



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

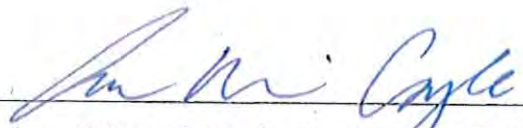
**FIDELITY and GUARANTY LIFE  
INSURANCE COMPANY**  
Baltimore, MD

As of: July 31, 2014  
Issued: September 23, 2014

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

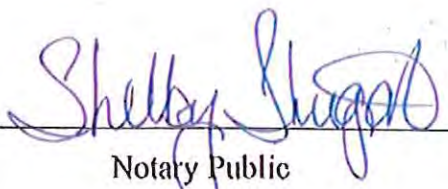
Verification

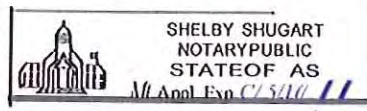
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
Aram Morvari-Coyle, Examiner-In-Charge

Sworn to and Subscribed Before me

This 15 Day of October, 2014

  
Notary Public



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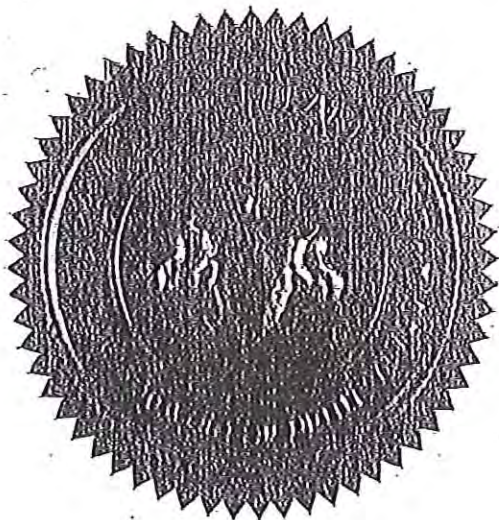
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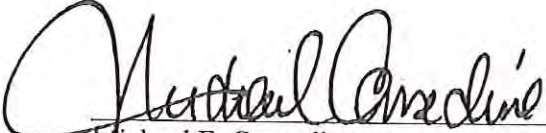
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 10 day of March, 2014, 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.



  
Michael F. Consedine  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
FIDELITY AND GUARANTY LIFE	:	40 P.S. §§323.3(a), 323.4(b)
INSURANCE COMPANY	:	
1001 Fleet Street	:	40 P.S. § 310.71
Baltimore, MD 21202	:	
	:	40 P.S. §§625-4, 625-8(c)(4)(i)
	:	625-8(c)(4)(ii), 625-8(e)(2)(iii)
	:	510c(a)(2), 510d(a)(2)
	:	510e(c)(5)(i),(ii) & (iii), 511b(a)
	:	and 512
	:	
	:	40 P.S. §§1171.5(a)(1)(i)(vi) and
	:	1171.5(a)(10)(iii)
	:	
	:	31 Pa. Code §§81.4(b)(1)
	:	81.6(a)(2)(ii)
	:	83.3(a)(1)(2)(3)(4)(5)(6)(7)
	:	83.4, 83.4(a), 83.4(b), 146.6
	:	and 146.7(a)(1)
	:	
Respondent.	:	Docket No. MC14-08-009

CONSENT ORDER

AND NOW, this *23* day of *September*, 2014, 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 Fidelity and Guaranty Life Insurance Company, and maintains its address at 1001 Fleet Street, Baltimore, MD 21202.



- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2011 to December 31, 2011.
- (c) On July 31, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on September 2, 2014.
- (e) The Examination Report notes violations of the following:
  - (i) 40 P.S. §323.3(a), which requires every company subject to examination to keep all books, records, accounts, papers, documents and any computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require in order that its representatives may readily ascertain 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, which states:

(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.

(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.

(f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer. The Company failed to provide evidence of licensing and or appointment and file a notice of appointment and submit appointment fees to the Insurance Department for certain producers and agencies.

(iv) 40 P.S. §625-4, which requires when the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall

be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand- delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;

- (v) 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."
  
- (vi) 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."

(vii) 40 P.S. § 625-8(e)(2)(iii) applies if a producer in the sale of a life insurance policy uses no illustration or if a computer screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer;

(viii) 40 P.S. § 510c(a)(2), which states individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery;

(ix) 40 P.S. § 510d(a)(2), which states that individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a

notice stating in substance that the contract holder shall be permitted to return the contract within at least forty-five (45) days of its delivery.

- (x) 40 P.S. §510e(c)(5)(i)(ii)&(iii) in regards to policy loan interest rates, requires the company to:
  - (i) notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan;
  - (ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan.
  - (iii) send the policyholders with loans reasonable advance notice of any increase in the rate;
  
- (xi) 40 P.S. §511b(a) states life insurance death benefits not paid within thirty days after satisfactory proof of death was submitted to the insurer shall bear interest at the rate of interest payable on death benefits left on deposit by the beneficiary with the insurer. This interest shall accrue from the date of death of the insured to the date benefits are paid to the beneficiary. In cases where satisfactory proof of death is submitted more than one hundred eighty days after the death of the insured, and the death benefits are not paid within thirty days after the satisfactory proof of death was submitted to the insurer, interest shall accrue from the date on which satisfactory proof was submitted to the date on which the benefits of the policy are paid.

(xii) 40 P.S. §512 states no policy of life insurance shall be delivered in this Commonwealth except upon the application of the person insured. The term “insurable interest” is defined as meaning, in the case of persons related by blood or law, an interest engendered by love and affection, and, in the case of other persons, a lawful economic interest in having the life of the insured continue, as distinguished from an interest which would arise only by the death of the insured.

(xiii) 40 P.S. §1171.5(a)(1)(i)(vi), which states “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means:

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:

(i) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(vi) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy.

(xiv) 40 P.S. §1171.5(a)(10)(iii), which prohibits failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

- (xv) 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;
- (xvi) 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;
- (xvii) 31 Pa. Code §83.3(a)(1)(2)(3)(4)(5)(6)&(7), 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;
- (xviii) 31 Pa. Code §83.4, which requires the written disclosure statement shall be given no later than the time the application form is signed by the applicant;

- (xix) 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;
  
- (xx) 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;
  
- (xxi) 31 Pa. Code §146.6, which states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
  
- (xxii) 31 Pa. Code §146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;



## 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 40 P.S. §310.71 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 40 P.S. §§625-4, 625-8(c)(4)(i), 625-8(c)(4)(ii), 625-8(e)(2)(iii), 510c(a)(2), 510d(a)(2), 510e(c)(5)(i)(ii)&(iii), 511b(a) and 512 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)(1)(i)(vi) and 1171.5(a)(10)(iii) 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 §§146.6 and 146.7(a)(1) are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.9):

- (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
- (g) Respondent's violations of 31 Pa. Code Chapter 81 are punishable under 31 Pa. Code §§81.4(b)(1) and 81.6(a)(2)(ii), 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;

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 Ninety Thousand Dollars (\$90,000) 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.

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.

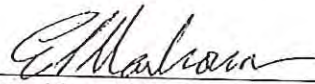
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

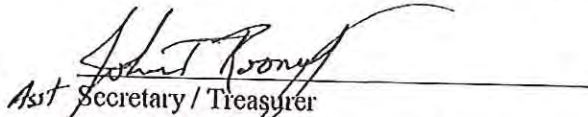
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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.

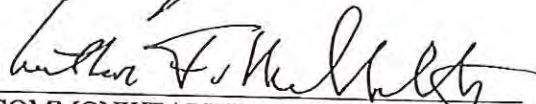
BY: FIDELITY AND GUARANTY LIFE  
INSURANCE COMPANY, Respondent



President / Vice President, Executive Vice President



Asst Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA

Arthur F. McNulty

Deputy Insurance Commissioner

## I. INTRODUCTION

The Market Conduct Examination was conducted on Fidelity & Guaranty Life Insurance Company; hereafter referred to as "Company," at the Company's office located in Baltimore, Maryland from October 21, 2013 to January 30, 2014. Subsequent review and follow-up was conducted offsite.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

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

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

Deborah Lee  
Pennsylvania Insurance Department  
Market Conduct Division Acting  
Chief

Aram Morvari-Coyle, MCM, MBA  
Global Insurance Enterprises, Inc  
Market Conduct Examiner-In-Charge

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

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

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

Sarah L. Bridendall, CFE, MBA, MCM  
Global Insurance Enterprises, Inc  
IT and 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, 2011, through December 31, 2011, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

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

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

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

### III. COMPANY HISTORY AND LICENSING

The Company was incorporated as the Fidelity and Guaranty Life Insurance Company under the laws of the State of Maryland on December 16, 1959, and commenced operations on November 1, 1960. The Company was primarily formed to write individual life insurance and annuity products. The Company currently writes fixed-indexed annuities, single premium deferred annuities, single premium immediate annuities and term and universal life contracts. The Company previously wrote variable annuities from 2007 through January 2009. Until June 1, 1995, the Company was a wholly-owned subsidiary of United States Fidelity and Guaranty Company (MD) with USF&G Corporation, the ultimate controlling entity. Effective June 1, 1995, the Company became a direct wholly owned subsidiary of USF&G Corporation. On April 24, 1998, as a result of the merger of its parent with The St. Paul Companies, Inc., the Company became an indirect subsidiary of The St. Paul Companies, Inc. Effective January 1, 1999, the Company became a direct wholly owned subsidiary of St. Paul Fire and Marine Insurance Company. By Order approved September 21, 2001, the Company became a direct wholly-owned subsidiary of Old Mutual U.S. Life Holdings, Inc. Effective for the period December 31, 2002-June 30, 2006, the Company was owned by Old Mutual plc. The name of the Company was changed to OM Financial Life Insurance Company effective January 1, 2007. On April 5, 2011, Old Mutual U.S. Life Holdings, Inc., and its subsidiaries, the Company and Old Mutual Business Services, Inc., were acquired by Harbinger F&G, LLC, a subsidiary of Harbinger Group, Inc. Effective April 11, 2011, the name of the Company was changed to Fidelity & Guaranty Life Insurance Company.

In its December 31, 2011 Annual Statement, the Company reported for the Commonwealth of Pennsylvania, direct premiums of \$18,419,943, for ordinary life insurance, \$97,809,011 for annuity considerations, and \$1,663,741 deposit-type contract funds.

#### IV. COMPANY OPERATIONS AND MANAGEMENT

The Company was requested to provide information documenting its management and operational procedures in areas for which they conduct business for the Commonwealth of Pennsylvania. The areas were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

The following company operational procedures and areas were reviewed:

- General Procedures and Company History
- Internal Audit & Compliance Procedures
- Audit Program & Procedures
- Control of Computer Information Security
- Antifraud Initiatives
- Disaster Recovery Plan
- Third Party Administrator Agreement
- Records Retention Requirements
- Assumption Reinsurance Agreements
- Management & Territory and Plan of Operations

**Concerns:** The Department has concerns regarding the multiple instances of control exceptions noted by independent auditors in their reviews of the Policyholder Services Agreement the Company has in place with Transaction Applications Group.

## V. ADVERTISING CERTIFICATE OF COMPLIANCE

The Company was requested to provide a copy of the Advertising Certificate of Compliance for the experience period. The certification was received and reviewed to ensure compliance with Title 31, Pennsylvania Code, and Section 51.5. Section 51.5 provides that "A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth." No violations were noted.

## 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 concerns were noted from the Forms section of the exam:

**Department Concern:** During the examination period, the Department discovered that the Company marketed and sold annuities to individual Pennsylvania consumers through a discretionary group annuity vehicle. The owner of the annuity is an out of state trust, domiciled in Missouri, and the product is not one that is actually reviewed for approval as to form by the Department (or the Interstate Insurance Product Regulation Commission). Although the annuities were issued on a group basis, they were marketed directly to certain individuals not members of a traditional group. The Department is concerned that individual consumers may not be aware at the time of application that these products are not subject to the same regulatory scrutiny as individual product forms approved by the Department (or the Interstate Insurance Product Regulation Commission). The Company is in the process of discontinuing use of the discretionary group for individual (non-group) annuity product sales in Pennsylvania, however, the Department states its concern here inasmuch as to the extent these group products are sold in Pennsylvania to certain individuals not members of a traditional group, disclosures about the group nature of the product may be inadequate, and additional disclosure may be warranted.

The above stated concern relative to the marketing and sale of annuity products applies also to the following sections of this exam report:

Section D, Annuity Contracts Issued, Individual and Group (Page 21 of this report)

Section E, Annuity Contracts Issued as Replacements, Group (Page 22 of this report)

Section F, Annuity Contracts Full Surrendered, Individual and Group (Page 23 of this report)

Section G, Annuity Contract Partial Surrendered, Group (Page 24 of this report)

Section R, Annuity Contract Declines, Pre-Delivery (Page 31 of this report)

**Department Concern:** During the examination period, the Examiner learned that the Company marketed and sold life insurance coverage by issuing certificates to individual Pennsylvania consumers through a discretionary group insurance vehicle. The owner of the policy is an out of state trust, domiciled in Wyoming, and the product is not one that is actually reviewed for approval as to form by the Department (or the Interstate Insurance Product Regulation Commission). Although the coverage was issued on a group basis, it was marketed directly to certain individuals not members of a traditional group. The Department is concerned that individual consumers may not be aware at the time of application that these group products are not subject to the same regulatory scrutiny as individual product forms approved by the Department (or the Interstate Insurance Product Regulation Commission). The Company no longer utilizes the discretionary group vehicle for individual (non-group) life insurance sales in Pennsylvania, however, the Department states its concern here inasmuch as to the extent these types of group products are sold in Pennsylvania to certain individuals not members of a traditional group, disclosures about the group nature of the product may be inadequate, and additional disclosure may be warranted.

The above stated concern relative to the marketing and sale of life insurance products applies also to the following sections of this exam report:

Section B, Index Universal Life Insurance Policies Issued, Group (Page 17 of this report)

Section C, Index Universal Life Insurance Policies Issued as Replacements (Page 20 of this report)

Section P, Term Life Insurance Policies Declines, Post Delivery, Group (Page 29 of this report)

## VII. PRODUCER LICENSING, APPOINTMENT AND TERMINATION

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

The Company identified a universe of 4,012 active and 412 terminated producers as well as 500,690 commission payments during the experience period. A random sample of 50 active and 50 terminated producer as well as 50 commission payment files were requested, received and reviewed. The sample was compared to departmental records of producers to verify licensing, appointments and terminations. In addition, producer licensing and appointments were also reviewed in the various underwriting sections. The findings from those reviews will be included in the summaries for the areas reviewed. **The following violations were noted:**

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

- (a) Representative of the insurer. – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (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.
- (f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer. The Company failed to provide evidence of licensing and or appointment and file a notice of appointment and submitted appointment fees to the Insurance Department for the noted producers and agency.

<b>Last Name</b>	<b>First Name</b>
Cooper	Roxie
Carey	William J.
Watters	Joseph A.
Robinson	Carl D.
Butler	Juan
Sutton	Donald
Bantawan	Roger
Fakouri	Anthony
Hyduk	Joseph



### VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2007, 2008, 2009 and 2010. The Company identified 22 consumer complaints received during the experience period. Of the 22 complaints identified by the Company, 9 files were forwarded from the Pennsylvania Insurance Department. All 22 complaint files were requested, received, and reviewed. The company also provided complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5 (a) (11) of Act 205 requires maintenance of a complete record of all complaints received during the preceding four (4) years. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, PA Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. No violations were noted.

## IX. UNDERWRITING

The Underwriting review consisted of 21 general segments.

A.	Underwriting Guidelines
B.	Index Universal Life Insurance Policies Issued (Group)
C.	Index Universal Life Insurance Policies Issued as Replacements
D.	Annuity Contracts Issued (Individual and Group)
E.	Annuity Contracts Issued as Replacements (Group)
F.	Annuity Contracts Full Surrendered (Individual and Group)
G.	Annuity Contracts Partial Surrendered (Group)
H.	Whole Life Insurance Policies Full Surrendered
I.	Universal Life Insurance Policies Full Surrendered (Individual and Group)
J.	Universal Life Insurance Policies Partial Surrendered
K.	Indexed Universal Life Insurance Policies Full Surrendered (Group)
L.	Indexed Universal Life Insurance Policies Partial Surrendered (Group)
M.	Term Life Insurance Policies Surrendered (Individual and Group)
N.	Indexed Universal Life Insurance Policies Declines (Pre-Delivery)
O.	Index Universal Life Insurance Policies Declines (Post-Delivery) (Group)
P.	Term Life Insurance Policies Declines (Post-Delivery) (Group)
Q.	Annuity Contract Declines (Post-Delivery)
R.	Annuity Contract Declines (Pre-Delivery)
S.	Whole Life Insurance Policy Loans
T.	Universal Life Insurance Policy Loans (Individual and Group)
U.	Index Universal Life Insurance Policy Loans (Group)

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

### A. Underwriting Guidelines

The Company was requested to provide copies of all underwriting guidelines and manuals utilized during the experience period. The documents provided were reviewed to ensure that

underwriting guidelines were in place and being followed in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by the Commonwealth of Pennsylvania's Statute and Regulations. No violations were noted.

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

- Master Underwriting Manual – Rev. 5-12-2010
- New business decline A & B explanation
- Vendor Audit Guidelines
- Translation codes for surrender transaction
- Fidelity & Guaranty decline letter
- Underwriting decline process

#### **B. Index Universal Life Insurance Policies Issued (Group)**

The Company was requested to provide a list of all Pennsylvania policies (individual and group) issued during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 180 index universal life insurance policies issued (New Business) during the experience period. A random sample of 20 index universal life insurance policies issued (New Business) files were requested, received and reviewed. Of the 20 files, 17 files were group certificates issued by Old Mutual Financial Life Group Insurance Trust, an out of state discretionary group. The 3 remaining files were group certificate issued to the Boilermaker 154 Retirement Plan however, the company did not provide the certificate schedule page to identify the policyholder and trust account. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**19 Violations - Title 31, Pennsylvania Code, Chapter 83.3 (a)(1)(2)(3)(4)(5)(6)(7)**

Required written disclosure - A life agent, broker, or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. Evidence of the required disclosure statement could not be established in the 19 noted files.

**19 Violations – Title 31, Pennsylvania Code, Chapter 83.4**

Except as otherwise provided herein, the written disclosure statement shall be given no later than the time that the application form is signed by the applicant. Evidence that the required disclosure statement was provided to the applicant at the time of application could not be established in the 19 noted files.

**19 Violations – Title 31, Pennsylvania Code, Chapter 83.4a**

The (producer) agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant. Evidence that the agent submitted to the insurer a required certified written disclosure statement could not be established in the 19 noted files.

**19 Violations – Title 31, Pennsylvania Code, Chapter 83.4b**

The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. Evidence of maintenance by the insurer of the producer's required certification of disclosure delivery could not be established in the 19 noted files.

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

The following applies if a producer in the sale of a life insurance policy uses no illustration or if a computer screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than

the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. Certification and acknowledgement of the delivery of an illustration could not be established in the 7 noted files.

**7 Violations – Insurance Company Law, Section 408-A (c) (4) (i) (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. At the time of policy delivery, the applicant’s acknowledgement of an illustration receipt was not dated in the 7 noted files.

**7 Violations – Insurance Company Law, Section 408-A (c) (4) (ii) (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 required agent’s certification could not be established in the 7 noted files.

**3 Violations - Insurance Company Law, Section 404-A (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. Evidence of policy delivery could not be established in the 3 noted files.

### **C. Index Universal Life Insurance Policies Issued as Replacements**

The Company was requested to provide a list of all Pennsylvania policies (individual and group) issued during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 10 indexed universal life policies issued as replacements during the experience period. All 10 indexed universal life insurance policies issued as replacement files were requested, received and reviewed. Of the 10 files, 7 files were group certificates issued by Old Mutual (OM) Group Insurance Trust II, an out of state discretionary group and 2 files were group certificates issued by OM Financial Life Group Insurance Trust II, an out of state discretionary group. The remaining file was a "not-taken" policy. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violations were noted:**

#### **2 Violations - Title 31, Pennsylvania Code, Section 81.4(b) (1)**

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. **At the time of application, the 2 noted files did not contain the required replacement form.**

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. **Evidence of a timely replacement letter to the replaced Company could not be established in the 3 noted files.**

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

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. Evidence of the required 45-day "free look" statement could not be established in the 3 noted files.

**4 Violations – Unfair Insurance Practices Act 205, Section 5 (40 P.S. §1171.5(a)(1)(i))**

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

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:

(i) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

The Company misrepresented the benefits, advantages, conditions and terms of the insurance policy by converting term life policies to group UL policies. Contract provisions states conversion privileges can be extended to an individual policy not to another group policy. The contract provisions regarding conversion were not properly executed in the 4 noted files.

**D. Annuity Contracts Issued (Individual and Group)**

The Company was requested to provide a list of all Pennsylvania contracts (individual and group) issued during the experience period. The Company provided a response that group contracts were not applicable during the experience period. The Company identified a universe of 1,098 annuity contracts issued (New Business) during the experience period. A random sample of 50 annuity contracts issued (New Business) files were requested received and reviewed. Of the 50 files, 6 files were group certificates issued by Old Mutual (OM) Financial Group Insurance Trust, an out of state discretionary group, 16 files were group certificates issued by OM Financial Life Group Insurance Trust, an out of state discretionary group and 19 files were group certificates issued by Fidelity and Guaranty Life Group Insurance Trust (III), an out

of state discretionary group. The remaining 9 files included 5 files "not-taken and 4 files where the "annuitizations" of existing annuity certificates. The Company has indicated that they do not issue a new certificate for this but for internal purposes do record the "annuitization" with a new certificate number. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violations were noted:**

**2 Violations - Insurance Department Act, Section 903 (40 P.S. §323.3(a))**

(a)Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. **Evidence of pertinent information could not be established in the 2 noted files.**

**E. Annuity Contracts Issued as Replacements (Group)**

The Company was requested to provide a list of all Pennsylvania contracts (individual and group) issued as replacements during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 522 annuity contracts issued as replacements during the experience period. A random sample of 25 annuity contracts issued as replacement files were requested, received and reviewed. Of the 25 files, 14 files were group certificates issued by Fidelity and Guaranty Life Group Insurance Trust (III), an out of state discretionary group, 3 files were group certificates issued by Old Mutual (OM) Financial Group Insurance Trust, an out of state discretionary group, 1 file was a group certificate issued by OM Financial Group Insurance Trust (III), an out of state discretionary group and 3 files were group certificates issued by OM Financial Life Group Insurance Trust, an out of state discretionary group. The remaining 4 files were contracts rejected, withdrawn or otherwise not issued. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violations were noted:**



**1 Violation – Insurance Company Law, Section 410-D (a) (2) (40 P.S. §510d(a)(2))**

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least forty-five (45) days of its delivery. **Evidence of the required 45-day “free look” statement could not be established in the noted file.**

**2 Violations - Insurance Company Law, Section 404-A (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. **Evidence of policy delivery could not be established in the 2 noted files.**

**F. Annuity Contracts Full Surrendered (Individual and Group)**

The Company was requested to provide a list of all Pennsylvania issued contracts (individual and group) surrendered and terminated during the experience period. The Company provided a response that group contracts were not applicable during the experience period. The Company identified a universe of 3,478 annuity contracts full surrendered during the experience period. A random sample of 25 annuity contracts full surrendered files were requested, received and reviewed. Of the 25 files, 9 were individual contract files, 1 file was a group certificate issued

by Fidelity and Guaranty Life Group Insurance Trust (III), an out of state discretionary group, 3 files were group certificates issued by Old Mutual Financial Group Insurance Trust, an out of state discretionary group, 1 file was a group certificate issued by Americom Group Insurance Trust, an out of state discretionary group, 2 files were group certificates issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group, 2 files were group certificates issued by Wachovia Trust Company, N.A., as Trustee for Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group, and 2 files were group certificates issued by Fidelity and Guaranty Life Group Insurance Trust an out of state discretionary group. Of the remaining 5 files: 1 file cancelled at issue, 3 files expired and 1 file cancelled by death of the insured. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **No violations were noted.**

#### **G. Annuity Contracts Partial Surrendered (Group)**

The Company was requested to provide a list of all Pennsylvania issued contracts (individual and group) surrenders and terminations during the experience period. The Company provided a response that group contracts were not applicable during the experience period. The Company identified a universe of 10,099 annuity contracts that were partially surrendered during the experience period. A random sample of 50 contract files were requested, received and reviewed. Of the 50 files, 2 files were individual contracts surrendered, 2 files were group certificates issued by Wachovia Trust Company, N.A. (or its predecessor First Union Trust Company, N.A.) as Trustee for F&G Group Insurance Trust, an out of state discretionary group, 19 files were group certificates issued by Wachovia Trust Company, N.A. (or its predecessor First Union Trust Company, N.A.) as Trustee for Fidelity and Guaranty Life Insurance Group Ins Trust, an out of state discretionary group, 12 files were group certificates issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group, 9 files were group certificates issued by Fidelity and Guaranty Life Group Insurance Trust, an out of state discretionary group, 4 files were group certificates issued by Fidelity and Guaranty Life Group Insurance Trust (III), an out of state discretionary group and 2 files were group certificates issued to Old Mutual (OM) Financial Life Group Insurance Trust, an out of state discretionary group. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violation was noted:**

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

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

**H. Whole Life Insurance Policies Full Surrendered**

The Company was requested to provide a list of all Pennsylvania issued policies (group and individual) surrendered and terminated during the experience period. The Company identified a universe of 79 individual whole life insurance policies full surrendered during the experience period. A random sample of 25 (18 whole life and 7 term) individual life insurance policies full surrendered files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**I. Universal Life Insurance Policies Full Surrendered (Individual and Group)**

The Company was requested to provide a list of all Pennsylvania issued policies (individual and group) surrendered and terminated during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 221 universal life insurance policies full surrendered during the experience period. A random sample of 25 universal life insurance policies full surrendered files were requested, received and reviewed. Of the 25 files, 3 were group certificates issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group, 1 was a group certificate issued by Wachovia Trust Company, National Association, an out of state discretionary group and 21 were individual universal life insurance policies. The files were

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

#### **J. Universal Life Insurance Policies Partial Surrendered**

The Company was requested to provide a list of all Pennsylvania issued policies (individual and group) surrendered and terminated during the experience period. The Company identified a universe of 14 universal life insurance policies partial surrendered during the experience period. All 14 universal life insurance policies partial surrendered files were requested received and reviewed. All 14 files were individual universal life insurance policies. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **K. Index Universal Life Insurance Policies Full Surrendered (Group)**

The Company was requested to provide a list of all Pennsylvania issued policies (individual and group) surrendered and terminated during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 102 index universal life insurance policies full surrendered during the experience period. A random sample of 25 index universal life insurance policies full surrendered files was requested received and reviewed. All 25 files were group certificates issued by Wyoming Bank and Trust as Trustee for Old Mutual (OM) Group Insurance Trust II, OM

Financial Life Group Insurance Trust II and Fidelity and Guaranty Group Insurance Trust an out of state discretionary group. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **No violations were noted.**

#### **L. Index Universal Life Insurance Policies Partial Surrendered (Group)**

The Company was requested to provide a list of all Pennsylvania issued policies (individual and group) surrendered and terminated during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 1 indexed universal life insurance policy partial surrender during the experience period. The 1 indexed universal life insurance policy partial surrender file was requested, received and reviewed. The 1 file was a group certificate issued by Fidelity and Guaranty Group Insurance Trust an out of state discretionary group. The file was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **No violations were noted.**

#### **M. Term Life Insurance Policies Surrendered (Individual and Group)**

The Company was requested to provide a list of all Pennsylvania issued policies (individual and group) surrendered and terminated during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 1,258 term life insurance policies surrendered during the experience period. A random sample of 50 term life insurance policies surrendered files were requested, received and reviewed. Of the 50 files, 27 were group certificates issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group, 7 were group certificates issued by Wachovia Trust Company, NA, an out of state discretionary group, 5 were group certificates issued by Wachovia Trust Company, NA to F & G Group Insurance Trust, an out of state discretionary group, 1 group certificate was issued by First Union Trust Company, NA, an out of state discretionary group and 10 files were individual policies. The files were reviewed to

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

**2 Violations – Unfair Insurance Practices Act Act 205, Section 5 (40 P.S. §1171.5(a)(1)(vi))**

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

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:

(vi) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

**The company failed to properly exercise the non-forfeiture option in the 2 noted files.**

**N. Index Universal Life Insurance Policies Declines (Pre-Delivery)**

The Company was requested to provide a list of all Pennsylvania issued declinations (individual and group) that occurred during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 65 index universal life insurance policies declines (pre-delivery) new business during the experience period. A random sample of 25 index universal life insurance policies declines (pre-delivery) new business files were requested received and reviewed. For each of the 25 files, the certificate schedule page to identify the policyholder and trust account could not be verified. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

**1 Violation - Title 31, Pennsylvania Code, Section 83.4a**

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. There was no evidence provided that the agent submitted to the insurer a required certified signed disclosure statement. The written disclosure must be provided to the applicant no later than the time of application. This could not be established in the noted file.

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

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

**O. Index Universal Life Insurance Policies Declines (Post Delivery) (Group)**

The Company was requested to provide a list of all Pennsylvania issued declinations (individual and group) that occurred during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 23 index universal life insurance policies declines (post-delivery) new business during the experience period. All 23 index universal life insurance policies declines (post-delivery) new business files were requested, received and reviewed. Of the 23 files, 18 group certificates were issued by OM Group Insurance Trust (II), an out of state discretionary group and 4 group certificates were issued by OM Financial Life Group Insurance Trust (II), an out of state discretionary group. For the remaining file, the certificate schedule page to identify the policyholder and trust account could not be verified. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

**P. Term Life Insurance Policies Declines (Post-Delivery) (Group)**

The Company was requested to provide a list of all Pennsylvania issued declinations (individual and group) that occurred during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 1 term life insurance policy decline (post-delivery) new business during the experience period. The 1 term life insurance policy decline (post-delivery) new business file

was requested, received and reviewed. The 1 file was a group certificate issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group. The file was reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

#### **Q. Annuity Contract Declines (Post-Delivery)**

The Company was requested to provide a list of all Pennsylvania issued declinations (individual and group) that occurred during the experience period. The Company provided a response that group contracts were not applicable during the experience period. The Company identified a universe of 246 annuity contract declines (post-delivery) new business during the experience period. A random sample of 30 annuity contract declines (post-delivery) new business files was requested, received and reviewed. Of the 30 files, 2 files were group certificates issued by Fidelity and Guaranty Group Insurance Trust, an out of state discretionary group. For the remaining 28 files, the certificate schedule page to identify the policyholder and trust account could not be verified. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violations were noted:**

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

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

**Evidence of pertinent information could not be established in the noted file.**

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

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



statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. **Evidence of a timely replacement letter to the replaced Company could not be established in the 3 noted files.**

#### **R. Annuity Contract Declines (Pre-Delivery)**

The Company was requested to provide a list of all Pennsylvania issued declinations (individual and group) that occurred during the experience period. The Company provided a response that group contracts were not applicable during the experience period. The Company identified a universe of 39 annuity contract declines (pre-delivery) new business during the experience period. A random sample of 10 annuity contract declines (pre-delivery) new business files were requested, received and reviewed. For the 10 files, the certificate schedule page to identify the policyholder and trust account could not be verified. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. **The following violations were noted:**

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

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

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

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

contract is issued, whichever is sooner. Evidence of a timely replacement letter to the replaced Company could not be established in the 5 noted files.

### **S. Whole Life Insurance Policy Loans**

The Company was requested to provide a list of all Pennsylvania issued policy loans that became effective during the experience period. The Company identified a universe of 347 whole life insurance policy loans that became effective during the experience period. A random sample of 25 whole life insurance policy loan files were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violations were noted:

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

- (i) Notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan;
- (ii) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c) (5) (iii) below;
- (iii) Send to policyholders with loans reasonable advance notice of any increase in rate. Evidence that the Company notified the policyholder of the initial interest rate at the time the loan was made could not be established in the 22 noted files.

#### **2 Violations - Insurance Company Law, Section 412 (40 P.S. §512)**

No policy of life insurance shall be delivered in the Commonwealth except upon the application of the person insured. A person liable for the support of a child may take out a policy of insurance on such child; and persons, copartner ships, associations, and corporations may insure the lives and health of officers, directors, principals, partners, and employees, without the signing of a personal application as hereinbefore required. Evidence of the application could not be established in the 2 noted files.

**2 Violations – Unfair Insurance Practices Act 205, Section 5 (40 P.S. §1171.5(a)(1)(i)(vi))**

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

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:

- (i) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;
- (vi) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy

The corresponding contracts indicated that the APL option was not selected by the insured as a means to pay late premiums. However, the company exercised the APL option to continue premium payment, not the insured in the 2 noted files.

**T. Universal Life Insurance Policy Loans (Individual and Group)**

The Company was requested to provide a list of all Pennsylvania issued (individual and group) policy loans that became effective during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 71 universal life insurance policy loans that became effective during the experience period. A random sample of 15 universal life insurance policy loan files were requested, received and reviewed. Of the 15 files, 1 file was a group certificate issued by Fidelity & Guaranty Group Insurance Trust, an out of state discretionary group. The remaining 14 files were individual life insurance policies not issued through a trust. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations. No violations were noted.

**U. Index Universal Life Insurance Policy Loans (Group)**

The Company was requested to provide a list of all Pennsylvania issued (individual and group)

policy loans that became effective during the experience period. The Company provided a response that group policies were not applicable during the experience period. The Company identified a universe of 18 index universal life insurance policy loans that became effective during the experience period. A random sample of 10 index universal life insurance policy loan files were requested, received and reviewed. Of the 10 files received, 2 files were group certificates issued by Old Mutual (OM) Financial Life Group Insurance Trust (II), an out of state discretionary group, 1 was a group certificate issued by OM Financial Life Group Insurance Trust (III), an out of state discretionary group and 7 files were group certificates issued by Fidelity & Guaranty Group Insurance Trust, an out of state discretionary group. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations No violations were noted.

#### V. Modified Endowment Contracts

**Department Concern:** During the course of the examination, the examiners learned that the Company failed to put certain policyholders on timely notice that their policies had been funded into a potential modified endowment contract. Although consumers may desire that their life insurance policies convert to such status, it is expected of the Company – and the Company's written administration procedures -- that the Company will provide timely notice of such a status change and afford the policyholder with the opportunity to rectify such status if a MEC is not desired.

## X. CLAIMS & CLAIMS MANUALS

The Claim review consisted of 11 general segments.

A.	Claim Manuals
B.	Term Life Insurance Claims
C.	Term Life Disability Insurance Claims Paid
D.	Group Term Life Insurance Claims (Waiver of Premium)
E.	Universal Life Insurance Claims
F.	Indexed Universal Life Insurance Claims
G.	Whole Life Insurance Claims
H.	Term Life Insurance Claims Denied
I.	Term Life Insurance Wavier of Premium Claims Denied
J.	Term Life Disability Claims Denied
K.	Whole Life Insurance Claims Denied

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

### **A. Claim Manuals**

The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

**The Company provided the following claim documents:**

- Life insurance benefits not paid within 30 days after receipt of proof death will bear interest (40 P.S. § 511 B).
- Follow-ups/acknowledgement (PA Code 146.5 & 146.6)

- Payments to minors (20 P.S. § 5101, 20 Pa C.S. §5301-5321)
- Unfair Claims Settlement Practices (Chapter 146 and 40 P.S. §1171.5)
- Community property (No statute found)
- Consent and notice to transfer death proceeds (No statute found)
- Divorced spouse beneficiary (No statute found)
- Fraud reporting requirements (§40-3-144, 18 Pa C.S.A. §4117(k) and § 40-3-1147)
- Non-probate of will and distribution of small estates (20 Pa. C.S. § 3102)
- Post-mortem interest - life only (§ 511B)
- Premium refund (No statute found)
- Suicide (No statute found)
- Accelerated death benefits beneficiary acknowledgement (No statute found)

**Department Concern:** The Company revealed to the Department that there are no Claims Manuals available for instructing its claims processing personnel. The Department's position is that this omission could lead to inconsistencies and or a lack of conformity or like problems during claims processing.

Therefore, although the Department is not assessing a specific violation for the absence of existing claims processing guidelines, the Department does urge the Company to design and implement specific guidelines for all of its products moving forward.

### **B. Term Life Insurance Claims**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 75 term life insurance claims during the experience period. A random sample of 25 term life insurance claim files were requested, received and reviewed. In addition, 3 claim files were selected from the 2012 MCAS Report. The 28 claim files were reviewed to ensure compliance with Title 31, Pennsylvania

Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). The following violations were noted:

**3 Violations – Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence that a timely status letter was provided to the claimant could not be established in the 3 noted files.

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

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

**1 Violation - Insurance Company Law, Section 411B (40 P.S. §511b(a))**

(a) Life insurance death benefits not paid within thirty days after satisfactory proof of death was submitted to the insurer shall bear interest at the rate of interest payable on death benefits left on deposit by the beneficiary with the insurer. This interest shall accrue from the date of death of the insured to the date benefits are paid to the beneficiary. In cases where satisfactory proof of death is submitted more than one hundred eighty days after the death of the insured, and the death benefits are not paid within thirty days after the satisfactory proof of death was submitted to the insurer, interest shall accrue from the date on which satisfactory proof was submitted to the date on which the benefits of the policy are paid. Evidence of the required interest payment could not be established in the noted file.

**3 Violations – Unfair Insurance Practices Act, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. The noted violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 3 noted files.

**C. Term Life Disability Insurance Claims Paid**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 9 term life disability insurance claims paid during the experience period. All 9 term life disability insurance claim files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). The following violations were noted:

**4 Violations - Title 31, Pennsylvania Code, Section 146.6**

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



claim may be expected. Evidence that a timely status letter was provided to the claimant could not be established in the 4 noted files.

**4 Violations – Unfair Insurance Practices Act, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. The noted violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 4 noted files.

**D. Group Term Life Insurance Claims (Waiver of Premium)**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 3 group term life insurance claims (waiver of premium) during the experience period. All 3 group term life insurance claim (waiver of premium) files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). **No violations were noted.**

**E. Universal Life Insurance Claims**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 40 universal life insurance claims

during the experience period. A sample of 20 universal life insurance claim files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). **The following violations were noted:**

**5 Violations - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. **Evidence that a timely status letter was provided to the claimant could not be established in the 5 noted files.**

**5 Violations – Unfair Insurance Practices Act, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. **The noted violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 5 noted files.**

**F. Index Universal Life Insurance Claims**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 11 indexed universal life insurance

claims during the experience period. All 11 indexed universal life insurance claim files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). The following violations were noted:

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

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence of providing a timely status letter to the claimant could not be established in the 3 noted files.

**3 Violations – Unfair Insurance Practices Act, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. The noted violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 3 noted files.

**G. Whole Life Insurance Claims**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 27 whole life insurance claims

during the experience period. All 27 whole life insurance claim files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). The following violations were noted:

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

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence that a timely status letter was provided to the claimant could not be established in the 3 noted files.

**3 Violations – Unfair Insurance Practices Act, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. The noted violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 3 noted files.

**H. Term Life Insurance Claims Denied**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 2 term life insurance claims denied

during the experience period. Both term life insurance claims denied files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). **No violations were noted.**

### **I. Term Life Insurance Waiver of Premium Claims Denied**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 2 term life insurance waiver of premium claims denied during the experience period. The 2 term life insurance waiver of premium claims denied files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). **The following violations were noted:**

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

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. **Evidence that a timely status letter was provided to the claimant could not be established in the 2 noted files.**

#### **2 Violations – Unfair Insurance Practices Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. **The noted violations were committed or**

performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 2 noted files.

#### **J. Term Life Disability Claims Denied**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 6 term life insurance disability claims denied during the experience period. All 6 term life insurance disability claims denied files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). **The following violations were noted:**

##### **3 Violations - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. **Evidence that a timely status letter was provided to the claimant could not be established in the 3 noted files.**

##### **3 Violations – Unfair Insurance Practices, Act 205, Section 5 (40 P.S. §1171.5(a)(10)(iii))**

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

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

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

Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company’s liability under the policy has become reasonably clear. **The noted**

violations were committed or performed with such frequency as to indicate a business practice. Timely status letters were not provided in the 3 noted files.

#### **K. Whole Life Insurance Claims Denied**

The Company was requested to provide a list of all Pennsylvania issued claims received during the experience period. The Company identified a universe of 1 whole life insurance claim denied during the experience period. The 1 whole life insurance claims denied file was requested, received and reviewed. The claim file was reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411-B, Payment of Interest (40 P.S. §511b). No violations were noted.

**Additional Note:** The data call information identified this product as whole life (WL) Insurance. A claim was received and then denied due to a lapse in coverage due to missed premium payments. Accordingly and upon the subsequent review of the file, the product was found to be a 1 year level term life insurance policy renewable and convertible. Ultimately, the policy lapsed prior to the insured's death and had no cash value or extended term coverage.

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

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

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



## XII. MCAS REPORTING

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

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

The Examination team reviewed the Company's 2011 and 2012 MCAS Life and MCAS Annuity submissions in conjunction with the Company's procedures and source data used in compiling those submissions. In addition, the Company was requested to provide procedures for data extraction and the report generation process to support the creation of the MCAS report.

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

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

- A. 2011 Life Report (MCAS)
- B. 2012 Life Report (MCAS)

- C. 2011 Annuity Report (MCAS)
- D. 2012 Annuity Report (MCAS)
- E. MCAS Policies and Procedures;  
Data Extraction and Report Generation

The statutes used to determine compliance with the Pennsylvania MCAS reporting requirements were: Pennsylvania Insurance Department Act, Section 903(a) (40 P.S. §323.3) and Section 904(b) (40 P.S. §323.4(b))

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

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

### A. 2011 MCAS Life Report

The examination team reviewed the Company's 2011 MCAS Life Report submission, the supporting source documents and selected/reviewed sample 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 Life Report submission. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 MCAS Life Report. A total of 7 violations were noted.

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

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

**MCAS Definition – Cash Value Product** – A life insurance policy that generates a cash value element. Term policies with cash value are considered cash value products.

**MCAS Definition – Non-Cash Value Product** – A life insurance policy that does not contain a cash value element. Do not include life insurance covering only Accidental Death and Dismemberment (AD&D).

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

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an

inaccurate response for line #9 of the 2011 MCAS Life Report submission regarding the number of replacement policies issued during the period.

- The Company reported 10 replacement policies with cash value on line #9 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 5 replacement policies resulting in an error, or variance, of 5 policies.

**NUMBER OF INTERNAL REPLACEMENTS**  
**ISSUED DURING THE PERIOD – LINE #10**

**MCAS Definition – Internal Replacement** – A policy and/or annuity contract application received by your Company that is intended to replace an existing policy and/or annuity contract already in place with your Company.

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response for line #10 of the 2011 MCAS Life Report submission regarding the number of internal replacement policies issued during the period.

- The Company reported 5 internal replacement policies with cash value on line #10 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 0 internal replacement policies resulting in an error, or variance, of 5 policies.

**NUMBER OF POLICIES REPLACED WHERE AGE OF INSURED AT  
REPLACEMENT WAS < 65 – LINE #12**

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #12 of the 2011 MCAS Life Report submission regarding the number of cash value policies replaced where the age of insured at replacement was < 65.

- o The Company reported 8 life with cash value replacement policies where the age of the insured at replacement was <65 on line #12 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 5 replacement policies resulting in an error, or variance, of 3 policies.

**NUMBER OF POLICIES SURRENDERED  
BETWEEN 2 AND 5 YEARS FROM POLICY ISSUE – LINE #15**

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #15 of the 2011 MCAS Life Report submission regarding the number of policies surrendered between 2 and 5 years from policy issue.

- o The Company reported 10 surrendered policies with cash value on line #15 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 0 surrendered policies resulting in an error, or variance, of 10 policies.

**NUMBER OF POLICIES SURRENDERED**  
**BETWEEN 6 AND 10 YEARS FROM POLICY ISSUE – LINE #16**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #16 of the 2011 MCAS Life Report submission regarding the number of policies surrendered between 6 and 10 years from policy issue.

The Company reported 0 policies surrendered between 6 and 10 years from policy issue on line #16 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 31 surrendered policies on line #16 resulting in an error, or variance, of 31 policies.

**NUMBER OF POLICIES SURRENDERED**  
**DURING THE PERIOD – LINE #17**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #17 of the 2011 MCAS Life Report submission regarding the number of policies surrendered during the period.

- o The Company reported 21 surrendered policies with cash value on line #17 of the 2011 MCAS Life Report. The Department's review revealed that the Company should have reported 170 surrendered policies resulting in an error, or variance, of 149 policies.

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

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #20 of the 2011 MCAS Life Report submission regarding the number of new policies issued during the period.

The Company reported 190 new policies issued during the period on line #20 of the 2011 MCAS Life Report. During the examination, the Department reviewed a sample of 5 of these policies to validate they were indeed new policies issued and discovered that 1 of the policies should not have been reported as a New Policy Issued on the MCAS Report resulting in an error ratio of 20%.



### B. 2012 MCAS Life Report

The examination team reviewed the Company's 2012 MCAS Life submission, the supporting source documents and selected/reviewed sample files corresponding to the MCAS data call in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2012 MCAS Life Report. A total of 6 violations were noted.

LINE	INTERROGATORIES
1	Individual Life Cash Value - Does the company have data to report for this product type?
2	Individual Life Non-Cash Value – Does the Company have data to report for this product type?
3	Is there a reason that the reported Individual Life Cash Value Information may identify the Company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
4	If yes, explain:
5	Is there a reason that the reported Individual Life Non-Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
6	If yes, explain:
7	Additional state specific Individual Life Cash Value comments (optional):
8	Additional state specific Individual Life Non-Cash Value comments (optional):
9	Number of replacement policies issued during the period.
10	Number of internal replacements issued during the period.

11	Number of external replacements issued during the period.
12	Number of policies replaced where age of insured at replacement was < 65.
13	Number of policies replaced where age of insured at replacement was age 65 and over.
14	Number of policies surrendered under 2 years from policy issue.
15	Number of policies surrendered between 2 years and 5 years from policy issue.
16	Number of policies surrendered between 6 years and 10 years from policy issue.
17	Number of policies surrendered during the period.
18	Number of new policies issued during the period where age of insured at issue was < 65.
19	Number of new policies issued during the period where age of insured at issue was age 65 and over.
20	Number of new policies issued during the period.
21	Number of policies applied for during the period.
22	Number of free looks during the period.
23	Number of policies in force at the end of the period.
24	Dollar amount of direct written premium during the period.
25	Face amount of insurance issued during the period.
26	Face amount of insurance in force at the end of the period.
27	Number of complaints received directly from consumers.
28	Number of death claims closed with payment, during the period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
29	Number of death claims closed with payment, during the period, beyond 60 days from the date of due proof of loss (include only claims where the final decision was payment in full.)
30	Number of death claims denied, resisted or compromised during the period.
31	Number of death claims received during the period.

**NUMBER OF INTERNAL REPLACEMENT POLICIES ISSUED**  
**DURING THE PERIOD – LINE #10**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #10 of the 2012 MCAS Life Report submission regarding the number of internal replacement policies issued during the period.

- o The Company reported 4 replacement policies on line #10 of the 2012 MCAS Life Report. The Department's review revealed that the Company should have reported 0 replacement policies resulting in an error, or variance, of 4 policies.

**NUMBER OF POLICIES SURRENDERED**  
**UNDER 2 YEARS FROM POLICY ISSUE - LINE #14**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #14 of the 2012 MCAS Life Report submission regarding the number of policies surrendered under 2 years from policy issue.

- o The Company reported 49 surrendered life policies with cash value on line #14 of the 2012 MCAS Life Report. The Department's review revealed that the Company should have reported 3 surrendered policies resulting in an error, or variance, of 46 policies.

**NUMBER OF POLICIES SURRENDERED**  
**BETWEEN 2 YEARS AND 5 YEARS FROM POLICY ISSUE - LINE #15**

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #15 of the 2012 MCAS Life Report submission regarding the number of policies surrendered between 2 years and 5 years from policy issue.

- The Company reported 143 surrendered life policies with cash value on line #15 of the 2012 MCAS Life Report. The Department's review revealed that the Company should have reported 50 surrendered policies resulting in an error, or variance, of 93 policies.

**NUMBER OF POLICIES SURRENDERED**  
**BETWEEN 6 YEARS AND 10 YEARS FROM POLICY ISSUE - LINE #16**

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #16 of the 2012 MCAS Life Report submission regarding the number of policies surrendered between 6 years and 10 years from policy issue.

- The Company reported 3 surrendered life policies with cash value on line #16 of the 2012 MCAS Life Report. The Department's review revealed that the Company should have reported 142 surrendered policies resulting in an error, or variance, of 139 policies.

**NUMBER OF DEATH CLAIMS CLOSED WITH PAYMENT,  
DURING THE PERIOD, WITHIN 60 DAYS FROM THE DATE OF  
DUE PROOF OF LOSS (INCLUDE ONLY CLAIMS WHERE THE  
FINAL DECISION WAS PAYMENT IN FULL,) – LINE #28**

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #28 of the 2012 MCAS Life Report submission regarding the number of death claims closed with payment during the period within 60 days from the date of due proof of loss.

- The Company reported 83 life claims closed with payment during the period within 60 days from the date of due proof of loss on line #28 of the 2012 MCAS Life with Cash Value Report. The Department's review revealed that the Company should have reported 80 claims closed with payment resulting in an error, or variance, of 3 claims.
- The Company reported 73 life claims closed with payment during the period within 60 days from the date of due proof of loss on line #28 of the 2012 MCAS Non-Cash Value Report. The Department's review revealed that the Company should have reported 70 claims resulting in an error, or variance, of 3 claims.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) [40 P.S. §323.4(b)]** The Company provided an inaccurate response on line #31 of the 2012 MCAS Life Report submission regarding the number of death claims received during the period.

- The Company reported 119 claims received during the period on line #31 of the 2012 MCAS Life with Cash Value Report. The Department's review revealed that the Company should have reported 101 death claims resulting in an error, or variance, of 18 claims.
- The Company reported 92 claims received during the period on line #31 of the 2012 MCAS Life Non-Cash Value Report. The Department's review revealed that the Company should have reported 88 claims resulting in an error, or variance, of 4 claims.

### C. 2011 MCAS Annuity Report

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

LINE	INTERROGATORIES
1	Individual Fixed Annuities - Does the company have data to report for this product type?
2	Individual Variable Annuities – Does the Company have data to report for this product type?
3	Is there a reason that the reported Individual Fixed Annuities information may identify the Company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
4	If yes, explain:
5	Is there a reason that the reported Individual Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
6	If yes, explain:
7	Additional state specific Individual Fixed Annuities comments (optional):
8	Additional state specific Individual Variable Annuities comments (optional):
9	Number of replacement contracts issued during the period.
10	Number of internal replacement contracts issued during the period.
11	Number of external replacement contracts issued during the period.
12	Number of contracts replaced where age of annuitant at replacement was < 65
13	Number of contracts replaced where age of annuitant at replacement was 65 to 80.
14	Number of contracts replaced where age of annuitant at replacement was > 80
15	Number of new immediate contracts issued during the period.
16	Number of new deferred contracts issued during the period where age of annuitant was < 65.

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

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)**The Company provided an inaccurate response on line #9 of the 2011 MCAS Annuity Report submission regarding the number of replacements issued during the period.

The Company reported 521 fixed replacement contracts issued during the period on line #9 of the 2011 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed replacement contracts issued and discovered that 1 of the contracts should not have been reported as a Replacement Contract Issued on the MCAS Report resulting in an error ratio of 10%.



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

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #15 of the 2011 MCAS Annuity Report submission regarding the number of new immediate contracts issued during the period.

- o The Company reported 0 new immediate annuity contracts issued on line #15 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 31 immediate annuity contracts issued resulting in an error, or variance, of 31 records.

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

The following violation was noted:

Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company provided an inaccurate response on line #16 of the 2011 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was < 65.

- o The Company reported 395 new deferred annuity contracts issued on line #16 of the 2011 MCAS Annuity Report. The Department's review revealed that the Company should have reported 481 new deferred annuity contracts issued resulting in an error, or variance, of 86 records.

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

The following violation was noted.

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #17 of the 2011 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was 65-80.

- o The Company reported 608 new deferred annuity contracts issued on line #17 of the 2011 MCAS Annuity Report. The Department's review revealed that the Company should have reported 765 new deferred annuity contracts issued resulting in an error, or variance, of 157 records.

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #18 of the 2011 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was > 80.

- o The Company reported 217 new deferred annuity contracts issued on line #18 of the 2011 MCAS Annuity Report. The Department's review revealed that the Company should have reported 233 deferred annuity contracts issued resulting in an error, or variance, of 16 records.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #19 of the 2011 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period.

- o The Company reported 1,220 new deferred annuity contracts issued on line #19 of the 2011 MCAS Annuity Report. The Department's review revealed that the Company should have reported 1,479 new deferred annuity contracts issued resulting in an error, or variance, of 259 records.

**NUMBER OF CONTRACTS IN FORCE**  
**AT THE END OF THE PERIOD – LINE #24**

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #24 of the 2011 MCAS Annuity Report submission regarding the number of contracts in force at the end of the period.

- o The Company reported 18,507 annuity contracts in force at the end of the period for line #24 of the 2011 MCAS Annuity Report. The Department's review revealed that the Company should have reported 20,255 annuity contracts in force resulting in an error, or variance, of 1,748 records.

### D. 2012 MCAS Annuity Report

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

LINE	INTERROGATORIES
1	Individual Fixed Annuities - Does the company have data to report for this product type?
2	Individual Variable Annuities – Does the Company have data to report for this product type?
3	Is there a reason that the reported Individual Fixed Annuities information may identify the Company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
4	If yes, explain:
5	Is there a reason that the reported Individual Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc.)?
6	If yes, explain:
7	Additional state specific Individual Fixed Annuities comments (optional):
8	Additional state specific Individual Variable Annuities comments (optional):
9	Number of replacement contracts issued during the period.
10	Number of internal replacement contracts issued during the period.
11	Number of external replacement contracts issued during the period.
12	Number of contracts replaced where age of annuitant at replacement was < 65.
13	Number of contracts replaced where age of annuitant at replacement was 65 to 80.
14	Number of contracts replaced where age of annuitant at replacement was > 80.
15	Number of new immediate contracts issued during the period.

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

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #9 of the 2012 MCAS Annuity Report submission regarding the number of replacements issued during the period.

The Company reported 647 fixed replacement contracts issued during the period on line #9 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed replacement contracts issued and discovered that 4 of the contracts should not have been reported as Replacement Contracts Issued on the MCAS Report resulting in an error ratio of 40%.

**NUMBER OF INTERNAL REPLACEMENT CONTRACTS**  
**ISSUED DURING THE PERIOD – LINE #10**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #10 of the 2012 MCAS Annuity Report submission regarding the number of internal replacements issued during the period.

The Company reported 10 internal replacement contracts issued during the period on line #10 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed all 10 of these contracts to validate they were indeed internal replacement contracts issued and discovered that 2 of the contracts should not have been reported as Replacement Contracts Issued on the MCAS Report resulting in an error ratio of 20%.

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #11 of the 2012 MCAS Annuity Report submission regarding the number of external replacements issued during the period.

The Company reported 637 fixed external replacement contracts issued during the period on line #11 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed external replacement contracts issued and discovered that 2 of the contracts should not have been reported as External Replacement Contracts Issued on the MCAS Report resulting in an error ratio of 20%.

**NUMBER OF CONTRACTS REPLACED WHERE AGE OF  
ANNUITANT AT REPLACEMENT WAS < 65 – LINE #12**

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #12 of the 2012 MCAS Annuity Report submission regarding the number of contracts replaced where the age of annuitant at replacement was < 65.

The Company reported 183 fixed replacement contracts issued during the period on line #12 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed replacement contracts issued and discovered that 1 of the contracts should not have been reported on line #12 of the MCAS Report resulting in an error ratio of 10%.

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #13 of the 2012 MCAS Annuity Report submission regarding the number of contracts replaced where the age of annuitant at replacement was 65-80.

The Company reported 360 fixed replacement contracts issued during the period on line #13 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed replacement contracts issued and discovered that 1 of the contracts should not have been reported on line #13 of the MCAS Report resulting in an error ratio of 10%.

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #14 of the 2012 MCAS Annuity Report submission regarding the number of contracts replaced where the age of annuitant at replacement was > 80.

The Company reported 104 fixed replacement contracts issued during the period on line #14 of the 2012 MCAS Annuity Report. During the examination, the Department reviewed a sample of 10 of these contracts to validate they were indeed replacement contracts issued and discovered that 2 of the contracts should not have been reported on line #14 of the MCAS Report resulting in an error ratio of 10%.

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

The following violation was noted:

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #15 of the 2012 MCAS Annuity Report submission regarding the number new immediate contracts issued during the period.

- o The Company reported 0 new immediate annuity contracts issued during the period for line #15 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 8 new immediate contracts issued resulting in an error, or variance, of 8 contracts.



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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #16 of the 2012 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was < 65.

- o The Company reported 572 new deferred annuity contracts issued for line #16 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 665 new deferred contracts issued resulting in an error, or variance, of 93 contracts.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #17 of the 2012 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was 65-80.

- o The Company reported 185 new deferred annuity contracts issued for line #17 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have report 879 new deferred contracts issued resulting in an error, or variance, of 694 contracts.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #18 of the 2012 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period where age of annuitant was > 80.

- The Company reported 763 new deferred annuity contracts issued for line #18 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 213 new deferred contracts issued resulting in an error, or variance, of 550 contracts.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #19 of the 2012 MCAS Annuity Report submission regarding the number of new deferred contracts issued during the period.

- The Company reported 1,520 new deferred annuity contracts issued for line #19 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 1,757 new deferred contracts issued resulting in an error, or variance, of 237 contracts.

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b)** The Company provided an inaccurate response on line #24 of the 2012 MCAS Annuity Report submission regarding the number of contracts applied for during the period.

- o The Company reported 1,541 annuity contracts applied for during the period for line #24 of the 2012 MCAS Annuity Report. The Department's review revealed that the Company should have reported 1,501 annuity contracts applied for resulting in an error, or variance, of 40 contracts.

### **E. Policies and Procedures; Data Extraction and Report Generation (MCAS)**

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

**The following violation was noted:**

**Failure to exercise sufficient due diligence to ensure compliance with:** Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4(b) The Company's informal policies and procedures related to the MCAS reporting process during the examination period did not provide the Company with the ability to ensure the accuracy of the data reported in the 2011 and 2012 MCAS submissions.

#### **Recommendations**

The Company should implement formal standardized policies and procedures for preparing and validating the MCAS submission data. The Company should take the necessary steps to resolve the following issues, which impact its ability to produce complete and accurate MCAS report submissions:

- The absence of formal documentation for the MCAS process, which indicates who is responsible for each area of the MCAS reporting process, when it is performed, the review process and how the report is finalized.
- The lack of a formal validation process between the data queries relied on for MCAS reporting and the reported values, and evidence to support reported items and validation of reported items (i.e. checklists, use of control totals, retained datasets).

### XIII. RECOMMENDATIONS

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

1. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903 of the Insurance Department Act of 1921 (40 P.S. §323.3).
2. The Company must review and revise procedures to ensure compliance with Section 904 of the Insurance Department Act of 1921 (40 P.S. §323.4(b)).
3. The Company must review and revise procedures to ensure compliance with the requirements of the Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of Insurance Act 205, Section 5 (40 P.S. §1171.5).
4. The Company must review and revise licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
5. The Company must review and revise procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law (40 P.S. §625-4).
6. The Company must review and revise procedures to ensure compliance with the Illustration requirements of Section 408-A of the Insurance Company Law (40 P.S. §625-8).

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

**XIV. COMPANY RESPONSE**

**DELIVERED VIA EMAIL AND OVERNIGHT COURIER**

September 22, 2014

Mr. Christopher R. Monahan  
Director, Bureau of Market Actions  
Pennsylvania Insurance Department  
1311 Strawberry Square  
Harrisburg, Pennsylvania 17120

**RE: Response to Market Conduct Examination Report  
Fidelity & Guaranty Life Insurance Company NAIC #63274  
Examination Warrant Number 13-M24-003**

Dear Director Monahan:

Fidelity & Guaranty Life Insurance Company ("FGLIC") has reviewed the Market Conduct Examination Report which covers the period from January 1, 2011 through December 31, 2011. We appreciate the opportunity to respond to the findings contained in the report.

FGLIC first wishes to thank the examiners for their courteousness, cooperation, and professionalism in carrying out the examination. To the extent issues were raised in the examination, the Company will certainly endeavor to address those matters to ensure full compliance with Pennsylvania requirements. More specifically, the Company will attend to each of the applicable Recommendations in the report to correct internal procedures as necessary to reasonably ensure compliance with the Pennsylvania insurance code.

In this letter FGLIC would like to address certain concerns and respond to some of the specific findings. All of our comments are offered in the spirit of continuing cooperation with the Pennsylvania Insurance Department and with the examination team to ensure a meeting of minds as between the Department and the company.

Allow us to divide our response into two parts. First, we would like to address one of the concerns raised in the report with which we take exception. Second, we would like to comment generally on itemized findings in the report and provide an attachment with our specific responses to violations which we think are inaccurate, subject to mitigating considerations, or otherwise deserving of further comment.





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September 22, 2014  
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#### Concerns Raised in Section VI – Forms

A concern is raised in the report relating to the sale of annuities and life insurance through discretionary groups in Pennsylvania during the exam period. We believe this concern is unwarranted. The fact of the matter is that the company has sold annuities and insurance through discretionary groups for decades, the discretionary group product forms have been routinely and consistently filed with the Department in accordance with Pennsylvania requirements over many years, and the company has never to our knowledge failed to disclose in marketing or related contract materials the group nature of the product with consumers.

A “concern” is described in the introduction of the report as an item which is not a violation of law but raised for management’s attention to determine the potential impact on company operations or future compliance. We believe this issue being stated as a concern at this time is objectionable since the company has been filing discretionary group products with the Department for years and complies carefully with applicable legal and regulatory requirements. Moreover, exam reports for other companies that also write business through discretionary groups do not identify the concern raised here. FGLIC sees no impact on operations nor any future compliance issues, though the company has agreed with the Department that future products will be filed as individual rather than discretionary group products.

We believe it is important for the record to point out that Pennsylvania law specifically permits discretionary groups. Under 40 P.S. § 532.7 b, allowance is made for insurance companies to market products through an out-of-state trustee provided certain conditions are met by the insurer, most notably providing an informational filing to the Department. The Department has authority to disapprove the marketing of such a product. Our records show that FGLIC has historically provided such informational filings to the Department, and while the Department has occasionally raised questions, it has always (at least going back to 2000), effectively approved every filing as being “exempt” from form review and communicated the same to the company, thereby giving FGLIC authority to offer the product to Pennsylvania consumers.

To the extent the concern being raised in the exam report is that consumers may have been unaware they were purchasing a group product, or somehow led to believe they had purchased an individual product, we believe that the company provides appropriate disclosures in its materials. Product brochures for company products sold through discretionary groups contain explicit disclosure stating the product “is offered on a group or individual basis as determined by state approval” and “terms and conditions are set forth in the group certificate and master contract.”

Additionally, the policy issued to the consumer upon purchase is prominently labeled “certificate” and states plainly on the face page that the certificate is “evidence of the insured’s



Fidelity &  
Guaranty Life

Mr. Christopher R. Monahan, Director  
September 22, 2014  
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coverage under the Group Policy” (for annuities the face page says “evidence of the owner’s interest under the Group Contract”). The policy data page in every case names the group policyholder (for example, Trustee for Fidelity and Guaranty Life Group Insurance Trust) and the definitions section of the policy or contract contains a definition of “Group Policy” or “Group Contract” as applicable. In short, to the extent any consumer took interest in whether the policy being purchased was a group or individual contract, that information was disclosed prominently and readily apparent.

FGLIC points all of this out because the company takes pride in its products and works hard to ensure full disclosure is provided to consumers. FGLIC believes its use of discretionary groups is consistent with industry practices. All of that said, based on an apparent change in position taken by the Department with respect to discretionary group products, the company has begun a transition to discontinue future use and sale of discretionary group products in Pennsylvania in order to cooperate with the Department on a going forward basis, provided such rules are applied in an evenhanded manner to all competing insurers doing business in the state.

#### Section by Section Responses

The company has reviewed the findings of the report in detail and would like to comment on a number of sections. Attached with this letter is an itemized section-by-section response to a number of the violations cited in the report. As a general matter, we find that many of the alleged violations may be explained by inadvertent and isolated errors that we do not believe rise to the level of violating law, others are a matter of interpretation of legal requirements, and some entail important mitigating factors worth consideration. All of these concerns are spelled out in the attachment.

While we offer these comments in the interest of providing fuller context, we also offer our assurance to the Department that all issues identified in the report will get proper attention and necessary corrections will be made to ensure compliance going forward. Most importantly, we wish to emphasize our desire to work cooperatively with the Department to address all of these matters in a responsible manner.

#### Conclusion

FGLIC thanks the Department for working with the company to bring the examination to a mutually agreeable conclusion. We look forward to working with the Department in the future to ensure continuing compliance with Pennsylvania law. In particular, we will focus attention on addressing the Recommendations contained at the end of the report. For the record, nothing contained in this letter or the accompanying attachment should be construed as an admission by the company.



Fidelity &  
Guaranty Life

Mr. Christopher R. Monahan, Director  
September 22, 2014  
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Sincerely,

A handwritten signature in blue ink that reads "Candice L. Phillips".

Candice L. Phillips  
Senior Compliance Paralegal

Attachment