



**pennsylvania**  
INSURANCE DEPARTMENT

**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

MARKET CONDUCT  
EXAMINATION REPORT

OF

**BALTIMORE LIFE INSURANCE  
COMPANY**

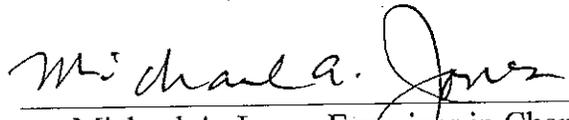
Owings Mills, MD

As of: July 29, 2015  
Issued: September 23, 2015

**BUREAU OF MARKET ACTIONS  
LIFE AND HEALTH DIVISION**

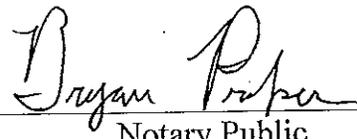
**Verification**

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).

  
Michael A. Jones, Examiner in Charge

Sworn to and Subscribed Before me

This 24. Day of September , 2015

  
Notary Public

**COMMONWEALTH OF PENNSYLVANIA**  
NOTARIAL SEAL  
Bryan Proper, Notary Public  
City of Harrisburg, Dauphin County  
My Commission Expires Jan. 28, 2018

# BALTIMORE LIFE INSURANCE COMPANY

## TABLE OF CONTENTS

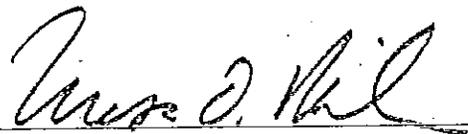
<b>ORDER</b>	
<b>I. Introduction</b>	<b>3</b>
<b>II. Scope of Examination</b>	<b>6</b>
<b>III. Company History and Licensing</b>	<b>7</b>
<b>IV. Advertising</b>	<b>8</b>
<b>V. Producer Licensing</b>	<b>9</b>
<b>VI. Forms</b>	<b>12</b>
<b>VII. Underwriting</b>	<b>14</b>
<b>A. Underwriting Guidelines</b>	<b>15</b>
<b>B. Whole Life Applications BNO</b>	<b>16</b>
<b>C. Whole Life Applications BNU</b>	<b>17</b>
<b>D. Whole Life Applications BPO</b>	<b>19</b>
<b>E. Whole Life Applications CPL</b>	<b>19</b>
<b>F. Whole Life Applications GLL</b>	<b>25</b>
<b>G. Whole Life Applications PFE</b>	<b>29</b>
<b>H. Whole Life Applications SGE</b>	<b>29</b>
<b>I. Whole Life Applications SPL</b>	<b>31</b>
<b>J. Whole Life Applications WWL</b>	<b>34</b>
<b>K. Term Life Applications PTM</b>	<b>36</b>
<b>L. Universal Life Applications USG</b>	<b>37</b>
<b>M. Whole Life Cash Value as Replacements</b>	<b>44</b>
<b>N. Universal Life Cash Value as Replacements</b>	<b>45</b>
<b>O. Interest Sensitive Whole Life as Replacement - Sagicor</b>	<b>50</b>
<b>P. Interest Sensitive Whole Life Surrenders - Sagicor</b>	<b>50</b>
<b>Q. Universal Life Full Terminations - BNU</b>	<b>51</b>
<b>R. Universal Life Partial Terminations - BNU</b>	<b>53</b>
<b>S. Whole Life Full Terminations</b>	<b>55</b>
<b>T. Whole Life Partial Terminations</b>	<b>57</b>
<b>VIII. Consumer Complaints</b>	<b>60</b>
<b>IX. MCAS Reporting</b>	<b>61</b>

<b>A. 2012 MCAS Life Report</b>	<b>62</b>
<b>B. 2013 MCAS Life Report</b>	<b>68</b>
<b>C. MCAS Policies and Procedures; Data Extraction and Report Generation</b>	<b>73</b>
<b>X. Recommendations</b>	<b>76</b>
<b>XI. Company Response</b>	<b>79</b>

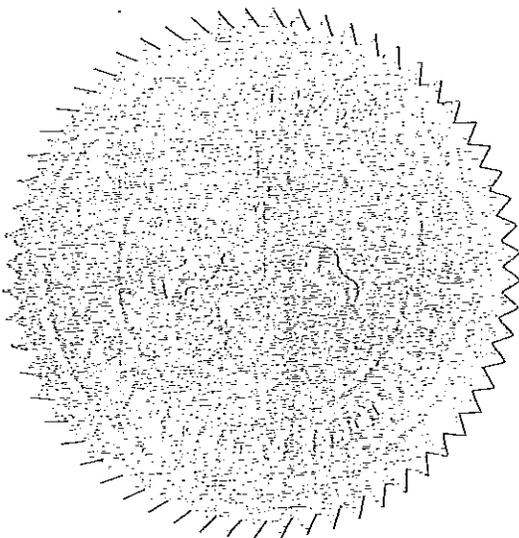
BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 21<sup>st</sup> day of Jan., 2015, 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 Arthur F. McNulty, 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.



Teresa D. Miller  
Acting Insurance Commissioner



BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:

BALTIMORE LIFE  
INSURANCE COMPANY  
10075 Red Run Blvd.  
Owings Mills, MD 21117

VIOLATIONS:

40 P.S. §§ 323.3 and 323.4(b)  
40 P.S. §310.71(a)  
40 P.S. §§477(b), 510(d), 625-4  
625-6, 625-8(a)(4), 625-8(c)(4)(i)  
625-8(c)(4)(ii), 625-8(e)(1)(i)  
625-8(e)(1)(ii), 625-8(e)(2)(i):  
625-8(e)(2)(ii), 625-8(e)(2)(iii)  
625-8(e)(3)(i), 625-8(e)(3)(ii)  
625-8(e)(5) and 625-9  
40 P.S. §1171.5(a)(11)  
31 Pa. Code §§81.4(b)(1)  
81.5(b), 81.6(a)(1), 81.6(a)(2)(ii)  
81.6(c), 83.3(a)  
83.3(a)(1)(2)(3)(4)(5)(6)(7)(8)(9)  
83.3(a)(4)(i), 83.3(a)(6)(iii)(A)  
83.3(a)(9)(i), 83.4(a), 83.4(b),  
83.55(a), 83.55(b), 89b.11(f)(3)  
and 90c.22

Respondent. : Docket No. MC15-08-007

CONSENT ORDER

AND NOW, this 23<sup>rd</sup> day of September, 2015, 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.
3. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein. No acts by Respondent that are alleged to be violations of Pennsylvania law in the referenced provisions were the result of any conscious policy to evade the requirements of Pennsylvania law.

## FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Baltimore Life Insurance Company, and maintains its address at 10075 Red Run Boulevard, Owings Mills, MD 21117.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2012 to December 31, 2013.
- (c) On July 29, 2015, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on August 27, 2015.
- (e) The Examination Report notes violations of the following:
  - (i) 40 P.S. §323.3, which requires every company subject to examination keep all records and documents relating to its business in such manner as may be

required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

- (ii) 40 P.S. §323.4(b), which requires 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;
- (iii) 40 P.S. §310.71(a), which states that 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;
- (iv) 40 P.S. §477(b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;
- (v) 40 P.S. §510(d), which includes a provision that the policy shall constitute the entire contract between the parties; but if the company desires to make

the application a part of the contract, it may do so, provided a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy and the application therefore shall constitute the entire contract between the parties. The policy was issued prior to the date the application was signed by the applicant in the noted file.

(vi) 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;

(vii) 40 P.S. §625-6, which prohibits alterations of any written application for a life insurance policy or annuity to be made by any person other than the applicant without the applicant's written consent;

(viii) 40 P.S. §625-8(a)(4), which states each insurer marketing policies to which this act is applicable shall notify the commissioner whether a life insurance policy form is to be marketed with or without an illustration. If a life insurance policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered;

(ix) 40 P.S. §625-8(c)(4)(i), 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."

(x) 40 P.S. §625-8(c)(4)(ii), 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.”

- (xi) 40 P.S. §625-8(e)(1)(i), which states if the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant;
- (xii) 40 P.S. §625-8(e)(1)(ii), 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;
- (xiii) 40 P.S. §625-8(e)(2)(i), which states the producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall

acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery;

(xiv) 40 P.S. §625-8(e)(2)(ii), which requires that where a computer screen illustration is used, the producer shall certify in writing on a form provided by the insurer that a computer screen illustration was displayed. Such form shall require the producer to provide, as applicable, the generic name of the policy and any riders illustrated, the guaranteed and non-guaranteed interest rates illustrated, the number of policy years illustrated, the initial death benefit, the premium amount illustrated and the assumed number of years of premiums. On the same form, the applicant shall further acknowledge that an illustration matching that which was displayed on the computer screen will be provided no later than the time the application is provided to the insurer. A copy of this signed form shall be provided to the applicant at the time it is signed;

(xv) 40 P.S. §625-8(e)(2)(iii), which requires if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed, 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;

(xvi) 40 P.S. §625-8(e)(3)(i), which states that the producer shall certify in writing on a form provided by the insurer that the policy applied for is other than as illustrated. On the same form the applicant shall acknowledge that the policy applied for is other than as illustrated and shall further acknowledge and understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer or fraternal benefit society as soon as practical after the application is signed by the applicant;

(xvii) 40 P.S. §625-8(e)(3)(ii), which states that 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 no later than the time the policy is delivered and to the insured as soon as practical after the policy is delivered;

(xviii) 40 P.S. §625-8(e)(5), which requires a copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force;

- (xix) 40 P.S. §625-9, which states when there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a “Notice Regarding Replacement of Life Insurance and Annuities” in the form set forth under 31 Pa. Code, Chapter 81;
- (xx) 40 P.S. §1171.5(a)(11), which requires a company to maintain a complete record of all the complaints it has received during the preceding four years;
- (xxi) 31 Pa. Code §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;
- (xxii) 31 Pa. Code §81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, to complete a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;
- (xxiii) 31 Pa. Code §81.6(a)(1), which states that an insurer using 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 as to whether the broker knows replacement is or may be involved in the transaction;

(xxiv) 31 Pa. Code §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;

(xxv) 31 Pa. Code §81.6(c), which requires the replacing insurer to maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities;

(xxvi) 31 Pa. Code §83.3(a), 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;

(xxvii) 31 Pa. Code §83.3(a)(1)(2)(3)(4)(5)(6)(7)(8)&(9), which requires a disclosure statement to be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered;

(xxviii) 31 Pa. Code §83.3(a)(4)(i), which requires the disclosure statement to list the name of the producer, home address or agency address and home or agency telephone number of the insurance producer making the solicitation;

(xxix) 31 Pa. Code §83.3(a)(6)(iii)(A), which requires a written disclosure. A life insurance producer, 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. An acceptable disclosure statement is attached as Appendix A. Amount of coverage and benefits offered and cash surrender value. In policies which develop such values, the applicable amount of cash surrender value per \$1,000 of face amount at the end of the 5, 10 and 20 policy years and at age 65;

(xxx) 31 Pa. Code §83.3(a)(9)(i), which states a disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. (9) surrender comparison index for policies (i) a disclosure

that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be provided as soon as reasonably possible;

(xxxii) 31 Pa. Code §83.4(a), which requires the agent to 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;

(xxxiii) 31 Pa. Code §83.4(b), 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;

(xxxiiii) 31 Pa. Code §83.55(a), which states the Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible;

(xxxiv) 31 Pa. Code §83.55(b), which states a disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use;

(xxxv) 31 Pa. Code §89b.11(f)(3), which states:

(f) *Readability*. A form:

(3) May not contain inconsistent or contradictory language or provisions.

(xxxvi) 31 Pa. Code §90c.22, which states: If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued.

## CONCLUSIONS OF LAW

5. 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 40 P.S. §310.71(a) are punishable by the following, under (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 40 P.S. §§477b, 510(d), 625-4, 625-6 625-8(a)(4), 625-8(c)(4)(i), 625-8(c)(4)(ii), 625-8(e)(1)(i), 625-8(e)(1)(ii) 625-8(e)(2)(i), 625-8(e)(2)(ii), 625-8(e)(2)(iii), 625-8(e)(3)(i) 625-8(e)(3)(ii), 625-8(e)(5) and 625-9 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 40 P.S. §1171.5(a)(11) are punishable by the following, 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 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under 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 31 Pa. Code §81 are punishable under 31 Pa. Code §§81.8(b) and (c), which states that 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 40 P.S. §§1171.1 to 1171.15;
  
- (g) Respondent's violations of 31 Pa. Code, Chapter 83 are punishable under 31 Pa. Code §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 31 Pa. Code §89b.11(f)(3) are punishable under Section 354 of the Insurance Company Law (40 P.S. §477b) by suspension or revocation of the license(s) of Respondent; refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent; or imposition of a fine of not more than one \$1,000.00 for each act in violation of the Act.

ORDER

6. 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 Seventy-Five Thousand Dollars (\$75,000) 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 April Phelps,

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.

- (f) To determine Respondent's compliance with the full and timely implementation of all recommendations ("Recommendations") in the Examination Report, the Department shall conduct a re-examination of Respondent 18 months from the date of this Order.

7. 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.

8. 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.

9. 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.

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

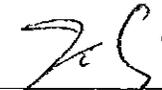
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

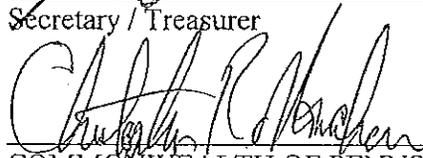
12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: BALTIMORE LIFE INSURANCE CORPORATION, Respondent

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

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

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
Christopher R. Monahan  
Acting Deputy Insurance Commissioner

## I. INTRODUCTION

The Market Conduct Examination was conducted on Baltimore Life Insurance Company; hereafter referred to as "Company," at the Company's office located in Owings Mills, MD November 11, 2014, through December 10, 2014. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

Deborah Lee  
Market Conduct Division Chief

Michael A. Jones  
Market Conduct Examiner

## **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 January 1, 2012, through December 31, 2013, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

The examination focused on the Company's operation in areas such as: Advertising, Producer Licensing, Forms, Underwriting Practices and Procedures (surrenders and replacements) as well as Consumer Complaints.

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 Baltimore Life Insurance Company was incorporated in the State of Maryland on March 27, 1882, and was initially known as The Mutual Aid Society of Baltimore City, Maryland. The Company assumed its current name in 1905. The Company received its certificate of authority to operate in the Commonwealth of Pennsylvania on April 17, 1886, its Certificate of Authority was last issued on April 1, 2015. The Company is authorized to transact business in the District of Columbia and all states except New York.

In 1998, the Company merged with The Home Mutual Life Insurance Company. The Company reorganized from a mutual insurer into a stock insurer subsidiary of a mutual insurance holding company on December 29, 2000. An affiliated subsidiary company, the Life of Maryland, Inc., transferred all of its business and liabilities to the Company in 2002 and was dissolved in 2003. On November 30, 2010, the Company purchased Philadelphia-United Life Insurance Company and its property and casualty subsidiary, Philadelphia-United Fire Insurance Company, both domiciled in Pennsylvania. On December 30, 2010, the Company merged with Philadelphia-United Life Insurance Company.

As of the Annual Statement for the year 2012, for Pennsylvania, the Baltimore Life Insurance Company reported direct premium for ordinary life insurance and annuities consideration in the amount of \$43,990,471 and direct premium for accident and health in the amount of \$1,000,524. And as of the Annual Statement for the year 2013, for Pennsylvania, the Baltimore Life Insurance Company reported direct premium for ordinary life insurance and annuities consideration in the amount of \$46,600,054 and direct premium for accident and health in the amount of \$992,402.

#### IV. ADVERTISING

The Department, in exercising its discretionary authority requested, received and reviewed the Company's Advertising Certificate of Compliance. The certification was reviewed to ensure compliance with Title 31, Pennsylvania Code, 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." No violations were noted.

## V. PRODUCER LICENSING

The Company was requested to provide a list of all producers active and terminated 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 provided a list of 163 active producers and 157 terminated producers. A random sample of 25 producers each was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam. The following violations were noted.

### **15 Violation – 40 P.S. §310.71a**

- 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 \$12.50 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 file a notice of appointment and submit appointment fees to the Insurance Department for the following producers. The Company listed the 15 producers as active; however, the Department records did not indicate their appointment.

Last Name	First Name
Schultz	Janice
Yoder	Jordan

Joyce	Matthew
Tapia-Vineyard	Amy
Williams	Alfred
Shorb	Aaron
Dorsey	Loryn
Hart	Timothy
Proach	Evan
Fritz	Aaron
Kelly	Bryan
Kreighbaum	Jennifer
Seifert	Barry
Berry	Mary
Deleon	Francisco

## 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. The following violation was noted.

### **1 Violation – 31 Pa. Code §89b.11 (f)(3)**

(a) *Name and address.* Each form shall state the full corporate or legal name of the company, association, exchange or society. However, the name need appear for filing purposes only on a rider, endorsement, amendment, agreement or insert page. If added for filing purposes only, the name may be added by any legible means. If more than one insurer is using an application, a multi-company application providing for the designation of the applicable insurer and available coverages, if applicable, may be used. A policy, contract or fraternal certificate shall state a current address for the insurer, consisting of at least a city and state or province.

(f) *Readability.* A form:

(3) May not contain inconsistent or contradictory language or provisions.

Inconsistent or contradictory language or provisions in the form of the number free look days regarding replacement (30 days versus 45 days) was found on the application in the noted file.

<b>Form Type</b>	<b>Form No.</b>
Application	7637 (PA)

**26 Violation – 40 P.S. §477b**

It shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use application, riders, or endorsements, in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner.

The use of forms prior to the filing and/or approval was not evident in the following noted forms.

<b>Form #</b>	<b>Type Form</b>	<b>Frequency</b>
O-1	Application	1
O-98	Application	5
360	Application	6
360-471	Application	4
45 home mutual	Application	5
O2510.3-1	Application	1
A2500.6-1	Application	1
2837S-1102	Application	1
860-1070	Application	1
991-171	Policy	1

## VII. UNDERWRITING

The Underwriting review consisted of 18 general segments.

- A. Underwriting Guidelines
- B. Whole Life Applications **BNO**
- C. Whole Life Applications **BNU**
- D. Whole Life Applications **BPO**
- E. Whole Life Applications **CPL**
- F. Whole Life Applications **GLL**
- G. Whole Life Applications **PFE**
- H. Whole Life Applications **SGE**
- I. Whole Life Applications **SPL**
- J. Whole Life Applications **WWL**
- K. Term Life Applications **PTM**
- L. Universal Life Applications **USG**
- M. Whole Life Cash Value as Replacements
- N. Universal Life Cash Value as Replacements
- O. Interest Sensitive Whole Life as Replacement - **Sagicor**
- P. Interest Sensitive Whole Life Surrenders - **Sagicor**
- Q. Universal Life Full Terminations - **BNU**
- R. Universal Life Partial Terminations - **BNU**
- S. Whole Life Full Terminations

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 all underwriting guidelines and manuals utilized during the experience period. The manuals were reviewed to ensure underwriting guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following Manuals and Guidelines were reviewed:

1. Life Product Manual, Life Underwriting & Administration (Floppy Disc)
  
- 2: Guardian On-Line Underwriting Guidelines:
  - Resources/Document Library
  - Quick Reference
  - Product Manuals
  - Underwriting
  - State Approvals
  - Materials for Client Use
  
3. Life Electronic Reference and News "LERN"

## B. Whole Life Applications BNO

The Company identified a universe of 7 Whole Life Applications taken during the experience period. All 7 files were requested received and reviewed. Of the 7 files received, 1 was determined to be Term Conversion. The files were reviewed to determine compliance to Pennsylvania issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### 2 Violations – 31 Pa. Code §83.3

(a) *Required 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. An acceptable disclosure statement is attached as Appendix A. If the Appendix A disclosure statement will be used, a letter to that effect, prior to use, is adequate notification to the Department. However, if a statement different than Appendix A will be used, the statement shall be filed with the Department for review prior to use. If an insurer desires to use an advertisement as its disclosure statement, the portion of the advertisement containing the disclosure statement shall be filed for review prior to use. A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered.

(9) Surrender comparison index for policies.

(i) A disclosure that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be provided as soon as reasonably possible. The option to select the earlier delivery of the index disclosure was not completed in the 2 noted files.

## **2 Violations – 31 Pa. Code §83.55a**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant. The completion of the question on whether the surrender comparison index disclosure was offered earlier at the request of the applicant could not be verified in the 2 noted files.

### **C. Whole Life Applications BNU**

The Company identified a universe of 93 Whole life BNU Applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 50 applications taken. A random sampling of 10 files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted.

## **2 Violations – 31 Pa. Code §83.3**

(a) *Required 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. An acceptable disclosure statement is attached as Appendix A. If the Appendix A disclosure statement will be used, a letter to that effect, prior to use, is adequate notification to the Department. However, if a statement different than Appendix A will be used, the statement shall be filed with the Department for review prior to use.

(4) Source of insurance, including the following:

(i) If applicable, the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or

broker making the solicitation. The source of insurance information did not include the agent's home and or agency's address in the 2 noted files.

**2 Violations – 31 Pa. Code §83.55a and 83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent's certification of the surrender comparison index disclosure delivery was not dated in the 2 noted files.

**7 Violations – 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the 7 noted files.

#### **D. Whole Life Applications BPO**

The Company identified a universe of 78 Whole life BPO applications taken during the experience period. A random sampling of 10 files was requested, received and reviewed. The files were reviewed and 7 files were determined to be a change in the beneficiary; 2 were determined to be a claim for benefits and the remaining file had no discernable activity during the experience period. There were no violations noted.

#### **E. Whole Life Applications CPL**

The Company identified a universe of 2,548 whole life CPL applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 425 applications taken. A random sampling of 15 files was requested, received and reviewed. 1 file was determined to be a conversion and therefore not applicable. The remaining 14 files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

##### **1 Violation – 31 Pa. Code §81.5(b)**

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The applicant's replacement question was not answered in the noted file.

### **13 Violations – 31 Pa. Code §83.3 Disclosure Statement**

(a) Required 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. An acceptable disclosure statement is attached as Appendix A. Evidence that a written disclosure was provided was not made available in the 13 noted files.

### **1 Violation – 31 Pa. Code §83.3(a)(4)(i)**

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation. The agents telephone number and/or address were absent from the disclosure statement in the noted file

### **13 Violations – 31 Pa. Code §83.4a and §83.4b**

(a) The 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.

(b) 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. A copy of the required agent's certification of disclosure was not made available in the 13 noted files.

### **13 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If

requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The surrender comparison index disclosure was not made available in the 13 noted files.

### **13 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 13 noted files.

### **4 Violations - 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the following 4 noted files.

**1 Violation – 40 P.S. §625-8)(a)(4)**

(a)(1) Each insurer marketing policies to which this act is applicable shall notify the commissioner whether a life insurance policy form is to be marketed with or without an illustration.

(4) If a life insurance policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered. The requirement that a basic illustration is prepared and delivered was not made available in the noted file.

**1 Violation – 40 P.S. §625-8)(c)(4)(i)**

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.” The applicant’s acknowledgement of illustration receipt was not made available in the noted file.

**1 Violation – 40 P.S. §625-8(c)(4)(ii)**

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.” The writing agent did not sign the certification in the noted file.

**1 Violation – 40 P.S. §625-8(e)(1)(i)**

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The agent certification and applicants acknowledgement of the illustration used was not indicated as revised and was dated after the date of application in the noted file.

**1 Violation – 40 P.S. §625-8(e)(1)(ii)**

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. 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. A signed certification and acknowledgement of the delivery of an illustration could not be established in the noted file.

**2 Violations – 40 P.S. §625-8(e)(2)(ii)**

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. Where a computer screen is used, the producer shall certify in writing on a form provided by the insurer that a computer screen illustration was displayed. Such form shall require the producer to provide, as applicable, the generic name of the policy and any riders illustrated, the guaranteed and non-guaranteed interest rates illustrated, the number of policy years illustrated, the initial death benefit, the premium amount illustrated and the assumed number of years of premiums. On the same form, the applicant shall further acknowledge that an illustration matching that which was displayed on the computer screen will be provided no later than the time the application is provided to the insurer. A copy of this signed form shall be provided to the applicant at the time it is signed. The following information was not provided on the insurers provided form: the non-guaranteed interest rates illustrated; the number of policy years illustrated and the assumed number of years of premiums in the 2 noted files.

**1 Violation – 40 P.S. §625-8(e)(3)(i)**

The producer shall certify in writing on a form provided by the insurer that the policy applied for is other than as illustrated. On the same form the applicant shall acknowledge that the policy applied for is other than as illustrated and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer as soon as practical after the application is signed by the

applicant. The premium amount noted at application did not match that noted on the delivered illustration in the noted file.

**1 Violation – 40 P.S. §625-8(e)(3)(ii)**

The following applies if an illustration is used by a producer in the sale of a life insurance policy but the policy applied for is other than as illustrated. 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 no later than the time the policy is delivered and to the insured as soon as practical after the policy is delivered. The premium amount noted at application did not match that noted on the delivered illustration in the noted file.

**1 Violation – 40 P.S. §625-8(e)(5)**

A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. There was no basic nor revised illustration made available for review in the noted file.

**F. Whole Life Applications GLL**

The Company identified a universe of 276 Whole life GLL Applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 122 applications taken. A random sampling of 50 files was requested, received and reviewed. 10 files were reviewed to

determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

**1 Violation – 31 Pa. Code §81.6(a)(1)**

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 as to whether the broker knows replacement is or may be involved in the transaction. The agents question on replacement was inconsistent with the applicant's in the noted file.

**1 Violation – 31 Pa. Code §83.3(a)(4)(i)**

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation. The agents telephone number and/or address were absent from the disclosure statement in the noted file.

**1 Violation – 31 Pa. Code §83.3(a)(9)(i)**

(a) This subchapter applies to insurance companies authorized to transact the business of life insurance in this Commonwealth as regards solicitation of the sale of insurance on the life of a Commonwealth resident unless excluded in subsection (b).

(9) Surrender comparison index for policies.

(i) A disclosure that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be provided as soon as reasonably possible. The disclosure of an earlier delivery of the index was not checked in the noted file.

**9 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The Surrender Comparison Index Disclosure was not made available, was not timely or was not completed in the 9 noted files.

**9 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent's certification that the surrender comparison index disclosure was offered earlier at the request of the applicant or the agent's certification was maintained for a period of at least 3 years could not be verified in the 9 noted files.

**1 Violation - 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the noted file.

**1 Violation – 40 P.S. §625-6**

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration without the applicants consent was present in the noted file.

**1 Violation – 40 P.S. §510**

No policy of life insurance or endowment insurance, except policies of industrial insurance where the premiums are payable monthly or oftener, shall hereafter be delivered in the Commonwealth unless it contains, in substance, the following provisions or provisions which, in the opinion of the Insurance Commissioner, are more favorable to the policyholder:

(d) A provision that the policy shall constitute the entire contract between the parties; but if the company desires to make the application a part of the contract, it may do so, provided a copy of such application shall be endorsed upon or attached to the policy

when issued, and in such case the policy shall contain a provision that the policy and the application therefore shall constitute the entire contact between the parties. The policy was issued prior to the date the application was signed by the applicant in the noted file

### **G. Whole Life Application PFE**

The Company identified a universe of 4 Whole Life PFE Applications taken during the experience period. All 4 files were requested received and reviewed. The files were reviewed to determine compliance to Pennsylvania issuance, underwriting, and replacement statutes and regulations. The review shows that the applications were signed in Baltimore, Maryland and therefore were not subject to Pennsylvania laws and statutes. There were no violations noted.

### **H. Whole Life Applications SGE**

The Company identified a universe of 1,135 whole life SGE applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 543 applications taken. A random sampling of 75 files was requested, received of which 15 was reviewed. 3 files were determined to have been declined by the Company, 1 file was withdrawn by the applicant and 1 file was determined to be a conversion. These 5 files were not applicable to this request. The remaining 10 files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

**1 Violation – 31 Pa. Code §83.3(a)(4)(i)**

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation. The agents telephone number and/or address were absent from the disclosure statement in the noted file.

**2 Violations – 31 Pa. Code §83.3(a)(6)(iii)**

(a) Required 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. An acceptable disclosure statement is attached as Appendix A.

(6) Amount of coverage and benefits offered.

(iii) Cash surrender value.

(A) In policies which develop such values, the applicable amount of cash surrender value per \$1,000 or face amount at the end of 5, 10 and 20 policy years and at age 65. The applicable cash value surrender value amounts were not completed in the 2 noted files.

**3 Violations – 31 Pa. Code §83.3(a)(9)(i)**

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements included in the following files were incomplete.

(9) Surrender comparison index for policies.

(i) A disclosure that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be

provided as soon as reasonably possible. The election by the applicant to request the early delivery of the surrender comparison index was not checked in the 3 noted files.

#### **1 Violation - 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the noted file.

#### **I. Whole Life Applications SPL**

The Company identified a universe of 291 whole life SPL applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 180 applications taken. A random sampling of 10 files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

**4 Violations – 31 Pa. Code §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 replacement letter was not properly executed in the 4 noted files.

**2 Violations – 31 Pa. Code §83.3**

(a) Required 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. An acceptable disclosure statement is attached as Appendix A. Evidence that a written disclosure was provided to the purchaser could not be established in the 2 noted files.

**5 Violations – 31 Pa. Code §83.3(a)(1)(2)(3)(4)(5)(6)(7)(8)(9)**

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements were incomplete in the 5 noted files.

**1 Violation – 31 Pa. Code §83.3(a)(4)(i)**

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or

broker making the solicitation. The agents telephone number and/or address were absent from the disclosure statement in the noted file.

#### **5 Violations – 31 Pa. Code §83.4a and Section §83.4b**

(a) The 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.

(b) 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. The following files did not contain a copy of the required agent's certification of disclosure. The early delivery option for the surrender index comparison and /or agent's certification of the disclosure statement delivery was not made available for review in the 5 noted files.

#### **4 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 4 noted files.

### **1 Violation – 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the noted file.

### **J. Whole Life Application WWL**

The Company identified a universe of 259 Whole life WWL Applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 146 applications taken. A random sampling of 25 files was requested, received and 10 were reviewed. 1 file was determined to be a medical decline and the remaining 9 files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

### **2 Violations – 31 Pa. Code §83.3**

(a) Required 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. An acceptable disclosure statement is attached as Appendix A. The written disclosure statement was not made available for review in the 2 noted files.

**2 Violations – 31 Pa. Code §83.4a and Section §83.4b**

(a) The 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.

(b) 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. The required agent's certification of disclosure was not made available for review in the 2 noted files.

**2 Violations – 31 Pa. Code §83.55b**

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 2 noted files.

#### **4 Violations – 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the 4 noted files.

#### **K. Whole Life Application PTM**

The Company identified a universe of 3 Whole Life PTM Applications taken during the experience period. All 3 files were requested received and reviewed. The files were reviewed to determine compliance to Pennsylvania issuance, underwriting, and replacement statutes and regulations. The review shows that the applications were signed in Maryland and therefore were not subject to Pennsylvania laws and statues. No violations were noted.

## **L. Universal Life Applications USG**

The Company identified a universe of 739 universal life USG applications taken during the experience period. A sub universe covering the period for calendar year 2013 was subsequently taken resulting in a universe of 413 applications taken. A random sampling of 15 files was requested, received and reviewed. 1 file was determined to be a conversion and therefore not applicable. The remaining 14 files were reviewed to determine compliance to issuance, underwriting including surrender requirements, and replacement statutes and regulations. The following violations were noted:

### **1 Violation – 31 Pa. Code §81.6(c)**

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The required notice of replacement was not made available for review in the noted file.

### **5 Violations – 31 Pa. Code §83.3**

(a) Required 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. An acceptable disclosure statement is attached as Appendix A. Evidence that a written disclosure was provided at application could not be established in the 5 noted files.

### **5 Violations - 31 Pa. Code §83.4a and Section §83.4b**

(a) The 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.

(b) 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 that the required agent's certification of disclosure was given no later than the time of application could not be verified in the 5 noted files.

#### **5 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. Evidence that the Cost Surrender Comparison Index Disclosure was provided to the applicant could not be established in the 5 noted files.

#### **5 Violations -- 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent's certification of the surrender comparison index disclosure delivery was not evident in the 5 noted files.

**2 Violations – 40 P.S. §625-8(c)(4)(i)**

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." Verification that the applicant's acknowledgement of the receipt of the illustration was not made available for review in the 2 noted files.

**2 Violation – 40 P.S. §625-8(c)(4)(ii)**

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." Verification that the writing agent received certification from the applicant which would have stated that the requirements set forth within this law were met was not made available for review in the 2 noted files.

**4 Violations – 40 P.S. §625-8(e)(1)(ii)**

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. 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. The signed certification and acknowledgement of the delivery of an illustration as applied for or revised illustration, if indicated, was not found in the 4 noted files.

**4 Violations – 40 P.S. §625-8(e)(2)(iii)**

The following applies if no illustration is used by a producer in the sale of a life insurance policy 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. A signed certification and acknowledgement of the delivery of an illustration that conforms to the policy at the time of policy issuance and delivery could not be established in the 4 noted files.

**2 Violations – 40 P.S. §625-8(e)(3)(ii)**

The following applies if an illustration is used by a producer in the sale of a life insurance policy but the policy applied for is other than as illustrated. 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 no later than the time the policy is delivered and to the insured as soon as practical after the policy is delivered. A basic illustration conforming to the policy as issued was not made available for review in the 2 noted files.

**4 Violations – 40 P.S. §625-8(e)(5)**

A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the

policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. The basic illustration was not found in 2 of the noted files. The retained illustration included premium amounts that were inconsistent with that which was applied for in the remaining 2 noted files.

### **1 Violation – 40 P.S. §625-9**

When there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a “Notice Regarding Replacement of Life Insurance and Annuities” in the form set forth under Title 31, Pennsylvania Code, Chapter 81 (relating to replacement of life insurance and annuities). The required notice of replacement was not made available for review in the noted file.

### **M. Whole Life Cash Value Issued as Replacements**

The Company was requested to provide a list of all individual whole life insurance policies issued as replacement during the experience period. The Company identified a universe of 648 individual life insurance policies issued as replacements during the experience period. An additional universe was sorted to cover calendar year 2013 only, where a total of 309 identified. A random sample of 100 individual life insurance policies issued as replacement files were requested and received. 50 files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s individual life policies issued as replacement Statutes and Regulations. The following violations were noted.

**1 Violation – 31 Pa. Code §81.4(b)(1)**

The agent shall present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as described in Appendix A (relating to notice regarding replacement of life insurance and annuities), or other substantially similar form filed and accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant. The required presentation of the notice regarding replacement was not made available for review in the noted file.

**2 Violations – 31 Pa. Code §81.5(b)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall:  
Require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The required applicant's statement regarding replacement was not made available for review in the 2 noted files.

**4 Violations – 31 Pa. Code §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 replacement letter to the replaced company was not documented or was not timely in the 4 noted files.

**12 Violations – 31 Pa. Code §83.3**

(a) Required 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. The required written disclosure was not made available for review in the 12 noted files.

**6 Violations – 31 Pa. Code §83.3(a)(1)(2)(3)(4)(5)(6)(7)**

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. Significant elements were missing from the disclosure statements in the 6 noted files.

**15 Violations – 31 Pa. Code §83.4a and Section §83.4b**

(a) The 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.

(b) 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. The required agent's certification of disclosure was not made available for review in the 15 noted files.

**2 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The required Cost Surrender Comparison Index Disclosure was not made available for review in the 2 noted files.

**7 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 7 noted files.

**4 Violations – 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the 4 noted files.

**1 Violation – 40 P.S. §625-6**

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration without the applicant's written consent was found on the application in the noted file.

**N. Universal Life Cash Value Issued as Replacements**

The Company was requested to provide a list of all individual universal life insurance policies issued as replacement during the experience period. The Company identified a universe of 138 individual life insurance policies issued as replacements during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 75 were identified. A random sample of 50 individual life insurance policies issued as replacement files were requested received and reviewed. Of the 50 policies reviewed 14 policy files were determined to be conversion. The remaining 36 files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's individual life policies issued as replacement Statues and Regulations. The following violations were noted:

**2 Violations – 31 Pa. Code §81.6(a)(1)**

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 as to whether the broker knows replacement is or may be involved in the transaction. The application question regarding replacement was not correctly answered in the 2 noted files

**2 Violations – 31 Pa. Code §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 3 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 replacement letter to the replaced company was not documented in the 2 noted files.

**10 Violations – 31 Pa. Code §83.3**

(a) Required 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. The required written disclosure was not made available for review in the 10 noted files.

**11 Violations – 31 Pa. Code §83.3(a)(1)(2)(3)(4)(5)(6)(7)**

(a) Required 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. An acceptable disclosure

statement is attached as Appendix A. If the Appendix A disclosure statement will be used, a letter to that effect, prior to use, is adequate notification to the Department. However, if a statement different than Appendix A will be used, the statement shall be filed with the Department for review prior to use. If an insurer desires to use an advertisement as its disclosure statement, the portion of the advertisement containing the disclosure statement shall be filed for review prior to use. A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. (1) A statement that the disclosure is for the insured's protection provides basic information about the cost and coverage of the insurance and should be read carefully.

(2) A statement that the disclosure statement may not be considered as an offer to contract or as altering or modifying any policy or rider that might be issued.

(3) The name, age and sex of the proposed insured, to the extent that each is known or can reasonably become known to the company, broker or agent at the time of presentation.

(4) Source of insurance, including the following:

(i) If applicable, the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation.

(ii) The name and home address (city and state) of the insurer to whom applications will be made and a mailing address of the insurer's home, executive or administrative office to which correspondence should be addressed.

(5) Information about the basic policy, rider or supplemental benefit built into the policy, such as descriptive title, as "whole life, 20 year decreasing term, endowment at age 65," and the like. An acceptable disclosure statements that included the purpose and importance of the disclosure in the following files was not made available for review in the 11 noted files

**10 Violations – 31 Pa. Code §83.4a and Section §83.4b**

(a) The 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.

(b) 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. The required copy of the required agent's certification of disclosure was not made available for review in the 10 noted files.

**6 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The Cost Surrender Comparison Index Disclosure was not made available for review in the 6 noted files.

**1 Violation – 40 P.S. §625-4**

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. Verification of the date of policy delivery could not be established in the noted file.

#### **6 Violations – 40 P.S. §625-6**

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. Alterations without the applicant's written consent were found in the 6 noted files.

#### **1 Violation – 40 P.S. §625-8(e)(1)(i)**

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The illustration provided by the Company was dated after the date of application in the noted file.

#### **2 Violations – 40 P.S. §625-8(e)(2)(i)**

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. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided

no later than at the time of policy delivery. The required agent certification, that no illustration was used in the sale of the life insurance policy, was not made available for review in the 2 noted files.

### **3 Violations – 40 P.S. §625-8(e)(2)(iii)**

The following applies if no illustration is used by a producer in the sale of a life insurance policy 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 as soon as practical after the policy is delivered. Neither the revised nor conforming illustrations could be established in the 3 noted files.

### **O. Interest Sensitive Whole Life Issued as Replacements (Sagicor)**

The Company was requested to provide a list of all interest sensitive whole life insurance policies issued as replacements during the experience period. The Company identified a universe of 2 such policies issued during the experience period. Both policies were requested received and reviewed. Upon review, the policies were determined to be surrendered policies from 1993 and 1994 respectively and not replacements that occurred during the experience period. No violations are noted.

### **P. Interest Sensitive Whole Life Surrenders (Sagicor)**

The Company was requested to provide a list of all interest sensitive whole life policies surrendered (Sagicor) during the experience period. The Company identified

a universe of 12 issued policies issued surrendered during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 7 policy files were identified. All 7 policies were requested received and reviewed. The policy files were reviewed to determine compliance with Pennsylvania's issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

**1 Violation – 31 Pa. Code §90c.22**

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued. Certification that coverage will not lapse until new coverage is issued was not found in the noted file.

**Q. Universal Life Full Terminations BNU**

The Company was requested to provide a list of all universal life policies terminated during the experience period. The Company identified a universe of 465 universal life insurance policies issued that terminated during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 221 were identified. A random sample of 50 universal life insurance policies terminated were requested received and reviewed to ensure compliance with the Commonwealth of Pennsylvania's universal life termination Statues and Regulations. 1 of the 50 was found to be a duplicate. The following violations were noted:

### **1 Violation – 40 P.S. §323.3**

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. The policy and/or application or other relevant file information was missing in the noted file.

### **11 Violations – 31 Pa. Code §83.55a and §83.55b**

- a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.
- b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not made available for review in the 11 noted files.

### **5 Violations – 31 Pa. Code §90c.22**

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance

until new coverage is issued. Certification that coverage will not lapse until new coverage is issued was not found in the 5 noted files.

#### **R. Universal Life Partial Terminations BNU**

The Company was requested to provide a list of all universal life policies partial terminated during the experience period. The Company identified a universe of 308 universal life insurance policies issued that partially terminated during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 147 were identified. A random sample of 50 universal life insurance policies partially terminated were requested received and reviewed to ensure compliance with the Commonwealth of Pennsylvania's universal life termination Statues and Regulations. 6 of the 50 were found to be duplicates. The following violations were noted:

#### **2 Violations – 40 P.S. §323.3**

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. The policy and/or application or other relevant file information, as indicated in the comments column was not made available for review in the 2 noted files.

#### **4 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The surrender comparison index disclosure was not made available for review in the 4 noted files

#### **4 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 4 noted files.

#### **8 Violations – 31 Pa. Code §90c.22**

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and

copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued. Certification that coverage will not lapse until new coverage is issued was not found in the 8 noted files.

### **S. Whole Life Full Terminations**

The Company was requested to provide a list of all whole life policies terminated during the experience period. The Company identified a universe of 2,553 whole life insurance policies issued terminated during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 1,246 were identified. A random sample of 75 whole life insurance policies terminated were requested, received and reviewed to ensure compliance with the Commonwealth of Pennsylvania's whole life termination Statues and Regulations. 50 policies were used in the final review. The following violations were noted:

#### **13 Violations – 40 P.S. §323.3**

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. The policy and/or application were not made available for review in the 13 noted files.

### **8 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The surrender comparison index disclosure was not made available for review in the 8 noted files.

### **8 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the 8 noted files.

### **2 Violations – 31 Pa. Code §90c.22**

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and

copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued. Certification that coverage will not lapse until new coverage is issued was not found in the 2 noted files.

### **T. Whole Life Partial Terminations**

The Company was requested to provide a list of all whole life policies partially terminated during the experience period. The Company identified a universe of 99 whole life insurance policies issued partially terminated during the experience period. An additional universe was sorted to cover calendar year 2013 only. A total of 38 were identified. A random sample of 25 whole life insurance policies with partial terminations were requested received and reviewed to ensure compliance with the Commonwealth of Pennsylvania's whole life partial termination Statues and Regulations. The following violations were noted:

#### **2 Violations – 40 P.S. §323.3**

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. The policy and/or application were not made available for review in the 2 noted files.

#### **4 Violations – 31 Pa. Code §83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use. The surrender comparison index disclosure was not made available for review in the 4 noted files.

#### **4 Violations – 31 Pa. Code §83.55a and §83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not available for review in the 4 noted files.

#### **1 Violation – 31 Pa. Code §90c.22**

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and

copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued. Certification that coverage will not lapse until new coverage is issued was not made available for review in the noted file.

## VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period as well as the consumer complaint logs for years 2012 and 2013. The Company identified 55 consumer complaints received during the experience period. Of the 55 complaints identified, 18 were forwarded from the Department. Of the 55 complaint files requested and received, 53 were reviewed as there were two complaint numbers that appeared to have had an exact duplicate. The written consumer complaints that were received by the Department, which were subsequently forwarded to the Company, were compared to the Company's complaint log and no issues were noted.

The complaint files 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. 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. The following violations were noted.

### **3 Violations – No. 205 40 P.S. §1171.5 (a)(11)**

Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years – This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this paragraph, "complaint" means any written communication primarily

expressing a grievance. A review of the Company's complaint logs revealed missing information necessary to verify compliance with the laws and regulations of this Commonwealth in the 3 noted complaint files.

### **IX. 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 review of MCAS data 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 2012 and 2013.

The Examination team reviewed the Company's 2012 and 2013 MCAS Life Replacements and Surrender 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; data extraction and the report generation process to support the creation of the MCAS report. The review of the information was twofold; first to determine if the Company had policies and procedures in place to ensure the data provided in the MCAS was accurate and second to verify the accuracy of the actual MCAS data submitted.

The following represents the sections reviewed during the course of the examination:

- A. 2012 Life Report Lines 9-17 (MCAS)
- B. 2013 Life Report Lines 9-17 (MCAS)
- C. Policies and Procedures; Data Extraction and Report Generation – MCAS

The following list of interrogatories was reviewed for the 2012 and 2013 MCAS Life Report:

<b>MCAS DATA CALL</b>
Number of replacement policies issued during period
Number of internal replacements issued during period
Number of external replacements issued during the period.
Number of policies replaced where age of insured at replacement was < 65
Number of policies replaced where age of insured at replacement was age 65 and over
Number of policies surrendered under 2 years from policy issue
Number of policies surrendered between 2 years and 5 years from policy issue
Number of policies surrendered between 6 years and 10 years from policy issue
Number of policies surrendered during the period

**A. 2012 Life Report (MCAS)**

The examination team reviewed the Company's 2012 MCAS Life submissions for surrenders and replacements, 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.

**Individual Life Cash Value Policies Replaced**

The Company reported 307 Individual Life Cash Value policies replaced during the period for MCAS report line #9. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company provided an inaccurate response regarding the number of replaced policies issued during the period (cash value). Seven (7) policies were deemed to be replacements, but were not included in the total reported. Fifteen (15) conversions were included in replacement numbers in MCAS.

Individual Life Cash Value Internal Replacements Issued

The Company reported 195 Individual Life Cash Value internal replacements issued during the period. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response on the 2012 MCAS Life submission regarding the number of internal replacement policies issued during the period (cash value). Four (4) policies were deemed to be internal replacements, but were not included in the total reported.

### Individual Life Cash Value External Replacements Issued

The Company reported 112 Individual Life Cash Value external replacements issued during the period for MCAS report line #11. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of external replacement policies issued during the period (cash value). Three (3) policies were deemed to be external replacements, but were not included in the total reported.

### Individual Life Cash Value Replacements Where Age Of Insured Was < 65

The Company reported 194 Individual Life Cash Value replaced policies issued during the period, where age was less than 65. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies replaced where age of insured at replacement was less than 65 (cash value). Four (4) policies were

deemed to be replacements, where age at issue was less than 65, but were not included in the total reported.

Individual Life Cash Value Replacements Where Age Of Insured Was Age 65 And Over

The Company reported 113 Individual Life Cash Value replaced policies issued during the period, where age was 65 and over. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies replaced where age of insured at replacement was age 65 and over (cash value). Three (3) policies were deemed to be replacements, where age at issue was over 65, but were not included in the total reported.

Individual Life Cash Value Policies Surrendered Under 2 Years From Policy Issue

The Company reported 21 Individual Life Cash Value policies surrendered < 2 years from policy issue during the period. The list of 21 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered < 2 years from policy issue (cash value). One (1) policy was incorrectly calculated and should have been placed within the "Policies Surrendered between 2 and 5 Years from Policy Issue".

Individual Life Cash Value Policies Surrendered Between 2 and 5 Years from Policy Issue

The Company reported 170 Individual Life Cash Value policies surrendered between 2 and 5 years from policy issue during the period. The list of 170 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation -- 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered between 2 and 5 years from policy issue (cash value). Nineteen (19) policies were incorrectly calculated and should have been included.

Individual Life Cash Value Policies Surrendered Between 6 and 10 Years

The Company reported 177 Individual Life Cash Value policies surrendered between 6 and 10 years from policy issue during the period. The list of 177 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered between 6 and 10 years from policy issue (cash value). Eighteen (18) policies were incorrectly calculated and should have been included.

Individual Life Cash Value Policies Surrendered During The Period

The Company reported 1,625 Individual Life Cash Value policies surrendered during the period. The list of 1,625 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response during the period (cash value). There were 225 over loans counted as surrenders in 2012. The Company did not amend the 2012 MCAS and did not add a comment in the 2013 MCAS filing of the procedural change. There were 319 partial surrenders policies included in the MCAS data backup. In summary, the total of 544 policies should not have been included in MCAS and subtracting them from the submitted number would leave 1,081 surrenders.

## B. 2013 Life Report (MCAS)

The examination team reviewed the Company's 2013 MCAS Life submissions for surrenders and replacements, 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.

The examination team reviewed the Company's 2013 MCAS Life submissions for surrenders and replacements, 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.

### Individual Life Cash Value Policies Replaced

The Company reported 283 Individual Life Cash Value policies replaced during the period for MCAS report line #9. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of replaced policies issued during the period (cash value). Six (6) policies were deemed to be replacements, but were not included in the total reported. Twenty-two (22) Conversions were included in replacement numbers.

### Individual Life Cash Value Internal Replacements Issued

The Company reported 156 Individual Life Cash Value internal replacements issued during the period. A sample of 10 policy files were requested, received and reviewed.

The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of internal replacement policies issued during the period (cash value). Four (4) policies were deemed to be internal replacements, but were not included in the total reported.

### Individual Life Cash Value External Replacements Issued

The Company reported 127 Individual Life Cash Value external replacements issued during the period. A sample of 10 policy files were requested, received and reviewed.

The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of external replacement policies issued during the period (cash value). Two (2) policies were deemed to be external replacements, but were not included in the total reported.

Individual Life Cash Value Replacements Where Age of Insured Was < 65

The Company reported 161 Individual Life Cash Value replaced policies issued during the period, where age was less than 65. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies replaced where age of insured at replacement was less than 65 (cash value). Two (2) policies were deemed to be replacements, where age at issue was < 65, but were not included in the total reported.

Individual Life Cash Value Replacements Where Age of Insured was Age 65 and Over

The Company reported 122 Individual Life Cash Value replaced policies issued during the period, where age was 65 and over, for MCAS report line #13. A sample of 10 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has

provided an inaccurate response regarding the number of policies replaced where age of insured at replacement was age 65 and over (cash value). Four (4) policies were deemed to be replacements, where age at issue was over 65, but were not included in the total reported.

Individual Life Cash Value Policies Surrendered Under 2 Years from Policy Issue

The Company reported 16 Individual Life Cash Value policies surrendered < 2 years from policy issue during the period. The list of 16 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered < 2 years from policy issue (cash value). Three (3) policies were incorrectly calculated and should have been included.

Individual Life Cash Value Policies Surrendered Between 2 and 5 Years From Policy Issue

The Company reported 149 Individual Life Cash Value policies surrendered between 2 and 5 years from policy issue during the period for MCAS report line #15. The list of 149 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered between 2 and 5 years from policy issue (cash value). Four (4) policies were incorrectly calculated should not have been included.

Individual Life Cash Value Policies Surrendered Between 6 and 10 Years From Policy Issue

The Company reported 134 Individual Life Cash Value policies surrendered between 6 and 10 years from policy issue during the period. The list of 134 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered between 6 and 10 years from policy issue (cash value). One (1) policy was incorrectly calculated and should have been placed in “Policies Surrendered between 2 and 5 Years From Policy Issue”.

### Individual Life Cash Value Policies Surrendered During the Period

The Company reported 1,182 Individual Life Cash Value policies surrendered during the period for MCAS report line #17. A sample of 50 policy files were requested, received and reviewed. The following violation was noted:

#### **1 Violation – 40 P.S. §323.4(b)**

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. The Company has provided an inaccurate response regarding the number of policies surrendered during the period (cash value). Nineteen (19) of the fifty (50) surrendered policies were not included in the MCAS totals provided.

### C. Policies and Procedures; Data Extraction and Report Generation – MCAS

The examination team reviewed the Company's 2012 and 2013 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.

- 1) Data Extraction Processes: The Company has several systems, entities and individuals that collect and provide the underlying data that is used to prepare the MCAS submissions.

- a) The queries used to determine which policies are included in the MCAS totals were not tested to confirm that the query criteria and fields are consistent with the MCAS definitions.
  - b) Lack of audits is an ongoing concern as the MCAS reported numbers could not be duplicated.
  - c) The Company indicated they do not have access to the programs or queries that Columbian Mutual and Sagicor used to pull the data from their systems.”
  - d) The Company entered totals on the MCAS without verifying that the totals were consistent with the MCAS directions.
- 2) Defining Terms: In the 2012 and 2013 MCAS Interrogatories the Company provided expanded definitions for “Surrenders” and “Replacements” that are different than the MCAS definition and/or State Code.
- a) Surrenders: The Company included over loans (universal life type policies that failed as no more value was left to pay premiums) in their 2012 count for surrenders increasing the MCAS higher than it should have been. In 2013 over loans were removed which accounted for some of the noticeable drop in MCAS surrenders from 1,625 in Year 2012 to 1,182 in Year 2013.
  - b) Replacements: The Company definition of "replacement" led to an overstatement of replacements in 2012 because “conversions” were included with replacements. In addition, it was noted that other types of policies such as “policies not taken” or “declined” were sometimes added to the replacement numbers.

Title 31, Pennsylvania Code, Section Pennsylvania Code 81.2 defines Replacement as “A transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent, broker or proposing

insurer if there is no agent, that by reason of the transaction, existing life insurance or annuity has been or is to be one of the following:

- i. Lapsed, forfeited, surrendered, assigned to replacing insurer or otherwise terminated.
- ii. Converted to reduced paid-up insurance, continued as extended term insurance or otherwise reduced in value by the use of non-forfeiture benefits, dividend cash values or other policy cash values.
- iii. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid.
- iv. Reissued with a reduction in cash value.
- v. Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25% of the loan value set forth in the policy.”

**1 Violation – 40 P.S. §323.4(b)**

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. The Company’s informal policies and procedures related to MCAS reporting process during the examination period did not provide the Company the ability to ensure the accuracy of the data reported in the 2012 and 2013 MCAS submissions. Also, the source documents provided by the Company were inadequate to allow for the independent verification of the accuracy of the Company’s response to the MCAS interrogatories.

## X. 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 internal control procedures to ensure compliance with the replacement requirements of 31 Pa. Code, Chapter 81.
2. The Company must review internal control procedures to ensure compliance with disclosure requirements of 31 Pa. Code, Chapter 83.
3. The Company must review the criteria in use for preparing specific form filings for Department review as well as for the general content of forms to ensure compliance with 31 Pa. Code, Chapter 89b.
4. The Company must review and revise internal control procedures to ensure compliance with the filing of individual life applications requirements of 31 Pa. Code, Chapter 90c.
5. The Company must review and revise Licensing procedures to ensure compliance with 40 P.S. §310.71.
6. The Company must review and revise its general business practices to ensure compliance with this Commonwealth's requirements for the authority, scope and scheduling of examinations as per 40 P.S.

§323.3.

7. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4.
8. The Company must review internal control procedures to ensure compliance with the uniform policy provisions of 40 P.S. §510.
9. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of 40 P.S. §625-4.
10. The Company must review internal control procedures to ensure compliance with application alteration requirements of 40 P.S. §625-6.
11. The Company must review internal control procedures to ensure compliance with illustration requirements of 40 P.S. §625-8.
12. The Company must review internal control procedures to ensure compliance with replacement with same insurer or insurer group per 40 P.S. §625-9.
13. The Company must implement procedures to ensure compliance with the requirements of Insurance Department Act of 1921 “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance – per 40 P.S. §1171.5.

14. The Company must implement procedures to ensure compliance with  
40 P.S. §477b.

## XI. COMPANY RESPONSE



The Baltimore Life  
COMPANIES

August 27, 2015

Ms. Deborah Lee, Acting Chief  
Life, Accident and Health Division  
Pennsylvania Insurance Department  
1321 Strawberry Square  
Harrisburg, PA 17120

Re: Baltimore Life Target Examination  
Number: 14-M26-010

Dear Ms. Lee:

The Baltimore Life Insurance Company has received the exam report referenced above.

We would first like to thank the Department for the professional and courteous conduct of the examination team. We especially appreciate the Department's willingness to address our questions during and after the exam process.

We acknowledge the findings documented in the exam report and we will take appropriate corrective action for each recommendation.

With respect to the findings in the MCAS section of the report, please note that it was never our intention to be uncooperative and/or provide data that we did not believe was responsive to the questions being asked. However, some of the issues surrounding the MCAS data requests may have arisen due to deviations from established exam protocol and/or our confusion surrounding the purpose of the request. In the future, we will be more mindful of proactively exploring these issues with the examiners.

Thank you for allowing us to provide this response.

Sincerely,

David P. Griffin, CLU, ChFC, AIRC  
Vice President, Chief Compliance and Risk Officer

The Baltimore Life Insurance Company

10075 Red Run Boulevard • Owings Mills • Maryland 21117-4871

Tel: (410) 581-6600 • [www.baltilife.com](http://www.baltilife.com)