DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

Security Benefit Life Insurance Company
NAIC #68675
One Security Benefit Place
Topeka, KS, USA 66636-0001

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

Security Benefit 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 26th day of June, 2018.

Trinidad Navarro
Insurance Commissioner
REPORT ON EXAMINATION

OF THE

Security Benefit 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 26 day of June, 2018.

Trinidad Navarro
Insurance Commissioner
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Dear Commissioner Navarro:

In compliance with the instructions contained in Certificate of Examination Authority Number 68675-ANN-16-598, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

Security Benefit Life Insurance Company

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:

One Security Benefit Plaza
Topeka, KS 66636-0001

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 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, and Underwriting and Rating.

The following exceptions were noted:

- 11 Exceptions
  18 Del. C. §2304 (11)(c) False statements and entries.
  For failure to set forth the amount of the liabilities whenever the Company’s assets were indicated in its advertising materials.

- 11 Exceptions
  18 Del. C. §2712. Filing, approval of forms.
  For failure to provide the evidence of form filing.

- 1 Exception
  18 Del. Admin. Code 1204 §5.2.1 Replacement of Life Insurance
  For failure to ensure that the replacement notice was dated no later than at the time of taking the application.

- 143 Exceptions
  18 Del. Admin. Code 1204 §7.4 Replacement of Life Insurance
  For failure to provide a statement or notice of a 20-day unconditional premium refund in policies that involved a replacement.

- 50 Exceptions
  18 Del. Admin. Code 1204 §7.1.2.2 Duties of Insurers That Use Agents or Brokers
  For failure to send the existing insurer a written communication advising of the replacement or proposed replacement of the policy within seven working days.

- 1 Exception
  18 Del. C. §1703. License required.
  For accepting an application for insurance from a producer not duly licensed.

- 1 Exception
For accepting an application for insurance from a producer not duly appointed by the Company within 15 of the receipt of the application.

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. §2304 (11)(c) 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.

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.

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.

18 Del. Admin. Code 1204 §7.4 Replacement of Life Insurance
The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty days commencing from the date of delivery of the policy.

18 Del. Admin. Code 1204 §7.1 Replacement of Life Insurance
Each insurer that uses an agent of broker in a life insurance or annuity sale shall:
7.1.2 Where a replacement is involved:
7.1.2.1 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.

18 Del. C. §1703. License required.
A person shall not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.

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

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. CODE §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 requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be 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 to review written summaries provided on the exceptions found.

COMPANY HISTORY AND PROFILE

Security Benefit Life Insurance Company was founded in 1892 as the National Council of Knights and Ladies of Security. On October 1, 1919, the company merged with the National American Association, a fraternal society in Kansas City, at which time the corporate name changed to Security Benefit Association (“SBA”). On January 1, 1950, SBA became a mutual legal reserve life insurance company and the corporate name changed to Security Benefit Life Insurance Company (“SBL”), a mutual insurance company. SBL then converted to a Kansas stock insurance company in connection with a mutual holding company conversion on July 6, 1998. It subsequently demutualized effective on July 30, 2010.

In 2005, Security Benefit launched SE2, its subsidiary providing business technology and processing solutions for financial services and insurance companies. SE2 offers end-to-end services for life and annuity processing to the financial services industry. Annuities are issued by Security Benefit Life Insurance Company (SBL) in all states except New York, and in New York by First Security Benefit Life Insurance and Annuity Company of New York, New York, NY (FSBL). SBL is not licensed in and does not transact business in New York.

As of their 2016 annual statement for the State of Delaware, Security Benefit Life Insurance Company reported ordinary life insurance premium considerations in the amount of $35,603, and ordinary annuity premium considerations in the amount of $34,479,073. As of their 2016 annual statement for all States, Security Benefit Life Insurance Company reported direct business life insurance premiums in the amount of $23,475,539 and annuity considerations in the amount of $3,709,546,574.

COMPANY OPERATIONS AND MANAGEMENT

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

- The Company History and Profile
- The Company’s Organizational Charts
- Internal Audit & Compliance Procedures and Reports
- Antifraud Plan and Anti Money Laundering and Fraud Prevention Training Manual
- A copy of the contract with the Third Parties: SE2 and Security Distributors, Inc.
- 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 maintains a Records Management Program
- A list of five (5) Imposed Fines and seven (7) Market Conduct Examinations conducted by other States during the last five (5) years.

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

COMPLAINT HANDLING

The Company identified one (1) non-DOI, non claim-related consumer complaint received during the experience period of January 1, 2014 through December 31, 2016. The complaint file was requested, received and reviewed. The Company also provided the complaint log. The Department of Insurance list did not contain written consumer complaints that were forwarded to the Company during the experience period.
The single complaint file and complaint log were reviewed for compliance with the Delaware statutes and regulations including but not limited to: 18 Del. C. §2304 (17). This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint.

No exceptions were noted.

MARKETING AND SALES

The Company provided a list of 1,308 pieces of advertising and sales materials utilized in the State of Delaware during the experience period of January 1, 2014 through December 31, 2016. The advertising and sales materials consisted of: Articles, Brochures, Electronic Pieces, Email Correspondence, Fact Sheets, Flyers, Kits, Letters, Post Cards, Posters, Power Point Presentations, Sales Ideas, Script-Talking Points, Training Manuals, Videos, Web and Web Pages. A sample of 113 advertising and sales materials was requested for review. Of the 113 pieces requested, the Company determined that 21 were not in use during the experience period, 12 were listed in error because they were not advertising materials, 2 were not used in Delaware, and 2 were for internal use only. The remaining 76 advertising materials and the Company’s web page, https://www.securitybenefit.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:

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

There were 11 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 ensure that all advertisements disclose the amount of the company’s liabilities whenever its assets are disclosed.

PRODUCER LICENSING

The Company provided a list of 334 active producers. A random sample of 79 producers was compared to departmental records of producers to verify their licensing and appointment status. In addition, a comparison was made on the producers identified on the applications reviewed in the “contract issued” sections of the exam. For this examination purposes, producer licensing exceptions found in the other sections of the examination will be addressed in their respective sections. No exceptions were noted for the producers sampled within the producer licensing section of the examination.
However, there were producer licensing exceptions noted in the underwriting and rating section of the report below.

**POLICYHOLDER SERVICES**

**A) Individual Fixed Annuity Contracts Surrendered**

The Company identified a universe of 27 individual fixed annuity contracts surrendered during the experience period of January 1, 2014 through December 31, 2016. All 27 contract 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 cash surrender value. No exceptions were noted.

**B) Individual Variable Annuity Contracts Surrendered**

The Company identified a universe of seven (7) individual variable annuity contracts surrendered during the experience period of January 1, 2014 through December 31, 2016. All seven (7) 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 value.

No exceptions were noted.

**UNDERWRITING AND RATING**

**A) Forms**

The Company provided a list of 63 forms in use during the experience period of January 1, 2014 through December 31, 2016. All 63 forms were requested, received and reviewed. The forms provided within this sample and those reviewed in various underwriting sections of the examination were reviewed to ensure compliance with 18 Del. C. §2712, Filing, approval of forms. For this exam purposes, form exceptions found in the other sections of the examination were addressed in their respective summaries. No exceptions were noted for the forms sampled within the forms section of the examination. However, there were form exceptions noted in sections B, C, and D of the report below.

**B) Individual Fixed Annuities – Non-Replacements**

The Company provided a list of 994 individual fixed annuity contracts issued during the examination period of January 1, 2014 through December 31, 2016. From the universe of 994 fixed annuity contracts issued, 677 were determined to have been issued to senior consumers age 65 and above. A random sample of 113 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:

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

The evidence of form filing could not be established in four files.

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

C) Individual Fixed Annuities - Replacements

The Company identified a universe of 37 individual fixed annuity contracts issued as replacements during the experience period of January 1, 2014 through December 31, 2016. All 37 contract files were requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations.

The following exceptions were noted:

1 Exception - 18 Del. Admin. Code 1204 §5.2.1 Replacement of Life Insurance

The notice regarding replacement was neither signed nor dated by the agent 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. Code 1204 §5.2.1.

33 Exceptions - 18 Del. Admin. Code 1204 §7.1.2.2 Replacement of Life Insurance

The written communication advising of the replacement did not include the required communication letter in two files, and the summary or ledger statement in 33 all 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. Code 1204 §7.1.2.2.

4 Exceptions - 18 Del. Admin. Code 1204 §7.4 Replacement of Life Insurance

The notice or statement providing twenty days for an unconditional refund of all premiums paid was not evident in four files.
Recommendation: It is recommended the Company ensure the notice or statement specifying twenty days (20) for an unconditional refund of all premiums paid be provided to the applicants in compliance with 18 Del. Admin. Code 1204 §7.4.

1 Exception - 18 Del. C. §1703. License required.

The individual was listed as a producer on the application form in one file. However, Department records did not identify the individual as being licensed on the date the application was signed.

Recommendation: It is recommended that the Company ensure the producers are licensed pursuant to 18 Del. C. §1703.


The individual was listed as a producer on the application form in one file. However, Department records did not identify the individual as being appointed by the Company.

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

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

The evidence of form filing could not be established for three forms.

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

D) Individual Variable Annuities – Non-Replacements

The Company identified a universe of 265 individual variable annuity contracts issued new, and not as replacements, during the experience period of January 1, 2014 through December 31, 2016. A random sample of 79 variable annuity contract files was requested, received and reviewed. Of the 79 variable annuity contracts received, 75 were determined to be replacements, and 2 were determined to be outside of Delaware’s jurisdiction. The 77 contract files were reviewed to determine compliance with Delaware statutes and regulations.

The following exceptions were noted:

11 Exceptions - 18 Del. Admin. Code 1204 §7.1.2.2 Replacement of Life Insurance

The written communication advising of the replacement was not provided in four files,
and the communication was not sent within seven working days of the date of the application in seven 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. Code 1204 §7.1.2.2.

61 Exceptions - 18 Del. Admin. Code 1204 §7.4 Replacement of Life Insurance

The insurer did not provide in its contract or in a separate written notice that the applicant has a right to an unconditional refund of all premiums paid within a period of twenty days commencing from the date of delivery of the contract.

_Recommendation:_ It is recommended the Company ensure the notice or statement specifying twenty days (20) for an unconditional refund of all premiums paid be provided to the applicants in compliance with 18 Del. Admin. Code 1204 §7.4.

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

The evidence of form filing and/or approval could not be established for the forms used in four files.

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

E) Individual Variable Annuities - Replacements

The Company provided a list of 303 individual variable annuity contracts issued as replacements during the examination period of January 1, 2014 through December 31, 2016. A random sample of 79 contract files was requested, received and reviewed. The contract files were reviewed to determine compliance with the Delaware underwriting, issuance and replacement statutes and regulations. The following exceptions were noted:

The following exceptions were noted:

6 Exceptions - 18 Del. Admin. Code 1204 §7.1.2.2 Replacement of Life Insurance

The proof of the written communication advising of the replacement to the existing insurer was not made within seven working days of the day of the application in six files. The application date was used because the applications did not contain a date received stamp or any other proof of the date the application form was received in the home office.

_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. Code 1204 §7.1.2.2.
78 Exceptions - 18 Del. Admin. Code 1204 §7.4 Replacement of Life Insurance

The required notice or statement providing twenty days for an unconditional refund of all premiums paid was not evident in 78 files, which involved replacements.

Recommendation: It is recommended the Company ensure the notice or statement specifying twenty days (20) for an unconditional refund of all premiums paid be provided to the applicants in compliance with 18 Del. Admin. Code 1204 §7.4.
CONCLUSION

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

1. It is recommended that the Company ensure that all advertisements disclose the amount of the company’s liabilities whenever its assets are disclosed, as required by 18 Del. C. §2304(11)(c). (Marketing and Sales)

2. It is recommended that the Company ensure all forms used are filed and approved in accordance with 18 Del. C. §2712. (Underwriting and Rating – Individual Fixed Annuities – Non-Replacements, Individual Fixed Annuities – Replacements, and Individual Variable Annuities – Non-Replacements)

3. It is recommended the Company ensure the replacement notice is presented to the applicant not later than at the time of taking the application in accordance with 18 Del. Admin. Code 1204 §5.2.1. (Underwriting and Rating – Individual Fixed Annuities – Replacements)

4. It is recommended the Company ensure the notice or statement specifying twenty days (20) for an unconditional refund of all premiums paid be provided to the applicants in compliance with 18 Del. Admin. Code 1204 §7.4. (Underwriting and Rating – Individual Fixed Annuities – Replacements, Individual Variable Annuities – Non-Replacements, and Individual Variable Annuities – Replacements)

5. It is recommended that the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within 7 working days of the date the application is received in the replacing insurer’s home office in compliance with 18 Del. Admin. Code 1204 §7.1.2.2. (Underwriting and Rating – Individual Fixed Annuities – Replacements, and Individual Variable Annuities – Replacements)

6. It is recommended that the Company ensure the producers are licensed pursuant to 18 Del. C. §1703. (Underwriting and Rating – Individual Fixed Annuities – Replacements)

7. It is recommended that the Company ensure the producers are appointed in accordance with 18 Del. C. §1715. (Underwriting and Rating – Individual Fixed Annuities – Replacements)
The examination conducted by Joseph Krug, Shelly Schuman, Christina Hughart, Linda Armstrong and Frank Kyazze is respectfully submitted.

Frank Kyazze, MCM, CIE, FLMI, ALHC
 Examiner-in-Charge
 Market Conduct
 Delaware Department of Insurance