Company ensure the producers are appointed pursuant to 18 Del. C. §1715.
CONCLUSION

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

1. It is recommended that the Company review its procedures to ensure that all inquiries from the Department of Insurance are responded to within 21 calendar days of such inquiry as required by 18 Del. C. §2304(26). (Complaint Handling)

2. It is recommended that the Company review its procedures to ensure that all advertising materials cite a source for the basis of the statistics contained in the advertisement as required by 18 Del. C. §2304(2). (Marketing and Sales)

3. It is recommended that the Company review its procedures to ensure that all advertising materials indicate the capital or assets of the Company as well as the Company’s liabilities as required by 18 Del. C. §2304(11). (Marketing and Sales)

4. It is recommended that the Company ensure the producers are appointed pursuant to 18 Del. C. §1715. (Producer Licensing and Underwriting & Rating - Individual Fixed Annuity Contracts Issued – Replacements)

5. It is recommended that the Company ensure the Insurance Commissioner is notified of producer terminations within 30 days following the effective date of the termination as required by 18 Del. C. §1716. (Producer Licensing)

6. It is recommended that the Company make freely available all the requested records, documents, files, and information relating to the subject of the examination as required by 18 Del. C. §320. (Policyholder Services - Individual Fixed Annuity Contracts Surrendered and Individual Variable Annuity Contracts Surrendered)

7. It is recommended that the Company ensure the application replacement statement specifically questions whether the agent or broker knows a replacement is or may be involved in the transaction in accordance with 18 Del. Admin. C. 1204 §5.1.2. (Underwriting & Rating-Individual Fixed Annuities Issued – New and Individual Fixed Annuity Contracts Issued – Replacements)
8. It is recommended that the Company ensure all applications are signed by the applicant in accordance with 18 Del. C. §2708. (Underwriting & Rating - Individual Fixed Annuities Issued – New)

9. It is recommended that the Company ensure all alterations on an application are initialed by the applicant in accordance with 18 Del. C. §2709. (Underwriting & Rating - Individual Fixed Annuities Issued – New)

10. It is recommended that the Company ensure all forms used are filed and approved in accordance with 18 Del. C. §2712. (Underwriting & Rating - Individual Fixed Annuities Issued – New)

11. It is recommended that the Company review its procedures to ensure the notice regarding replacement is presented to the applicant not later than at the time of taking the application as required by 18 Del. Admin. C. §1204-5.2.1. (Underwriting & Rating - Individual Fixed Annuity Contracts Issued – Replacements)

12. It is recommended that the Company ensure the written communication, including the policy summary or ledger statement, advising of the replacement or proposed replacement of the policy be made within 7 working days in compliance with 18 Del. Admin. C. §1204-7.1.2.2. (Underwriting & Rating - Individual Fixed Annuity Contracts Issued – Replacements)

The examination conducted by Shelly Schuman, Joseph Krug, Christina Hughart, Linda Armstrong, and Frank Kyazze is respectfully submitted.

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