



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**MIDLAND LIFE  
INSURANCE COMPANY**

**West Des Moines, IA**

**As of: October 29, 2013  
Issued: December 23, 2013**

**MARKET ACTIONS BUREAU  
LIFE AND HEALTH DIVISION**

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MIDLAND NATIONAL LIFE	:	Sections 903(a) and 904(b) of the
INSURANCE COMPANY	:	Insurance Department Act, Act of
4350 Westown Parkway	:	May 17, 1921, P.L. 789, No. 285
West Des Moines, IA 50266	:	(40 P.S. § 323.3 and 323.4)
	:	
	:	Section 671-A of Act 147 of 2002
	:	(40 P.S. § 310.71)
	:	
	:	Sections 404-A, 408-A(c)(4)(i) and
	:	(ii), 408-A(e)(1)(ii), 408-A(e)(2)(iii),
	:	410-D(a)(2), 410-F(c)(5)(i)(ii) of the
	:	Insurance Company Law, Act of May
	:	17, 1921 P.L. 682, No. 284 (40 P.S.
	:	§§ 625-4, 625-8, 510c and 510e)
	:	
	:	Sections 5(a)(10)(iii)(v) of the
	:	Unfair Insurance Practices Act, Act of
	:	July 22, 1974, P.L. 589, No. 205 (40
	:	P.S. §1171.5)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.5, 81.4(b)(1), 81.6(a)(1),
	:	81.6(a)(2)(ii), 83.3(a), 83.4, 83.4(a),
	:	83.4(b), 146.3, 146.5, 146.6 and
	:	146.7
	:	
	:	
	:	
Respondent.	:	Docket No. MC13-12-009

CONSENT ORDER

AND NOW, this 23<sup>rd</sup> day of December, 2013, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Midland National Life Insurance Company, and maintains its address at 4350 Westown Parkway, West Des Moines, IA 50266.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2011 to June 30, 2012.
- (c) On October 29, 2013, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on November 26, 2013.
- (e) The Examination Report notes violations of the following:
  - (i) Section 903(a) of the Insurance Department Act (40 P.S. § 323.3), which requires every company subject to examination to keep all books, records, accounts, papers, documents and any computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require in order that its representatives may readily verify the financial condition of the company, and ascertain whether the company has complied with the laws of this Commonwealth;
  - (ii) Section 904(b) of the Insurance Department Act (40 P.S. § 323.4), which requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access to all books,

records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined;

- (iii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
  
- (iv) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires when the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand-delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;

- (v) Section 408-A(c)(4)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed.”
- (vi) Section 408-A(c)(4)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.”
- (vii) Section 408-A(e)(1)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which states if the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled “Revised Illustration.” The statement shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy

is delivered and to the insurer as soon as practical after the policy is delivered;

(viii) Section 408-A(e)(2)(iii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), states the following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer as soon as practical after the policy is delivered;

(ix) Section 410D(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which states individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery;

(x) Section 410-F of Insurance Company Law, No. 284 (40 P.S. §510e), which requires the company shall:

- (i) notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan;
- (ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c)(5)(iii) below;
- (iii) send to policyholders with loans reasonable advance notice of any increase in the rate;

(xi) Sections 5(a)(10)(iii) and (v) of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. §1171.5), Section 5(a)(10)(iii) and (v) of the Unfair Insurance Practices Act, (40 P.S. §1171.5(a)(10)), which prohibits failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies and also prohibits failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the company or its representatives;

(xii) Title 31, Pennsylvania Code, Section 51.5, requires a company to file an Annual Statement, with a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were

disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of the Commonwealth;

- (xiii) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;
- (xiv) Title 31, Pennsylvania Code, Section 81.6(a)(1), which requires an insurer that uses an agent or broker in a life insurance or annuity sale shall require with or as part of a completed application for life insurance or annuity, a statement signed by the agent or broker regarding whether the broker knows replacement is or may be involved in the transaction;
- (xv) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which states an insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by Section 83.3, or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working

days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner;

- (xvi) Title 31, Pennsylvania Code, Section 83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;
- (xvii) Title 31, Pennsylvania Code, Section 83.4, which requires the written disclosure statement shall be given no later than the time the application for is signed by the applicant;
- (xviii) Title 31, Pennsylvania Code, Section 83.4a, which states the agent shall submit to the insurer with or as a part of the application for life insurance as statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant;
- (xix) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute *prima*

*facie* evidence that no disclosure statement was provided to the prospective purchaser of life insurance;

- (xx) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;
- (xxi) Title 31, Pennsylvania Code, Section 146.5, which requires every insurer, upon receiving notification of a claim, shall within 10 working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated;
- (xxii) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected; and
- (xxiii) Title 31, Pennsylvania Code, Section 146.7, which requires within 15 working days after receipt by the insurer of properly executed proof of loss,

the first party claimant shall be advised of the acceptance or denial of the claim by the insurer.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Section 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violations of Sections 404-A, 408-A, 410D and 410F, of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-8, 510c and 510e) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

(d) Respondent's violations of Title 31, Pennsylvania Code, Section 51.5 is punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(e) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

- (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
  
- (f) Respondent's violations of Title 31, Pennsylvania Code, Chapter 81, are punishable under Title 31, Pennsylvania Code, Section 81.4(b)(1), 81.6(a)(1) and 81.6(a)(2)(ii), which provide failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);
  
- (g) Respondent's violations of Title 31, Pennsylvania Code, Chapter 83 are punishable under Title 31, Pennsylvania Code, Section 83.6:
  - (i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5, 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (i) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
  - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Sixty Thousand Dollars (\$60,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to Cherie L. Leese, Administrative Officer, Bureau of Market Actions, 1311 Strawberry Square,

Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

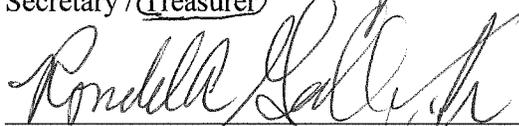
BY: MIDLAND NATIONAL LIFE INSURANCE  
COMPANY, Respondent



\_\_\_\_\_  
President / Vice President



\_\_\_\_\_  
Secretary / Treasurer



\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA

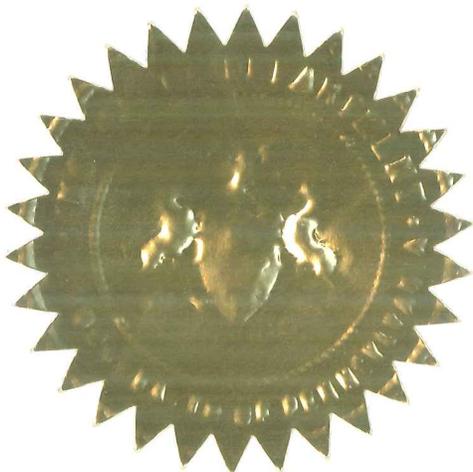
By: Ronald A. Gallagher, Jr.

Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27<sup>th</sup> day of April, 2011, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



  
Michael F. Consedine  
Insurance Commissioner

**MIDLAND NATIONAL LIFE INSURANCE COMPANY**  
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## **I. INTRODUCTION**

The Market Conduct Examination was conducted on Midland National Life Insurance Company; hereafter referred to as “Company,” at the Company’s office located in West Des Moines Iowa from April 9, 2013 through September 19, 2013. Subsequent review and follow-up was conducted offsite.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations 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 violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

The following examiners participated in the Examination and in the preparation of this Report.

Yonise A. Roberts Paige, MCM  
Pennsylvania Insurance Department  
Market Conduct Division Chief

Lonnie L. Suggs, MCM  
Market Conduct Examiner-In-Charge

Roshanak Fekrat, MCM, CPA, CFE, CIA  
Global Insurance Enterprises, Inc.  
Firm Supervisory Partner

Samuel BowerCraft, MSIS, CISA  
Global Insurance Enterprises, Inc.  
Senior IT Examiner

George Brown, MCM, CFE, CIE  
Global Insurance Enterprises, Inc.  
Market Conduct Examiner

Ray Conover, MCM, FLMI, AIE, ARe  
Global Insurance Enterprises, Inc.  
Market Conduct Examiner

Aram Morvari, MCM, MBA  
Global Insurance Enterprises, Inc.  
Market Conduct Examiner

Diane T. Rudy, CPA, CISA, CIA  
Global Insurance Enterprises, Inc.  
IT Examiner

**Verification**

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



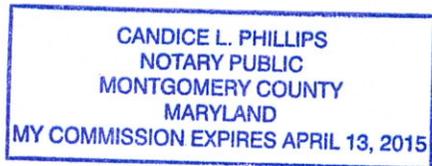
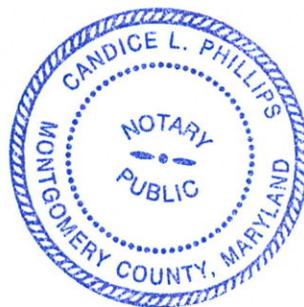
Lonnie L. Suggs MCM, Examiner-In-Charge

Sworn to and Subscribed Before me

This 28 Day of October, 2013



Notary Public



## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §323.3 and §323.4) of the Insurance Department Act and covered the experience period of July 1, 2011, through June 30, 2012, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

The examination focused on the market conduct activities in areas such as: Company Operations and Management, Advertising Certificate of Compliance, Forms, Producer Licensing, Appointments and Terminations, Producer Commissions, Consumer Complaints, Underwriting Practices and Procedures, Claims Handling Practices and Procedures and Market Conduct Annual Statement (MCAS) Reporting Practices and Procedures.

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.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance or Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

### **III. COMPANY HISTORY AND LICENSING**

The Company was incorporated as The Dakota Mutual Life Insurance Company under the laws of the State of South Dakota on August 30, 1906, and commenced business on September 4, 1906. It reorganized to a stock company in 1909, changing its name to Midland National Life Insurance Company in 1925. In 1999, the Company expanded its operations to include two main locations – the Executive Office, based in Sioux Falls, South Dakota, and the Principle Office, based in Des Moines, Iowa.

Midland National is a member of the Sammons Financial Group, which is a group of financial companies that share resources and services for optimal efficiency and growth.

Effective December 30, 2005, SFG Reinsurance Company was established as a special purpose financial captive insurance company domiciled in the South Carolina. It is a wholly owned subsidiary of MNL that reinsured certain plans of insurance from MNL. In 2012, this block of policies was ceded back to MNL, and at MNL's request, SFG Re was dissolved by the State of South Carolina effective October 18, 2012.

Effective December 22, 2010, MNL Reinsurance Company (MNLRE) was formed as an Iowa domiciled limited purpose subsidiary of MNL. MNL Re reinsures certain reserves related to universal life products issued by MNL and affiliates.

On December 30, 2011, Solberg Reinsurance Company, Inc. (SolRe) was formed as an Iowa domiciled limited purpose subsidiary of MNL. SolRe reinsures certain reserves related to life products issued by MNL and affiliates. In addition, a subsidiary company, Midland National Services Company (MNSC) was created to hold various fees payable to an outside party for its participation in the SolRe relationship.

Midland's life insurance products and services comprise term life, whole life, universal life and indexed universal life. Midland also offers individual and group annuities.

In its December 31, 2011 Annual Statement, the Company reported for the Commonwealth of Pennsylvania, direct premiums of \$65,760,619 for individual ordinary life insurance, \$2,294,639 for group life insurance, \$2,205,984 for individual annuity considerations, \$183,838,473 for group annuity considerations and \$1,265,238 deposit-type contract funds.

#### **IV. COMPANY OPERATIONS AND MANAGEMENT**

The Company was requested to provide information documenting its management and operational procedures in areas for which they conduct business for the Commonwealth of Pennsylvania.

The following company operational procedures and areas were reviewed:

- General Procedures and Company History
- Audit Program & Procedures
- Control of Computer Information Security
- Antifraud Initiatives
- Disaster Recovery Plan
- Third Party Administrator Agreement
- Records Retention Requirements
- Licensed for Lines of Business
- Policyholder Privacy Procedures
- Procedures to Protect the Privacy of Information
- Privacy Notices to Consumers on Non-Public Information
- Internal Audit & Compliance Procedures
- Assumption Reinsurance Agreements
- Management & Territory and Plan of Operations

The areas were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**3 Violations - Insurance Department Act, Section 903 and 904 (40 P.S. §§ 323.3 and 323.4)** (a) requires entities subject to the Department's examination to keep records in such manner as the Department may require to readily verify the examinee's financial

condition and compliance with laws and to provide timely, convenient and free access to all records. Therefore, insurers are not prohibited from using paperless filing technology as long as their records are readily accessible and useable for examination purposes. The Company's records retention policy was not in compliance with the record retention requirements, as outlined in the Pennsylvania's Record Retention Guidelines No. 2011-10.

## **V. ADVERTISING CERTIFICATE OF COMPLIANCE**

The Company was requested to provide a copy of the Advertising Certificate of Compliance for the experience period. The certification was received and reviewed to ensure compliance with Title 31, Pennsylvania Code, and Section 51.5. Section 51.5 provides that “A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth.” The following violation was noted:

### **1 Violation - Title 31, Pennsylvania Code, Chapter 51.5**

Each company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth. Evidence could not be established that the company filed with the Department the required advertising certificate of compliance.

## **VI. FORMS**

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with Insurance Company Law, Section 354 and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), Fraud notice. No violations were noted.

## **VII. PRODUCER LICENSING, APPOINTMENT AND TERMINATION**

The Company was requested to provide a list of all producers active and terminated as well as all commissions paid during the experience period. Section 671-A (40 P.S. §310.71) of the Insurance Department Act prohibits producers from doing business on behalf of or as a representative of any entity without a written appointment from that entity. Section 641.1-A (40 P.S. §310.41a) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. Section 671.1-A (40 P.S. §310.71a) of the Insurance Department Act requires the Company to report all producer terminations to the Department.

The Company identified a universe of 1,522 active and 190 terminated producers as well as 21,908 commission payments during the experience period. A random sample of 25 active and 25 terminated producer as well as 69 commission payment files were requested, received and reviewed. The sample was compared to departmental records of producers to verify licensing, appointments and terminations. In addition, producer licensing and appointments were also reviewed in the various underwriting sections. The findings from those reviews will be included in the summaries for the areas reviewed. The following violations were noted:

### **3 Violations – Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)**

- (a) Representative of the insurer. – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer. – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:

- (1) Delineates the services to be provided; and
  - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.
- (c) Notification to department. – An insurer that appoints an insurance producer shall file with the department a notice of appointment. The notice shall state for which companies within the insurer’s holding company system or group the appointment is made.
- (d) Termination of appointment. – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer’s license is suspended, revoked or otherwise terminated.
- (e) Appointment fee. – An appointment fee of \$15.00 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.
- (f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer. The Company failed to provide evidence of licensing and file a notice of appointment and submitted appointment fees to the Insurance Department for the noted producers and agency.

Last Name	First Name
Allon	David J.
Leeper	Robert H.
Equias Alliance, LLC	

## **VIII. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2008, 2009, 2010, 2011 and 2012. The Company identified 20 consumer complaints received during the experience period. Of the 20 complaints identified, 10 were forwarded from the Pennsylvania Insurance Department. All 20 complaint files were requested, received, and reviewed. The company also provided complaint logs 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 log.

The complaint files and the 5 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5 (a) (11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. 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. Written complaint files involving claims were also reviewed for compliance with Title 31, PA Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. No violations were noted.

## IX. UNDERWRITING

The Underwriting review consisted of 36 general segments.

A.	Underwriting Guidelines
B.	Individual Universal Life Insurance Policies Issued (CLASS)
C.	Individual Term Life Insurance Policies Issued (L70)
D.	Individual Whole Life Insurance Policies Issued (L70)
E.	Individual Indexed (XL) Universal Life Insurance Policies Issued (L70)
F.	Individual Universal Life Insurance Policies Issued as Replacements (CLASS)
G.	Individual Term Life Insurance Policies Issued as Replacements (L70)
H.	Individual Whole Life Insurance Policies Issued as Replacements (L70)
I.	Individual Indexed (XL) Universal Life Insurance Policies Issued as Replacements (L70)
J.	Individual Variable Annuity Contracts Issued as Replacements
K.	Individual Universal Life Insurance Policies New Business Declined (CLASS)
L.	Individual Life Insurance Policy Loans (Cyberlife)
M.	Individual Life Insurance Policy Loans (L70)
N.	Individual Life Insurance Policy Loans (CLASS)
O.	Individual Life Insurance Policies Surrendered (L70)
P.	Individual Life Insurance Policies Surrendered (Cyberlife)
Q.	Individual Universal Life Insurance Policies Surrendered (CLASS)
R.	Individual Annuity Contracts Surrendered (L70)
S.	Individual Annuity Contracts Surrendered (CLASS)
T.	Group Universal Life Insurance Certificates Issued (L70)
U.	Group Variable Universal Life Insurance Certificates Issued (L70)
V.	Group Indexed (XL) Universal Life Insurance Certificates Issued (L70)
W.	Group Single Premium Whole Life Insurance Certificates Issued (Policylink)
X.	Group Universal Life Insurance Certificates Issued as Replacements (L70)
Y.	Group Variable Universal Life Insurance Certificates Issued as Replacements (L70)
Z.	Group Indexed (XL) Universal Life Insurance Certificates Issued as Replacements (L70)
AA.	Group Single Premium Whole Life Insurance Certificates Issued as Replacements (Policylink)

BB.	Group Annuity Certificates Issued (Policylink)
CC.	Group Annuity Certificates Issued as Replacements (Policylink)
DD.	Group Universal Life Insurance New Business Declined (L70)
EE.	Group Indexed (XL) Life Insurance New Business Declined (L70)
FF.	Group Annuity Certificates New Business Declined
GG.	Group Life Insurance Policy Loans (Policylink)
HH.	Group Life Insurance Policy Loans (Cyberlife)
II.	Group Universal Life Insurance Contracts Surrendered (Cyberlife)
JJ.	Group Single Premium Whole Life Insurance Contracts Surrendered (Policylink)

Each segment was reviewed for compliance with underwriting practices and included forms identification and producer identification. Issues relating to forms or licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

### **A. Underwriting Guidelines**

The Company was requested to provide copies of all underwriting guidelines and manuals utilized during the experience period. The documents provided were reviewed to ensure that underwriting guidelines were in place and being followed in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by the Commonwealth of Pennsylvania's Statute and Regulations. No violations were noted.

The following underwriting manuals, guidelines and procedural documentations were provided and reviewed:

- New Business Life Underwriting Requirements Guide
- Underwriting Authority Guidelines
- Swiss Re Underwriting Manual Access
- Midland National Life Insurance Company <https://www.midlandnational.com>

- Bank Owned Life Insurance (BOLI) – Underwriting (added)
- Guaranteed Issue Guidelines (added)
- Underwriting Requirements – (Amount/Age) (added)

### **B. Individual Universal Life Insurance Policies Issued (CLASS)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 199 individual universal life insurance policies issued (CLASS) during the experience period. The companies reported the 199 individual universal life insurance policies issued (CLASS) are bank owned life insurance policies (BOLI). A random sample of 15 individual universal life insurance policies issued (CLASS) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. No violations were noted.

### **C. Individual Term Life Insurance Policies Issued (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 347 individual term life insurance policies issued (L70) during the experience period. A random sample of 15 individual term life insurance policies issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. No violations were noted.

## **D. Individual Whole Life Insurance Policies Issued (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 22 individual whole life insurance policies issued (L70) during the experience period. All 22 individual whole life insurance policies issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

### **1 Violation - Insurance Department Act, Section 903 (40 P.S. §323.3)**

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. Evidence of the required proof of application could not be established in the noted file.

### **1 Violation - Title 31, Pennsylvania Code, Chapter 83.3 (a)**

Required written disclosure. A life agent, broker, or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. Evidence of the required disclosure statement could not be established in the noted file.

### **1 Violation – Title 31, Pennsylvania Code, Chapter 83.4**

Except as otherwise provided herein, the written disclosure statement shall be given no later than the time that the application form is signed by the applicant. Evidence that the required disclosure statement was provided to the applicant at the time the application was signed could not be established in the noted file.

**1 Violation – Title 31, Pennsylvania Code, Chapter 83.4a**

The (producer) agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant. Evidence that the agent submitted to the insurer a required certified signed disclosure statement that was provided to the applicant at the time application was signed could not be established in the noted file.

**1 Violation – Title 31, Pennsylvania Code, Chapter 83.4b**

The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. Evidence of the producer's required certification of disclosure delivery could not be established in the noted file.

**E. Individual Indexed (XL) Universal Life Insurance Policies Issued (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 76 individual indexed (XL) universal life insurance policies issued (L70) during the experience period. A random sample of 10 individual indexed (XL) universal life insurance policies issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**8 Violations – Insurance Company Law, Section 408-A(c) (4) (i) (40 P.S. §625-8)**

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed.” At the time of policy delivery, the applicant or policy owner’s acknowledgement of an illustration receipt could not be established in the noted files.

**8 Violations – Insurance Company Law, Section 408-A(c) (4) (ii) (40 P.S. §625-8)**

A statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.” Evidence of the agent’s certification could not be established in the noted files.

**1 Violation - Insurance Company Law, Section 404-A (40 P.S. §625-4)**

When the producer delivers the individual policy or annuity to the policyholder by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Policy delivery by mail must be proved through a “Certificate of Mailing.” Evidence of policy delivery could not be established in the noted file.

## **F. Individual Universal Life Insurance Policies Issued as Replacements (CLASS)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 30 individual universal life insurance policies issued as replacements (CLASS) during the experience period. The companies reported 30 individual universal life insurance policies issues as replacements are bank owned life insurance policies (BOLI) of the bank's employees. A random sampling of 10 individual universal life insurance polices issued as replacement (CLASS) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

### **1 Violation - Title 31, Pennsylvania Code, Chapter 81.6 (a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The required replacement letter to the replaced Company was untimely in the noted file.

## **G. Individual Term Life Insurance Policies Issued as Replacements (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 133 individual term life

insurance policies issued as replacements (L70) during the experience period. A random sampling of 15 individual term life insurance policies issued as replacement (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**1 Violation - Title 31, Pennsylvania Code, Chapter 81.6(a) (1)**

(a) An insurer that uses an agent or broker in a life insurance or annuity sale shall:

(1) Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The producer's (agents') answer to the replacement question, where replacement appears evident, was answered incorrectly in the noted file.

**6 Violations – Insurance Company Law, Section 410-D (a) (2) (40 P.S. §510c)**

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery and to have the premium refunded, if after examination of the policy, the policyholder is not satisfied with it for any reason. Evidence of the required 45-day "free look" statement could not be established in the noted files.

**H. Individual Whole Life Insurance Policies Issued as Replacements (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 2 individual whole life

insurance policies issued as replacements (L70) during the experience period. Both individual whole life insurance policies issued as replacement (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **I. Individual Indexed (XL) Universal Life Insurance Policies Issued as Replacements (L70)**

The Company was requested to provide a list of all individual policies issued during the experience period. The Company identified a universe of 35 individual indexed (XL) universal life insurance policies issued as replacements (L70) during the experience period. A random sampling of 10 individual indexed (XL) universal life insurance policies issued as replacement (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

#### **1 Violation - Title 31, Pennsylvania Code, Chapter 81.4 (b)(1)**

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. At the time of application, the noted file did not contain the required replacement form.

#### **3 Violations - Title 31, Pennsylvania Code, Chapter 81.6 (a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall

be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. Evidence of a timely replacement letter to the replaced company could not be established in the noted files.

**1 Violation – Insurance Company Law, Section 408-A (e) (1) (ii) (40 P.S. §625-8)**

If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled "Revised Illustration." The statement required by subsection (c)(4) shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insurer as soon as practical after the policy is delivered. Evidence of the required revised illustration could not be established in the noted file.

**5 Violations – Insurance Company Law, Section 408-A(c) (4) (i) (40 P.S. §625-8)**

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed." At the time of policy delivery, the applicant or policy owner's acknowledgement of an illustration receipt could not be established in the noted files.

**5 Violations – Insurance Company Law, Section 408-A(c) (4)(ii) (40 P.S. §625-8)**

A statement to be signed and dated by the producer reading as follows: "I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration." Evidence of the agent's certification could not be established in the noted files.

## **J. Individual Variable Annuity Contracts Issued as Replacements**

The Company was requested to provide a list of all individual contracts issued during the experience period. The Company identified a universe of 5 individual variable annuity contracts issued as replacements during the experience period. All 5 individual variable annuity contracts issued as replacement files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

### **5 Violations - Title 31, Pennsylvania Code, Chapter 81.6 (a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. Evidence of a timely replacement letter to the replaced company could not be established in the noted files.

## **K. Individual Universal Life Insurance Policies New Business Declined (CLASS)**

The Company was requested to provide a list of all declinations during the experience period. The Company identified a universe of 3 individual universal life insurance policies new business declined (CLASS) during the experience period. All 3 individual universal life insurance policies new business declined (CLASS) files were requested,

received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **L. Individual Life Insurance Policy Loans (Cyberlife)**

The Company was requested to provide a list of all policy loans that became effective during the experience period. The Company identified a universe of 59 individual life insurance policy loans issued (Cyberlife) during the experience period. A random sample of 10 individual life insurance policy loans issued (Cyberlife) files was requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **M. Individual Life Insurance Policy Loans (L70)**

The Company was requested to provide a list of all policy loans that became effective during the experience period. The Company identified a universe of 405 individual life insurance policy loans issued (L70) during the experience period. A random sample of 20 individual life insurance policy loans issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

#### **2 Violations – Insurance Company Law, Section 410-F (c)(5)(i)(ii) (40 P.S. §510e (C)(5)(i) (ii))**

(i) notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as

provided in subsection (c) (5) (iii). Evidence that the Company notified the policyholder of the initial interest rate at the time the loan was made could not be established in the noted files.

#### **N. Individual Life Insurance Policy Loans (CLASS)**

The Company was requested to provide a list of all policy loans that became effective during the experience period. The Company identified a universe of 3 individual life insurance policy loans issued (CLASS) during the experience period. All 3 individual life insurance policy loans issued (CLASS) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **O. Individual Life Insurance Policies Surrendered (L70)**

The Company was requested to provide a list of all policies surrendered during the experience period. The Company identified a universe of 1,264 individual life insurance policies surrendered (L70) during the experience period. A random sample of 16 individual life insurance policies surrendered (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **P. Individual Life Insurance Policies Surrendered (Cyberlife)**

The Company was requested to provide a list of all policies surrendered during the experience period. The Company identified a universe of 151 individual life insurance

policies surrendered (Cyberlife) during the experience period. A random sample of 15 individual life insurance policies surrendered (Cyberlife) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**Q. Individual Universal Life Insurance Policies Surrendered (CLASS)**

The Company was requested to provide a list of all policies surrendered during the experience period. The Company identified a universe of 12 individual universal life insurance policies surrendered (CLASS) during the experience period. All 12 individual universal life insurance policies surrendered (CLASS) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**R. Individual Annuity Contracts Surrendered (L70)**

The Company was requested to provide a list of all contracts surrendered during the experience period. The Company identified a universe of 9 individual annuity contracts surrendered (L70) during the experience period. All 9 individual annuity contracts surrendered (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **S. Individual Annuity Contracts Surrendered (CLASS)**

The Company was requested to provide a list of all contracts surrendered during the experience period. The Company identified a universe of 6 individual annuity contracts surrendered (CLASS) during the experience period. All 6 individual annuity contract surrendered (CLASS) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **T. Group Universal Life Insurance Certificates Issued (L70)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 303 group universal life insurance certificates issued (L70) during the experience period. A random sample of 15 group universal life insurance certificates issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

#### **6 Violations – Insurance Company Law, Section 408-A(c) (4) (i) (40 P.S. §625-8)**

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed." At the time of policy delivery, the applicant or policy owner's acknowledgement of an illustration receipt could not be established in the noted files.

## **6 Violations – Insurance Company Law, Section 408-A(c) (4) (ii) (40 P.S. §625-8)**

A statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.” Evidence of the agent’s certification could not be established in the noted files.

### **U. Group Variable Universal Life Insurance Certificates Issued (L70)**

The Company was requested to provide a list of all certificates issued during the experience period. The Company identified a universe of 1 group variable universal life insurance certificate issued (L70) during the experience period. The 1 group variable universal life insurance certificate (L70) file was requested, received and reviewed. The file was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. No violations were noted.

### **V. Group Indexed (XL) Universal Life Insurance Certificates Issued (L70)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 85 group indexed (XL) universal life insurance certificates issued (L70) during the experience period. A random sample of 10 group indexed (XL) universal life insurance certificates issued (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violations were noted:

**2 Violations – Insurance Company Law, Section 408-A (e) (2) (iii) (40 P.S. §625-8)**

The following applies if a producer in the sale of a life insurance policy uses no illustration or if a screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. Certification and acknowledgement of the delivery of an illustration could not be established in the noted files.

**1 Violation – Insurance Company Law, Section 408-A(c) (4) (i) (40 P.S. §625-8)**

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed.” At the time of policy delivery, the applicant or policy owner’s acknowledgement of an illustration receipt could not be established in the noted file.

**1 Violation – Insurance Company Law, Section 408-A(c) (4) (ii) (40 P.S. §625-8)**

A statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.” Evidence of the agent’s certification could not be established in the noted file.

**W. Group Single Premium Whole Life Insurance Certificates Issued (Policylink)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of the 7 group single premium

whole life insurance certificates issued (Policylink) during the experience period. All 7 group single premium whole life insurance certificates issued (Policylink) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **X. Group Universal Life Insurance Certificates Issued as Replacements (L70)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 132 group universal life insurance certificates issued as replacements (L70) during the experience period. A random sample of 15 group universal life insurance certificates issued as replacement (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

##### **7 Violations – Insurance Company Law, Section 408-A(c) (4) (i) (40 P.S. §625-8)**

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed." At the time of policy delivery, the applicant or policy owner's acknowledgement of an illustration receipt could not be established in the noted files.

##### **7 Violations – Insurance Company Law, Section 408-A(c) (4) (ii) (40 P.S. §625-8)**

A statement to be signed and dated by the producer reading as follows: "I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made

no statements that are inconsistent with the illustration.” Evidence of the agent’s certification could not be established in the noted files.

**1 Violation - Insurance Company Law, Section 404-A (40 P.S. §625-4)**

When the producer delivers the individual policy or annuity to the policyholder by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Evidence of policy delivery could not be established in the noted file.

**Y. Group Variable Universal Life Insurance Certificates Issued  
as Replacements (L70)**

The Company was requested to provide a list of all certificates issued during the experience period. The Company identified a universe of 1 group variable universal life insurance certificate issued as a replacement (L70) during the experience period. The 1 group variable universal life insurance certificate issued as a replacement (L70) file was requested, received and reviewed. The file was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. No violations were noted.

**Z. Group Indexed Universal Life Insurance Certificates Issues  
as Replacements (L70)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 12 group indexed universal life insurance certificates issued as replacements (L70) during the experience period. All 12 group indexed universal life insurance certificates issued as replacement (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**AA. Group Single Premium Whole Life Insurance Certificates Issued as  
Replacements (Policylink)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of the 2 group single premium whole life insurance certificates issued as replacements (Policylink) during the experience period. Both group single premium whole life insurance certificates issued as replacement (Policylink) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**BB. Group Annuity Certificates Issued (Policylink)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 2,070 group annuity certificates issued (Policylink) during the experience period. A random sample of 36 group annuity certificates issued (Policylink) files were requested, received and reviewed.

The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **CC. Group Annuity Certificates Issued as Replacements (Policylink)**

The Company was requested to provide a list of all group certificates issued during the experience period. The Company identified a universe of 544 group annuity certificates issued as replacements (Policylink) during the experience period. A random sample of 56 group annuity certificates issued as replacement (Policylink) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **DD. Group Universal Life Insurance Policies New Business Declined (L70)**

The Company was requested to provide a list of all declinations during the experience period. The Company identified a universe of 63 group universal life insurance policies new business declined (L70) during the experience period. A random sample of 25 group universal life insurance policies new business declined (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

### **EE. Group Indexed (XL) Life Insurance Policies New Business Declined (L70)**

The Company was requested to provide a list of all declinations during the experience period. The Company identified a universe of 11 group indexed (XL) life insurance policies new business declined (L70) during the experience period. All 11 group indexed

(XL) life insurance policies new business declined (L70) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **FF. Group Annuity Certificates New Business Declined**

The Company was requested to provide a list of all declinations during the experience period. The Company identified a universe of 22 group annuity certificates new business declined during the experience period. All 22 group annuity certificates new business declined files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **GG. Group Life Insurance Policy Loans (Policylink)**

The Company was requested to provide a list of all policy loans that became effective during the experience period. The Company identified a universe of 36 group life insurance policy loans issued (Policylink) during the experience period. A random sample of 10 group life insurance policy loans issued (Policylink) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **HH. Group Life Insurance Policy Loans (Cyberlife)**

The Company was requested to provide a list of all policy loans that became effective during the experience period. The Company identified a universe of 9 group life

insurance policy loans issued (Cyberlife) during the experience period. All 9 group life insurance policy loans issued (Cyberlife) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**5 Violations – Insurance Company Law, 410-F (c)(5)(i) (ii) (40 P.S. §510e (C) (5) (i) (ii))** notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c) (5) (iii). Evidence that the Company notified the policyholder of the initial interest rate at the time the loan was made could not be established in the noted files.

## **II. Group Universal Life Insurance Certificates Surrendered (Cyberlife)**

The Company was requested to provide a list of all policies surrendered during the experience period. The Company identified a universe of 60 group universal life insurance certificates surrendered (Cyberlife) during the experience period. A random sample of 10 group universal life insurance certificates surrendered (Cyberlife) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**JJ. Group Single Premium Whole Life Insurance Certificates Surrendered  
(Policylink)**

The Company was requested to provide a list of all policies surrenders during the experience period. The Company identified a universe of 2 group single premium whole life insurance certificates surrendered (Policylink) during the experience period. Both group single premium whole life insurance certificates surrendered (Policylink) files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

## **X. CLAIMS & CLAIMS MANUALS**

The Claim review consisted of 6 general segments.

A.	Claim Manuals
B.	Life Insurance Claims Denied
C.	Individual Life Insurance Claims Paid
D.	Group Life Insurance Claims Paid
E.	Individual Annuity Claims Paid
F.	Group Annuity Claims Paid

All claim files sampled were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171) and Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

### **A. Claim Manuals**

The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period.

The Company provided the following claim manuals:

- Claims – Applying PETE AU Transactions
- Claims – Claims Dept Processes
- Claims – Claims Kit
- Claims – Contestable and Questionable Claims – Denial
- Claims – Death Claims Quality Review Procedures
- Claims – Downloading Policies into SFG – Clarica
- Claims – Downloading Policies into SFG – Life70

- Claims – Downloading Policies into SFG – Policylink
- Claims – Following-Up on Death Claims
- Claims – Internal Claim Review Procedures
- Claims – Policy Search Using E-View
- Claims – Procedure – Claims Handling of Contestable and Questionable Claims – Denials
- Claims – Processing Death Claims – Policylink SFG
- Claims – Processing Death Claims – SFG
- Claims – Processing Initial Death Claim Notification – Policylink
- Claims – Processing Initial Death Claim Notification – SFG
- Claims – Special Handling on Deceased Class Members

The claim manuals and procedural guides were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

### **B. Life Insurance Claims Denied**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of one life insurance claims denied during the experience period. The one life insurance claim denied file was requested, received and reviewed. The claim file was reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). No violations were noted.

### **C. Individual Life Insurance Claims Paid**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 342 individual life insurance claims paid during the experience period. A random sample of 25 individual life insurance claims paid files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

#### **2 Violations - Title 31, Pennsylvania Code, Chapter 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence of a timely status letter could not be established in the noted files.

#### **1 Violation - Title 31, Pennsylvania Code, Chapter 146.7**

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first- party claimant shall be advised of the acceptance or denial of the claim by the insurer. Evidence of acceptance or denial within 15 working days could not be established in the noted file.

#### **2 Violations – Unfair Insurance Practices Act 205, Section 5 (40 P.S. §1171.5)**

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means:

(10) Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices:

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(v) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the company or its representative. The noted violations were committed or performed with such frequency to indicate a business practice.

#### **D. Group Life Insurance Claims Paid**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 4 group life insurance claims paid during the experience period. All 4 group life insurance claims paid files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

##### **1 Violation – Title 31, Pennsylvania Code, Chapter 146.3**

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. Evidence of pertinent information could not be established in the noted file.

##### **1 Violation - Title 31, Pennsylvania Code, Chapter 146.5**

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate

notation of such acknowledgment shall be made in the claim file of the insurer and dated. Evidence of acknowledgement within 10 working days could not be established in the noted file.

**1 Violation - Title 31, Pennsylvania Code, Chapter 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence of a timely status letter could not be established in the noted file.

**1 Violation - Title 31, Pennsylvania Code, Chapter 146.7**

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first- party claimant shall be advised of the acceptance or denial of the claim by the insurer. Evidence of acceptance or denial within 15 working days could not be established in the noted file.

**1 Violation – Act 205, Section 5 (40 P.S. §1171.5)**

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means:

(10) Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices:

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(v) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the company or its representative. The noted violation was committed or performed with such frequency to indicate a business practice.

### **E. Individual Annuity Claims Paid**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 5 individual annuity claims paid during the experience period. All 5 individual annuity claims paid files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

#### **1 Violation - Title 31, Pennsylvania Code, Chapter 146.5**

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Evidence of acknowledgement within 10 working days could not be established in the noted file.

#### **1 Violation - Title 31, Pennsylvania Code, Chapter 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the

delay and state when a decision on the claim may be expected. Evidence of a timely status letter could not be established in the noted file.

**1 Violation – Act 205, Section 5 (40 P.S. §1171.5)**

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means:

(10) Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices:

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The noted violation was committed or performed with such frequency to indicate a business practice.

**F. Group Annuity Claims Paid**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 490 group annuity claims paid during the experience period. A random sample of 25 group annuity claims paid files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

**3 Violations - Title 31, Pennsylvania Code, Chapter 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time.

If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence of a timely status letter could not be established in the noted files.

**3 Violations – Act 205, Section 5 (40 P.S. §1171.5)**

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means:

(10) Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices:

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The noted violations were committed or performed with such frequency to indicate a business practice.

## **XI. INTERNAL AUDIT AND COMPLIANCE PROCEDURES**

The Company was requested to provide copies of their internal audit and compliance procedures utilized during the experience period. The documents were requested, received and reviewed to ensure compliance with Insurance Company Law, Section 405-A (40 P.S. §625-5). Section 405-A provides for the establishment and maintenance of internal audit and compliance procedures, which provides for the evaluation of compliance with all statutes and regulations dealing with sales methods, advertising, and filing and approval requirements for life insurance and annuities. The procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.
- (4) The laws require that each insurer shall make available for the Department's inspection upon request its internal audit and compliance procedures which are instituted as required by this section. No violations were noted.

## **XII. MCAS REPORTING**

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The MCAS data is submitted in compliance with Pennsylvania Insurance Department Act, Section 903(a) [40 P.S. §323.3] which states in part, “Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth.” The MCAS data is submitted, protected and analyzed under the referenced Pennsylvania examination law as a means to validate the continued solvency of an insurer.

The Market Conduct Data Integrity Examination was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §323.3 and §323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2010 and 2011. The 2012 MCAS reporting was provided to the examiner in good faith. The review included the evaluation of the Company’s activities surrounding the accuracy and completeness of the mandatory filing of data for the MCAS report, which is used by regulators to collect claims, and underwriting data.

The Examination team requested the Company’s 2010, and 2011 MCAS Life and MCAS Annuity Submissions in conjunction with the Company’s procedures and source data used in compiling those submissions. In addition, the Company was requested to provide procedures for data extraction and the report generation process to support the creation of the MCAS report.

The Company did not retain a snapshot of the 2010 MCAS supporting data, and decided in good faith to submit the 2012 MCAS Life and 2012 MCAS Annuity Submission for testing. The 2012 MCAS data was provided to demonstrate the Company's efforts to improve upon and resolve issues regarding the internal MCAS reporting process.

The review of the MCAS information was twofold; first to determine if the Company had Information Technology (IT) and data integrity controls in place along with policies and procedures, to ensure the validity of the MCAS data submission; and second, to determine if the 2010, 2011 and 2012 MCAS data reported was accurate and complete.

The following represents the sections requested and voluntarily submitted by the Company to the examination team for review during the course of the examination.

- A. 2010 MCAS Life Report
- B. 2011 MCAS Life Report
- C. 2012 MCAS Life Report
- D. 2010 MCAS Annuity Report
- E. 2011 MCAS Annuity Report
- F. 2012 MCAS Annuity Report
- G. MCAS Policies and Procedures; Data Extraction and Report Generation

**Legal Reference: Pennsylvania Insurance Department Act, Section 903 (a) (40 P.S. §323.3)**

(a) Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth.

**Legal Reference: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure).

**MCAS Reference: The Market Conduct Annual Statement General Filing Information – Company Attestation**

All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company.

## A. 2010 MCAS Life Report

The Company was requested to provide all data sets for each MCAS line item during the experience period. In a letter provided by the Company dated May 20, 2013, it stated in part, “Midland National did not retain a snapshot of the 2010 MCAS supporting data.” The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 903 (a) (40 P.S. §323.3)**

(a) Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The source data sets used for MCAS reporting could not be verified for the 2010 MCAS Life Report.

Ln	MCAS DATA CALL
0	Does the company have data to report for this product type?
1	Number of new replacement policies applied for during period (include all replacements regardless of whether an insurance policy was actually issued)
2	Number of new replacement policies issued during period (include only the number of replacement insurance policies issued)
3	Do replacement counts provided include internal replacements?
4	Do replacement counts include policies surrendered?
5	Do replacement counts provided include policies/contracts purchased using loan proceeds from existing life policies and/or annuity contracts?
6	Do replacement counts provided include policies/contracts purchased through 1035 exchanges?
7	Does company maintain replacement register?
8	Number of in force policies with loan balance over 25% of maximum loan value as of end of reporting period

9	Number of policies surrendered during period
10	Number of partial surrenders during period
11	Does count of policies surrendered include partial surrenders?
12	Number of new 1035 exchanges coming into company during period
13	Number of new policies issued by the company during period
14	Number of policies in force at end of period (the number of active policies that the company has outstanding at the end of the reporting period)
15	Dollar amount of direct premium during period
16	Dollar amount of insurance issued during period (face amount)
17	Dollar amount of insurance in force at the end of period (face amount)
18	Number of complaints received directly from consumers
19	Number of complaints received directly from the corresponding department of insurance
20	Does the company maintain complaint register?
21	Number of death claims closed with payment, during period, within 60 days from date of due proof of loss (include claims where final decision was payment in full, and was made within 60 days from when date of due proof of loss occurred)
22	Number of death claims closed with payment, during period, beyond 60 days from date of due proof of loss (include claims where final decision was payment in full, and was NOT made within 60 days from when date of due proof of loss occurred)
23	Number of death claims denied, resisted or compromised during period (a claim is considered resisted when in dispute and not resolved on statement date)
24	Total number of death claims received during period (include any claim received during the period as determined by the first date the claim was opened on the company system)

## B. 2011 MCAS Life Report

The examination team reviewed the Company's 2011 MCAS Life Submission, the supporting source documents and randomly selected files corresponding to the MCAS data call in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 MCAS Life Report. A total of 7 violations were noted.

Line	INTERROGATORIES
<b>01</b>	Individual Life Cash Value - Does the company have data to report for this product type?
<b>02</b>	Individual Life Non-Cash Value - Does the company have data to report for this product type?
<b>03/04</b>	Is there a reason that the reported Individual Life Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>05/06</b>	Is there a reason that the reported Individual Life Non-Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>07</b>	Additional state specific Individual Life Cash Value comments (optional):
<b>08</b>	Additional state specific Individual Life Non-Cash Value comments (optional):
<b>09</b>	Number of replacement policies issued during the period.
<b>10</b>	Number of internal replacements issued during the period.
<b>11</b>	Number of external replacements issued during the period.
<b>12</b>	Number of policies replaced where age of insured at replacement was < 65.
<b>13</b>	Number of policies replaced where age of insured at replacement was age 65 and over.
<b>14</b>	Number of policies surrendered under 2 years from policy issue.
<b>15</b>	Number of policies surrendered between 2 years and 5 years from policy issue.
<b>16</b>	Number of policies surrendered between 6 years and 10 years from policy issue.
<b>17</b>	Number of policies surrendered during the period.

<b>18</b>	Number of new policies issued during the period where age of insured at issue was < 65.
<b>19</b>	Number of new policies issued during the period where age of insured at issue was age 65 and over.
<b>20</b>	Number of new policies issued during the period.
<b>21</b>	Number of policies in force at the end of the period.
<b>22</b>	Dollar amount of direct written premium during the period.
<b>23</b>	Face amount of insurance issued during the period.
<b>24</b>	Face amount of insurance in force at the end of the period.
<b>25</b>	Number of complaints received directly from consumers.
<b>26</b>	Number of death claims closed with payment, during the period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
<b>27</b>	Number of death claims closed with payment, during the period, beyond 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
<b>28</b>	Number of death claims denied, resisted or compromised during the period.
<b>29</b>	Number of death claims received during the period.

**NUMBER OF REPLACEMENT POLICIES ISSUED**  
**DURING THE PERIOD – LINE #9**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS life report line #9. The Company identified a universe of replacement policies issued during the experience period for MCAS life report line #9. A random sample of 5 cash value replacement policy files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #9 of the 2011 MCAS Life Submission regarding the number of replacement policies issued during the experience period.

**NUMBER OF POLICIES SURRENDERED**

**DURING THE PERIOD – LINE #17**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS life report line #17. The Company identified a universe of policies surrendered during the experience period for MCAS life report line #17. A random sample of 5 cash value policies surrendered files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #17 of the 2011 MCAS Life Submission regarding the number of policies surrendered during the experience period.

**NUMBER OF NEW POLICIES ISSUED DURING THE PERIOD**  
**WHERE AGE IF INSURED AT ISSUE WAS <65 – LINE #18**

The Company was requested to provide a complete data set for MCAS life report line #18. The Company identified a universe of new policies issued during the experience period where age of insured at issue was <65 for MCAS life report line #18. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #18 of the 2011 MCAS Life Submission regarding the number of new policies issued during the experience period where age of insured at issue was <65.

**NUMBER OF NEW POLICIES ISSUED DURING THE PERIOD**  
**WHERE AGE OF INSURED AT ISSUE WAS AGE 65 AND OVER – LINE #19**

The Company was requested to provide a complete data set for MCAS life report line #19. The Company identified a universe of new policies issued during the experience period where age of insured at issue was age 65 and over for MCAS life report line #19. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #19 of the 2011 MCAS Life Submission regarding the number of new policies issued during the experience period where age of insured at issue was age 65 and over.

**NUMBER OF NEW POLICIES ISSUED**  
**DURING THE PERIOD – LINE #20**

The Company was requested to provide a complete data set for MCAS life report line #20. The Company identified a universe of new policies issued during the experience period for MCAS life report line #20. A random sample of 5 cash value new issue policy files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #20 of the 2011 MCAS Life Submission regarding the number of new policies issued during the experience period.

**NUMBER OF DEATH CLAIMS CLOSED WITH PAYMENT**  
**DURING THE PERIOD, WITHIN 60 DAYS FROM THE**  
**DATE OF DUE PROOF – LINE #26**

**MCAS Definition - Claim Closed with Payment** – A claim where the final decision was payment of the claim.

**MCAS Definition – Date of Due Proof of Loss** – The date the company received the necessary proof of loss on which to base a claim determination, including where necessary, proof of unencumbered interest of the beneficiary and documentation required to legally make payment (such as completed claim forms, W-9's, estate dispute settlements, proof of age, police investigation reports, etc.).

The Company was requested to provide a complete data set for MCAS life report line #26. The Company identified a universe of death claims closed with payment, during the experience period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full) for MCAS life report line #26. A random sample of 5 cash value and 5 non-cash value claim files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors,

employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #26 of the 2011 MCAS Life Submission regarding the number of death claims closed with payment, during the experience period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full).

**NUMBER OF DEATH CLAIMS RECEIVED**  
**DURING THE PERIOD – LINE #29**

**MCAS Definition – Claim** – A request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Claims with multiple beneficiaries should be counted as one claim. If a single insured dies and has multiple policies (for individual life products), a claim should be reported for each of the insured's policies (for example, if an insured had 3 individual life policies (2 cash value products and one non-cash value product), 3 claims would be reported (2 claims under schedule 1 and 1 claim under schedule 2). It does not include events that were reported for "information only" or an inquiry of coverage since a claim has not actually been presented (opened) for payment.

The Company was requested to provide a complete data set for MCAS life report line #29. The Company identified a universe of death claims received during the experience

period for MCAS life report line #29. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #29 of the 2011 MCAS Life Submission regarding the number of death claims received during the period.

### C. 2012 MCAS Life Report

The examination team reviewed the Company's 2012 MCAS Life Submission, the supporting source documents and randomly selected files corresponding to the MCAS data call in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2012 MCAS Life Report. A total of 7 violations were noted.

Line	INTERROGATORIES
<b>01</b>	Individual Life Cash Value - Does the company have data to report for this product type?
<b>02</b>	Individual Life Non-Cash Value - Does the company have data to report for this product type?
<b>03/04</b>	Is there a reason that the reported Individual Life Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>05/06</b>	Is there a reason that the reported Individual Life Non-Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>07</b>	Additional state specific Individual Life Cash Value comments (optional):
<b>08</b>	Additional state specific Individual Life Non-Cash Value comments (optional):
<b>09</b>	Number of replacement policies issued during the period.
<b>10</b>	Number of internal replacements issued during the period.
<b>11</b>	Number of external replacements issued during the period.
<b>12</b>	Number of policies replaced where age of insured at replacement was < 65.
<b>13</b>	Number of policies replaced where age of insured at replacement was age 65 and over.
<b>14</b>	Number of policies surrendered under 2 years from policy issue.
<b>15</b>	Number of policies surrendered between 2 years and 5 years from policy issue.
<b>16</b>	Number of policies surrendered between 6 years and 10 years from policy issue.
<b>17</b>	Number of policies surrendered during the period.

<b>18</b>	Number of new policies issued during the period where age of insured at issue was < 65.
<b>19</b>	Number of new policies issued during the period where age of insured at issue was age 65 and over.
<b>20</b>	Number of new policies issued during the period.
<b>21</b>	Number of new policies applied for during the period.
<b>22</b>	Number of free looks during the period.
<b>23</b>	Number of policies in force at the end of the period.
<b>24</b>	Dollar amount of direct written premium during the period.
<b>25</b>	Face amount of insurance issued during the period.
<b>26</b>	Face amount of insurance in force at the end of the period.
<b>27</b>	Number of complaints received directly from consumers.
<b>28</b>	Number of death claims closed with payment, during the period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
<b>29</b>	Number of death claims closed with payment, during the period, beyond 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
<b>30</b>	Number of death claims denied, resisted or compromised during the period.
<b>31</b>	Number of death claims received during the period.

**NUMBER OF REPLACEMENT POLICIES ISSUED**  
**DURING THE PERIOD – LINE #9**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS life report line #9. The Company identified a universe of replacement policies issued during the experience period for MCAS life report line #9. A random sample of 5 cash value and 5 non-cash value replacement policy files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #9 of the 2012 MCAS Life Submission regarding the number of replacement policies issued during the experience period.

**NUMBER OF NEW POLICIES ISSUED DURING THE PERIOD WHERE AGE OF INSURED AT ISSUE WAS <65 – LINE #18**

The Company was requested to provide a complete data set for MCAS life report line #18. The Company identified a universe of new policies issued during the experience period where age of insured at issue was <65 for MCAS life report line #18. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #18 of the 2012 MCAS Life Submission regarding the number of new policies issued during the experience period where age of insured at issue was <65.

**NUMBER OF NEW POLICIES ISSUED**  
**DURING THE PERIOD – LINE #20**

The Company was requested to provide a complete data set for MCAS life report line #20. The Company identified a universe of new policies issued during the experience period for MCAS life report line #20. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with:  
Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #20 of the 2012 MCAS Life Submission regarding the number of new policies issued during the experience period.

**NUMBER OF POLICIES APPLIED FOR**  
**DURING THE PERIOD – LINE #21**

**MCAS Definition - Policies/Contracts Applied For** – Applications for life insurance or annuities that are submitted to the company which have or will result in a formal offer of an insurance or annuity contract or a formal declination of the application by the company. Applications that are declined by a broker-dealer or producer and never reviewed by the company are not included in this count.

The Company was requested to provide a complete data set for MCAS life report line #21. The Company identified a universe of policies applied for during the experience period for MCAS life report line #21. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #21 of the 2012 MCAS Life Submission regarding the number of policies applied for during the experience period.

**NUMBER OF DEATH CLAIMS CLOSED WITH PAYMENT DURING THE PERIOD, WITHIN 60 DAYS FROM THE DATE OF DUE PROOF – LINE #28**

**MCAS Definition - Claim Closed with Payment** – A claim where the final decision was payment of the claim.

**MCAS Definition – Date of Due Proof of Loss** – The date the company received the necessary proof of loss on which to base a claim determination, including where necessary, proof of unencumbered interest of the beneficiary and documentation required to legally make payment (such as completed claim forms, W-9's, estate dispute settlements, proof of age, police investigation reports, etc.).

The Company was requested to provide a complete data set for MCAS life report line #28. The Company identified a universe of death claims closed with payment, during the experience period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full) for MCAS life report line #28. A random sample of 5 cash value and 5 non-cash value claim files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid

in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #28 of the 2012 MCAS Life Submission regarding the number of death claims closed with payment, during the experience period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full).

**NUMBER OF DEATH CLAIMS DENIED, RESISTED OR  
COMPROMISED DURING THE PERIOD – LINE #30**

**MCAS Definition – Denied Claim** – A claim where a demand for payment was made but payment was not made under the contract.

The Company was requested to provide a complete data set for MCAS life report line #30. The Company identified a universe of death claims denied, resisted or compromised during the experience period for MCAS life report line #30. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with:  
Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient

and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #30 of the 2012 MCAS Life Submission regarding the number of death claims denied, resisted or compromised during the experience period.

**NUMBER OF DEATH CLAIMS RECEIVED**  
**DURING THE PERIOD – LINE #31**

**MCAS Definition – Claim** – A request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Claims with multiple beneficiaries should be counted as one claim. If a single insured dies and has multiple policies (for individual life products), a claim should be reported for each of the insured's policies (for example, if an insured had 3 individual life policies (2 cash value products and one non-cash value product), 3 claims would be reported (2 claims under schedule 1 and 1 claim under schedule 2). It does not include events that were reported for "information only" or an inquiry of coverage since a claim has not actually been presented (opened) for payment.

The Company was requested to provide a complete data set for MCAS life report line #31. The Company identified a universe of death claims received during the experience period for MCAS life report line #31. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #31 of the 2012 MCAS Life Submission regarding the number of death claims received during the period.

## D. 2010 MCAS Annuity Report

The Company was requested to provide all data sets for each MCAS line item during the experience period. As per a letter provided by the Company dated May 20, 2013, “Midland National did not retain a snapshot of the 2010 MCAS supporting data.” The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 903 (a) (40 P.S. §323.3)**

(a) Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The source data sets used for MCAS reporting could not be verified for the 2010 MCAS Annuity Report.

Line	INTERROGATORIES
0	Does the company have data to report for this product type?
1	Number of new replacement contracts applied for during the period (include all replacements regardless of whether an annuity contract was actually issued)
2	Number of new replacement contracts issued during the period (include only the number of replacement contracts issued)
3	Do replacement counts include internal replacements?
4	Do replacement counts provided include policies/contracts purchased using loan proceeds from existing life policies and/or annuity contracts?
5	Do replacement counts provided include policies/contracts purchased through 1035 exchanges?
6	Does the company maintain a replacement register?
7	Number of contracts surrendered during the period
8	Number of new 1035 exchanges coming into company during period
9	Number of new contracts issued by the company during period

10	Number of contracts in force at the end of the period (the number of active contracts that the company has outstanding at the end of the reporting period)
11	Dollar amount of annuity considerations during the period
12	Number of complaints received directly from consumers
13	Number of complaints received directly from corresponding department of insurance
14	Does company maintain complaint register?

### E. 2011 MCAS Annuity Report

The examination team reviewed the Company’s 2011 MCAS Annuity Submission, the supporting source documents and randomly selected files corresponding to the MCAS data call in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 MCAS Annuity Report. A total of 8 violations were noted.

Line	INTERROGATORIES
<b>01</b>	Individual Fixed Annuities - Does the company have data to report for this product type?
<b>02</b>	Individual Variable Annuities - Does the company have data to report for this product type?
<b>03/04</b>	Is there a reason that the reported Individual Fixed Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>05/06</b>	Is there a reason that the reported Individual Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>07</b>	Additional state specific Individual Fixed Annuities comments (optional):
<b>08</b>	Additional state specific Individual Variable Annuities comments (optional):
<b>09</b>	Number of replacement contracts issued during the period.
<b>10</b>	Number of internal replacement contracts issued during the period.
<b>11</b>	Number of external replacement contracts issued during the period.
<b>12</b>	Number of contracts replaced where age of annuitant at replacement was < 65.
<b>13</b>	Number of contracts replaced where age of annuitant at replacement was 65 to 80.
<b>14</b>	Number of contracts replaced where age of annuitant at replacement was > 80.
<b>15</b>	Number of new immediate contracts issued during the period.
<b>16</b>	Number of new deferred contracts issued during the period where age of annuitant was < 65.

<b>17</b>	Number of new deferred contracts issued during the period where age of annuitant was 65 to 80.
<b>18</b>	Number of new deferred contracts issued during the period where age of annuitant was > 80.
<b>19</b>	Number of new deferred contracts issued during the period.
<b>20</b>	Number of contracts surrendered under 2 years from policy issue.
<b>21</b>	Number of contracts surrendered between 2 years and 5 years from policy issue.
<b>22</b>	Number of contracts surrendered between 6 years and 10 years from policy issue.
<b>23</b>	Number of contracts surrendered during the period.
<b>24</b>	Number of contracts in force at the end of the period.
<b>25</b>	Dollar amount of annuity considerations during the period.
<b>26</b>	Number of complaints received directly from consumers.

**NUMBER OF REPLACEMENT CONTRACTS ISSUED**  
**DURING THE PERIOD – LINE #9**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS annuity report line #9. The Company identified a universe of replacement contracts issued during the experience period for MCAS annuity report line #9. A random sample of 5 individual fixed replacement contract files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient

and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #9 of the 2011 MCAS Annuity Submission regarding the number of replacement contracts issued during the experience period.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED DURING THE PERIOD**  
**WHERE AGE OF ANNUITANT WAS < 65 – LINE #16**

The Company was requested to provide a complete data set for MCAS annuity report line #16. The Company identified a universe of new deferred contracts issued during the experience period where age of annuitant was <65 for MCAS annuity report line #16. A random sample of 5 individual fixed and 5 individual variable new deferred contracts issued during the period where age of annuitant was <65 files were requested, received and reviewed. A review was also performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #16 of the 2011 MCAS Annuity Submission regarding the number of new deferred contracts issued during the period where age of annuitant was < 65.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED DURING THE PERIOD  
WHERE AGE OF ANNUITANT WAS 65 to 80 – LINE #17**

The Company was requested to provide a complete data set for MCAS annuity report line #17. The Company identified a universe of new deferred contracts issued during the experience period where age of annuitant was 65 to 80 for MCAS annuity report line #17. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the

contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #17 of the 2011 MCAS Annuity Submission regarding the number of new deferred contracts issued during the period where age of annuitant was 65 to 80.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED DURING THE PERIOD  
WHERE AGE OF ANNUITANT WAS >80 – LINE #18**

The Company was requested to provide a complete data set for MCAS annuity report line #18. The Company identified a universe of new deferred contracts issued during the

experience period where age of annuitant was > 80 for MCAS annuity report line #18. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #18 of the 2011 MCAS Annuity Submission regarding the number of new deferred contracts issued during the period where age of annuitant was >80.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED**  
**DURING THE PERIOD – LINE #19**

The Company was requested to provide a complete data set for MCAS annuity report line #19. The Company identified a universe of new deferred contracts issued during the experience period for MCAS annuity report line #19. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #19 of the 2011 MCAS Annuity Submission regarding the number of new deferred contracts issued during the experience period.

**NUMBER OF CONTRACTS SURRENDERED BETWEEN**  
**6 AND 10 YEARS FROM POLICY ISSUE – LINE #22**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS annuity report line #22. The Company identified a universe of contracts surrendered between 6 years and 10 years from policy issue for MCAS annuity report line #22. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department’s jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be

conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #22 of the 2011 MCAS Annuity Submission regarding the number of contracts surrendered between 6 years and 10 years from policy issue during the experience period.

**NUMBER OF CONTRACTS SURRENDERED**  
**DURING THE PERIOD – LINE #23**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS annuity report line #23. The Company identified a universe of contracts surrendered during the experience period for MCAS annuity report line #23. A random sample of 5 individual fixed and 5 individual variable contracts surrendered files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors,

employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #23 of the 2011 MCAS Annuity Submission regarding the number of contracts surrendered during the experience period.

**NUMBER OF COMPLAINTS RECEIVED**  
**DIRECTLY FROM CONSUMERS – LINE #26**

**MCAS Definition – Complaint** – any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral communication, which is subsequently converted to a written form, will meet the definition of a complaint for this purpose.

The Company was requested to provide a complete data set for MCAS annuity report line #26. The Company identified a universe of complaints received directly from consumers during the experience period for MCAS annuity report line #26. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #26 of the 2011 MCAS Annuity Submission regarding the number of complaints received directly from consumers during the experience period.

## F. 2012 MCAS Annuity Report

The examination team reviewed the Company's 2012 MCAS Annuity Submission, the supporting source documents and randomly selected files corresponding to the MCAS data call in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2012 MCAS Annuity Report. A total of 12 violations were noted.

Line	INTERROGATORIES
<b>01</b>	Individual Fixed Annuities - Does the company have data to report for this product type?
<b>02</b>	Individual Variable Annuities - Does the company have data to report for this product type?
<b>03/04</b>	Is there a reason that the reported Individual Fixed Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>05/06</b>	Is there a reason that the reported Individual Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
<b>07</b>	Additional state specific Individual Fixed Annuities comments (optional):
<b>08</b>	Additional state specific Individual Variable Annuities comments (optional):
<b>09</b>	Number of replacement contracts issued during the period.
<b>10</b>	Number of internal replacement contracts issued during the period.
<b>11</b>	Number of external replacement contracts issued during the period.
<b>12</b>	Number of contracts replaced where age of annuitant at replacement was < 65.
<b>13</b>	Number of contracts replaced where age of annuitant at replacement was 65 to 80.
<b>14</b>	Number of contracts replaced where age of annuitant at replacement was > 80.
<b>15</b>	Number of new immediate contracts issued during the period.
<b>16</b>	Number of new deferred contracts issued during the period where age of annuitant was < 65.

<b>17</b>	Number of new deferred contracts issued during the period where age of annuitant was 65 to 80.
<b>18</b>	Number of new deferred contracts issued during the period where age of annuitant was > 80.
<b>19</b>	Number of new deferred contracts issued during the period.
<b>20</b>	Number of contracts surrendered under 2 years from policy issue.
<b>21</b>	Number of contracts surrendered between 2 years and 5 years from policy issue.
<b>22</b>	Number of contracts surrendered between 6 years and 10 years from policy issue.
<b>23</b>	Number of contracts surrendered during the period.
<b>24</b>	Number of contracts applied for during the period.
<b>25</b>	Number of free looks during the period.
<b>26</b>	Number of contracts in force at the end of the period.
<b>27</b>	Dollar amount of annuity considerations during the period.
<b>28</b>	Number of complaints received directly from consumers.

**NUMBER OF REPLACEMENT CONTRACTS ISSUED**  
**DURING THE PERIOD – LINE #9**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS annuity report line #9. The Company identified a universe of replacement contracts issued during the experience period for MCAS annuity report line #9. A random sample of 5 individual fixed and 5 variable replacement contract files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #9 of the 2012 MCAS Annuity Submission regarding the number of replacement contracts issued during the experience period.

**NUMBER OF EXTERNAL REPLACEMENT CONTRACTS**  
**ISSUED DURING THE PERIOD – LINE #11**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS annuity report line #11. The Company identified a universe of external replacement contracts issued during

the experience period for MCAS annuity report line #11. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #11 of the 2012 MCAS Annuity Submission regarding the number of external replacement contracts issued during the experience period.

**NUMBER OF CONTRACTS REPLACED WHERE AGE OF ANNUITANT  
AT REPLACEMENT WAS 65 TO 80 – LINE #13**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS annuity report line #13. The Company identified a universe of contracts replaced where age of annuitant at replacement was 65 to 80 during the experience period for MCAS annuity report line #13. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department’s jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #13 of the 2012 MCAS Annuity

Submission regarding the number of contracts replaced were age of annuitant at replacement was 65 to 80 during the experience period.

**NUMBER OF CONTRACTS REPLACED WHERE AGE OF ANNUITANT**  
**AT REPLACEMENT WAS > 80 – LINE #14**

**MCAS Definition – Replacement Policy** - A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract. This would include both external and internal replacements.

The Company was requested to provide a complete data set for MCAS annuity report line #14. The Company identified a universe of contracts replaced where age of annuitant at replacement was > 80 during the experience period for MCAS annuity report line #14. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department’s jurisdiction. Any such

proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #14 of the 2012 MCAS Annuity Submission regarding the number of contracts replaced were age of annuitant at replacement was > 80 during the experience period.

**NUMBER OF NEW IMMEDIATE CONTRACTS**  
**ISSUED DURING THE PERIOD – LINE #15**

**MCAS Definition – Immediate Annuity** – An annuity (either fixed or variable) that begins its payment stream to the policyholder within 12 months after a single premium is paid. Immediate annuities are included within the scope of this statement and should be reported as a new immediate contract issued when issued during the reporting period. In addition, immediate annuities still in force at the end of the period should be included as well.

The Company was requested to provide a complete data set for MCAS annuity report line #15. The Company identified a universe of new immediate contracts issued during the experience period for MCAS annuity report line #15. A random sample of 5 individual fixed new immediate contract issued files were requested, received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts,

papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #15 of the 2012 MCAS Annuity Submission regarding the number of new immediate contracts issued during the experience period.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED DURING THE PERIOD**  
**WHERE AGE OF ANNUITANT WAS < 65 – LINE #16**

The Company was requested to provide a complete data set for MCAS annuity report line #16. The Company identified a universe of new deferred contracts issued during the experience period where age of annuitant was < 65 for MCAS annuity report line #16. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #16 of the 2012 MCAS Annuity Submission regarding the number of new deferred contracts issued where age of annuitant was < 65 during the experience period.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED DURING THE PERIOD**  
**WHERE AGE OF ANNUITANT WAS 65 to 80 – LINE #17**

The Company was requested to provide a complete data set for MCAS annuity report line #17. The Company identified a universe of new deferred contracts issued during the experience period where age of annuitant was 65 to 80 for MCAS annuity report line #17. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #17 of the 2012 MCAS Annuity Submission regarding the number of new deferred contracts issued where age of annuitant was 65 to 80 during the experience period.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED**  
**DURING THE PERIOD – LINE #19**

The Company was requested to provide a complete data set for MCAS annuity report line #19. The Company identified a universe of new deferred contracts issued during the experience period for MCAS annuity report line #19. A review was performed of the deferred contract files provided in the Market Conduct portion of the exam to ensure that the MCAS data was inclusive and accurate of all the contracts applicable to this line item.

The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #19 of the 2012 MCAS Annuity Submission regarding the number of new deferred contracts issued during the experience period.

**NUMBER OF CONTRACTS SURRENDERED BETWEEN 2 YEARS  
AND 5 YEARS FROM POLICY ISSUE – LINE #21**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For

annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS annuity report line #21. The Company identified a universe of contracts surrendered between 2 years and 5 years from policy issue during the experience period for MCAS annuity report line #21. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department’s jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #21 of the 2012 MCAS Annuity Submission regarding the number of contracts surrendered between 2 years and 5 years from policy issue during the experience period.

**NUMBER OF CONTRACTS SURRENDERED BETWEEN 6 YEARS  
AND 10 YEARS FROM POLICY ISSUE – LINE #22**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS annuity report line #22. The Company identified a universe of contracts surrendered between 6 years and 10 years from policy issue during the experience period for MCAS annuity report line #22. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department’s jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be

conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #22 of the 2012 MCAS Annuity Submission regarding the number of contracts surrendered between 6 years and 10 years from policy issue during the experience period.

**NUMBER OF CONTRACTS SURRENDERED**  
**DURING THE PERIOD – LINE #23**

**MCAS Definition – Surrender Policy/Contract** – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals and partial withdrawals should not be reported as “surrenders” for this statement.

The Company was requested to provide a complete data set for MCAS annuity report line #23. The Company identified a universe of contracts surrendered during the experience period for MCAS annuity report line #23. A random sample of 5 individual fixed and 5 individual variable contracts surrendered files were requested received and reviewed. The data and files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors,

employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #23 of the 2012 MCAS Annuity Submission regarding the number of contracts surrendered during the experience period.

**NUMBER OF CONTRACTS APPLIED FOR**  
**DURING THE PERIOD – LINE #24**

**MCAS Definition – Policies/Contracts Applied For** – Applications for life insurance or annuities that are submitted to the company which have or will result in a formal offer of an insurance or annuity contract or a formal declination of the application by the company. Applications that are declined by a broker-dealer or producer and never reviewed by the company are not included in this count.

The Company was requested to provide a complete data set for MCAS annuity report line #24. The Company identified a universe of contracts applied for during the experience period for MCAS annuity report line #24. The data was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). The Company provided an inaccurate response on line #24 of the 2012 MCAS Annuity Submission regarding the number of contracts applied for during the experience period.

## **G. MCAS Polices and Procedures; Data Extraction and Report Generation**

The examination team reviewed the Company's 2010, 2011 and 2012 MCAS IT and data integrity controls, source documents and its general MCAS policies and procedures to determine if the Company had policies and procedures in place to ensure its compliance with the MCAS reporting requirements. The following violation was noted:

### **1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) (40 P.S. §323.4)**

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa.C.S. (relating to administrative law and procedure). **The** Company's informal policies and procedures related to the MCAS reporting process during the experience period did not provide the Company the ability to ensure the accuracy of the data reported in the 2010, 2011 and 2012 MCAS submissions.

Department Concern:

The Company should implement formal standardized policies and procedures for preparing and validating the MCAS submission data. The Company should take the

necessary steps to resolve the following issues, which impact its ability to produce complete and accurate MCAS report submission:

### **Control 1**

Observation: The Company's current MCAS Reporting Procedures are high-level.

Recommendation: The Company should document more in-depth written procedures related to MCAS Reporting to ensure written procedures can easily be followed if there is employee turnover.

### **Control 2**

Observation: The Compliance Project Analyst e-mails the team to notify of changes discovered during review but if there are no changes there is not an established procedure to document evidence of review.

Recommendation: The Company should maintain evidence of its annual review of the NAIC's website each year before submitting MCAS information to determine if there are any changes to the MCAS reporting procedures. Note: this review can be documented via the e-mail the Compliance Project Analyst sends but it should be sent whether or not there are changes in the procedures and if there are no changes this should be noted in the e-mail.

### **Control 4**

Observation: Documentation of the verification is maintained but it is not easy to replicate the procedures performed based on the documentation.

Recommendation: The Company should maintain evidence of their verification of MCAS Reporting data via comparison to the annual statement and other requests. The evidence should have enough details that an independent party can follow what was performed.

The evidence should include sign-offs to verify the verification is completed by someone independent of the person completing the spreadsheet. In addition, signs-off should occur whether or not issues are noted.

### **Control 7**

Observation: The crosscheck totals and source of information is maintained.

Recommendation: We recommend the Company document results of crosschecks in a format that is easy to replicate and it include sign-off by the individual that completed the crosschecks.

### **Control 8**

Observation: Notes from the quality review are documented when there are issues.

Recommendation: We recommend the quality reviewer sign-off and date the spreadsheet to evidence a successful quality review or noted issues. In addition, the individual that completes data entry to the NAIC's website should sign-off so it can easily be verified that the quality review was completed by an individual independent of data entry.

### **XIII. RECOMMENDATIONS**

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other violations, noted in the Report.

1. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903 of the Insurance Department Act of 1921 (40 P.S. §323.3).
2. The Company must review and revise procedures to ensure compliance with Section 904 of the Insurance Department Act of 1921 (40 P.S. §323.4).
3. The Company must review and revise procedures to ensure compliance with the requirements of the Insurance Department Act of 1921 “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of Insurance Act 205, Section 5 (40 P.S. §1171.5).
4. The Company must review and revise licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
5. The Company must review and revise procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law (40 P.S. §625-4).

6. The Company must review and revise procedures to ensure compliance with the Illustration requirements of Section 408-A of the Insurance Company Law (40 P.S. §625-8).
7. The Company must review and revise procedures to ensure compliance with the “free look” requirements of Section 410-D (a) (2) of the Insurance Company Law (40 P.S. §510c).
8. The Company must review and revise procedures to ensure compliance with the policy loan interest rate notification requirements of Section 410-F of the Insurance Company Law (40 P.S. §510e (C) (5)(i)(ii)).
9. The Company must review and revise procedures to ensure compliance with the advertising certificate of compliance requirement of Title 31, Pennsylvania Code, Chapter 51.5.
10. The Company must review and revise procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
11. The Company must review and revise procedures to ensure compliance with the disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
12. The Company must review and revise procedures to ensure compliance with the unfair claims settlement practices of Title 31, Pennsylvania Code, Chapter 146.

## **XIV. COMPANY RESPONSE**

**Jill M. Williams**  
*Assistant Vice President of Compliance*



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November 25, 2013

Yonise Roberts Paige  
Chief, Life and Health Division  
Pennsylvania Insurance Department  
Market Action Bureau  
1321 Strawberry Square  
Harrisburg PA 17120

RE: Response to Market Conduct Examination Report  
Midland National Life Insurance Company, NAIC # 66044  
Examination Warrant Number: 13-M11-002

Dear Ms. Paige:

Midland National Life Insurance Company (the "Company") has reviewed the Market Conduct Examination Report which covers the period of July 1, 2011, to June 30, 2012. The Company respectfully submits the attached responses to each of the twelve recommendations listed in Section XIII of the Report.

We appreciate the opportunity to respond to the recommendations outlined in the report, and thank the examiners for the cooperation extended to us during this examination.

Sincerely,

A handwritten signature in cursive script that reads 'Jill Williams'.

Jill Williams  
Assistant Vice President Compliance

**XIII. RECOMMENDATIONS**  
( *Examination Report pages 109-110* )

1. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903 of the Insurance Department Act of 1921 (40 P.S. §323.3).

**Company Response:**

The Company is in the process of reviewing the Master Classification Schedule to its document retention policy and will make any changes necessary to better describe its internal categories of records subject to the policy and ensure that those categories match the category retention schedules provided in the Department's Record Retention Guidelines, Bulletin No. 2011-10. The Company notes that while a few categories of internal documents in its internal Master Classification Schedule did not provide a 7-year retention period in accordance with the Department's Bulletin No. 2011-10, the Company has not destroyed or been unable to produce records necessary for any financial or other exam as a result of those noted schedules in its Master Classification Schedule.

2. The Company must review and revise procedures to ensure compliance with Section 904 of the Insurance Department Act of 1921 (40 P.S. §323.4).

**Company Response:**

The Company acknowledges that it had difficulty providing some of the requested Market Conduct Annual Statement source data, and is revising its procedures to remedy that issue. However, to the extent that the basis for a violation of Section 904 is construed as such in this instance, the Company does not agree that it was uncooperative and did not provide timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined.

3. The Company must review and revise procedures to ensure compliance with the requirements of the Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of Insurance Act 205, Section 5 (40 P.S. §1171.5).

**Company Response:**

The Company maintains that it does not engage in unfair claims practices and that it adjudicates claims according to Pennsylvania Law. Although the Company agreed with the individual violations cited in the Examination Report, the Company disagrees that the noted violations were committed or performed with such frequency to indicate a business practice. In addition, the Company recently installed a new claims system that will automatically generate status letters to the claimant within 30 days, and 45 days thereafter for pending life and annuity claims. The auto generation of the status letters will greatly

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reduce the possibility of human error or oversight that caused the noted violations at issue.

4. The Company must review and revise licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).

**Company Response:**

The Company has reviewed its procedures and controls to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71). The Company believes that its procedures overall comply with the requirements of Section 671-A. The three violations cited in the Examination Report were the result of a clerical error.

5. The Company must review and revise procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law (40 P.S. §625-4).

**Company Response:**

The Company believes that, overall, its procedures comply with the delivery receipt requirements of Section 404-A of the Insurance Company Law (40 P.S. §625-4). However, the Company agreed with the cited violations in the examination report and acknowledges that those procedures were not followed in cited instances. The Company has reviewed its procedures and controls to ensure compliance with the policy delivery requirements of Section 404-A, and will provide necessary training to the relevant service area to ensure these oversights do not occur in the future. In addition, the Company plans to prepare a field communication on policy delivery requirements as a reminder to agents.

6. The Company must review and revise procedures to ensure compliance with the Illustration requirements of Section 408-A of the Insurance Company Law (40 P.S. §625-8).

**Company Response:**

The Company has reviewed its procedures and controls to ensure compliance with the illustration requirements of Section 408-A of the Insurance Company Law (40 P.S. §625-8). The Company will revise its procedures and controls for policies that were not illustrated at time of application to require a separate illustration signed by the agent and the applicant at the time of delivery in all cases, rather than just a delivery receipt signed by the agent and applicant for the entire policy delivery packet. In addition, the Company plans to prepare a field communication on the illustration requirements as a reminder to agents.

7. The Company must review and revise procedures to ensure compliance with the "free look" requirements of Section 410-D (a) (2) of the Insurance Company Law (40 P.S. §510c).

**Company Response:**

The Company has implemented a process to provide a 45 day free look provision for policies offered as replacements for an existing Midland National life insurance policy or annuity in accordance with the requirements of Section 410-D (a) (2) of the Insurance Company Law (40 P.S. §510c).

8. The Company must review and revise procedures to ensure compliance with the policy loan interest rate notification requirements of Section 410-F of the Insurance Company Law (40 P.S. §510e (C)(5)(i)(ii)).

**Company Response:**

The Company has reviewed its procedures and is in the process of changing the loan notification letters sent to a policy owner to include disclosure of the interest rate charged at the time the loan is made.

9. The Company must review and revise procedures to ensure compliance with the advertising certificate of compliance requirement of Title 31, Pennsylvania Code, Chapter 51.5.

**Company Response:**

The Company acknowledges that it failed to file its advertising certificate of compliance for the year 2011 with its annual filing. The advertising certificate of compliance has been added to the Company's internal annual statement filing checklist to ensure this oversight does not occur again and will be filed annually.

10. The Company must review and revise procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.

**Company Response:**

The Company believes that, overall, its procedures comply with the requirements of Title 31, Pennsylvania Code, Chapter 81. The Company detected a deficiency with respect to certain variable annuity policies prior to the examination and was in the process of correcting the issue and providing necessary training to the relevant service area. The Company will provide additional training to appropriate service areas to help ensure compliance with Chapter 81.

11. The Company must review and revise procedures to ensure compliance with the disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

**Company Response:**

The Company believes that, overall, its procedures comply with the requirements of Title 31, Pennsylvania Code, Chapter 83. The Company detected a deficiency with respect to certain of its Indexed Universal Life policies prior to the examination and proactively corrected the coding in its new business system to correct this issue.

12. The Company must review and revise procedures to ensure compliance with the unfair claims settlement practices of Title 31, Pennsylvania Code, Chapter 146.

**Company Response:**

The Company has reviewed its procedures and controls to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. The Company recently installed a new claims system that will automatically generate status letters to the claimant within 30 days, and 45 days thereafter for pending life and annuity claims. The auto generation of the status letters will greatly reduce the possibility of human error or oversight that caused the noted violations at issue.