



## **COMMONWEALTH OF PENNSYLVANIA INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**BALTIMORE LIFE  
INSURANCE COMPANY  
OWING MILLS, MD**

**As of: April 19, 2021  
Issued: May 28, 2021**

**BUREAU OF MARKET ACTIONS  
LIFE DIVISION**



## PENNSYLVANIA INSURANCE DEPARTMENT EXAMINATION VERIFICATION

I, Robert McManus, Director from  
(Name of Examiner) (Title of Examiner)

Risk & Regulatory Consulting, LLC certify that I was the Examiner-In-Charge of the Report of  
(Name of Vendor/Department)

Examination of Baltimore Life Insurance Company made as of 07/22/2020.  
(Name of Examined Company) (Date)

The last date of examination file review was 05/12/2020 and the written Report  
(Date)

of Examination was reviewed and accepted by the \_\_\_\_\_  
(Chief of Market Conduct Examiner)

on \_\_\_\_\_.  
(Date)

*I have reviewed the completed written Report of Examination and certify that the facts and figures recited therein are true and accurate, according to the records, documents and other evidence obtained during the course of the examination.*

Robert McManus  
(Examiner-in Charge)

Risk & Regulatory Consulting, LLC  
(Name of Vendor/Department)

20 Batterson Park Road, Farmington, CT 06032  
(Address of Vendor/Department)

\_\_\_\_\_  
(Examiner in Charge Signature)

04/14/2021  
(Date)

**IN ORDER TO SATISFY SECTION 40 P.S. § 323.5(b), THAT PROVIDES FOR NO LONGER THAN SIXTY (60) DAYS FROM THE COMPLETION OF THE EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE DEPARTMENT A VERIFIED WRITTEN REPORT OF EXAMINATION UNDER OATH.**

# Baltimore Life Insurance Company

## Table of Contents

Order	
I. Introduction .....	2
II. Scope of Examination.....	4
III. Company History and Licensing .....	5
IV. Examiner's Methodology .....	6
V. Previous Exam Recommendations .....	11
A. Recommendation 1: .....	11
B. Recommendation 2: .....	11
C. Recommendation 3: .....	14
D. Recommendation 4: .....	14
E. Recommendation 5: .....	15
F. Recommendation 6: .....	15
G. Recommendation 7: .....	17
H. Recommendation 8: .....	20
I. Recommendation 9: .....	20
J. Recommendation 10: .....	21
K. Recommendation 11: .....	21
L. Recommendation 12: .....	23
M. Recommendation 13.....	23
N. Recommendation 14.....	23
VI. Recommendations for Re-Exam.....	26
VII. Company Response.....	27

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

O R D E R

AND NOW, this 18<sup>th</sup> day of March, 2018, 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 Christopher R. Monahan, 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.



Jessica K. Altman  
Jessica K. Altman  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
BALTIMORE LIFE	:	40 P.S. §§323.3(a) and 323.4(b)
INSURANCE COMPANY	:	
10075 Red Run Blvd.	:	40 P.S. §§477b, 625-4, 625-6
Owings Mills, MD 21117	:	625-8(e)(2)(i), 625-8(e)(2)(ii) and 625-8(e)(5)
	:	
	:	40 P.S. §1171.5(a)(11)
	:	
	:	31 Pa. Code §§83.3(a)(9)(i), 83.55(a) 83.55a, 83.55b and 89b.11(f)(3)
	:	
	:	
Respondent.	:	Docket No. MC21-05-026

CONSENT ORDER

AND NOW, this 28<sup>th</sup> day of MAY, 2021, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

#### FINDINGS OF FACT

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

- (a) Respondent is Baltimore Life Insurance Company of America, and maintains its address at 10075 Red Run Boulevard, Owings Mills, MD 21117.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2017 to June 30, 2019.
- (c) On April 19, 2021, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on May 18, 2021.
- (e) The Examination Report notes violations of the following:
  - (i) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

- (ii) 40 P.S. §323.3(a), 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;
- (iii) 40 P.S. §323.4(b), requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners 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;
- (iv) 40 P.S. §477b, prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;
- (v) 40 P.S. §625-4, states:
  - a) For purposes of determining the commencement of the period during which the owner of an individual insurance policy or annuity may exercise any statutory right to examine, surrender or return the policy for cancellation, the date of delivery of the policy or annuity shall be:

- (1) the date of mailing of the policy or annuity by the insurer if the delivery is by the United States mail or other postal delivery system;
  - (2) the date the policy or annuity is physically delivered to the owner by a representative of the insurer; or
  - (3) the date of electronic transmission of the policy or annuity provided the electronic transmission has been effected in accordance with this section and the provisions of section 354.7-1 and any other state or Federal laws governing the electronic transmission of documents and information. The insurer shall retain evidence of electronic transmittal for the entire period of the insurance policy or annuity.
- b) In the event of a dispute with the owner of a policy or annuity, the burden of proof shall be on the insurer to establish that the policy or annuity was delivered. An insurer or representative of the insurer shall be deemed to have satisfied the burden of proof by showing, to the department's satisfaction, it has sent the policy or annuity in the normal course of business;
- (vi) 40 P.S. §625-6, prohibits alterations of any written application for a life insurance policy or annuity to be made by any person other than the applicant without the applicant's written consent;

- (vii) 40 P.S. §625-8(e)(2)(i), states the producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery.
- (viii) 40 P.S. §625-8(e)(2)(ii), requires that where a computer screen illustration is used, the producer shall certify in writing on a form provided by the insurer that a computer screen illustration was displayed. Such form shall require the producer to provide, as applicable, the generic name of the policy and any riders illustrated, the guaranteed and non-guaranteed interest rates illustrated, the number of policy years illustrated, the initial death benefit, the premium amount illustrated and the assumed number of years of premiums. On the same form, the applicant shall further acknowledge that an illustration matching that which was displayed on the computer screen will be provided no later than the time the application is provided to the insurer. A copy of this signed form shall be provided to the applicant at the time it is signed;
- (ix) 40 P.S. §625-8(e)(5), requires a copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force;

- (x) 40 P.S. §1171.5(a)(11), requires a company to maintain a complete record of all the complaints it has received during the preceding four years.
- (xi) 31 Pa. Code §83.3(a)(9)(i), states a disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. (9) surrender comparison index for policies (i) a disclosure that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be provided as soon as reasonably possible;
- (xii) 31 Pa. Code §83.55(a), states the Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible;
- (xiii) 31 Pa. Code §83.55a states:
  - a) the agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.
- (xiv) 31 Pa. Code 83.55b, states:
  - b) the insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular

examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance;

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

(f) *Readability.* A form:

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

#### CONCLUSIONS OF LAW

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

(a) Respondent's violations of 40 P.S. §§625-4, 625-6, 625-8(e)(2)(i), 625-8(e)(2)(ii) and 625-8(e)(5) 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.

- (b) Respondent's violations of 40 P.S. §1171.5(a)(11) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):
- (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
- (c) 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).
- (d) Respondent's violations of 31 Pa. Code §89b.11(f)(3) are punishable under Section 354 of the Insurance Company Law (40 P.S. §477b) by suspension or revocation of the license(s) of Respondent; refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent; or imposition of a fine of not more than one \$1,000.00 for each act in violation of the Act.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Fifteen Thousand Dollars (\$15,000) 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 Commonwealth of Pennsylvania. Payment should be directed to the Office of Market Regulation, Bureau of Market Actions, Attention: Crystal B. Welsh, 1209 Strawberry Square, Harrisburg, Pennsylvania 17120, RE: 18-M08-028.  
Payment must be made no later than seven (7) days after the date of this Order.

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

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

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

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

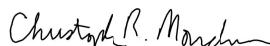
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegatee 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 delegatee.

BY: BALTIMORE LIFE  
INSURANCE COMPANY, Respondent

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

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

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

## **I. INTRODUCTION**

The Market Conduct Examination (“Examination”) was conducted on Baltimore Life Insurance Company; hereafter referred to as “BLIC” or the “Company”. The Company’s corporate headquarters are located in Owings Mills, Maryland. The examination reviews and follow-up were conducted in the offices of the Pennsylvania Insurance Department and off-site locations from March of 2019 through June of 2020.

Pennsylvania Market Conduct Examination Reports generally only note 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 those 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 reference 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.

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.

Gary Jones, MBA, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department

Crystal Welsh, MCM  
Special Projects Manager  
Pennsylvania Insurance Department

Brad Harker  
Legal Counsel  
Pennsylvania Insurance Department

David Kelly  
Market Conduct Examiner  
Pennsylvania Insurance Department

Bob McManus, CIE, MCM, AIRC, FLMI, FLHC  
Co-Examiner-in-Charge

Sam Binnun, AIE, LUTCF, MCM  
Co-Examiner-in-Charge

Teri Harkenrider, AIE, MCM  
Contract Examiner

Josh Gehring, CPA, FLMI, AIRC, MBA  
Contract Examiner

Mike Descy, CIA, CISA, MBA  
Contract Examiner

## **II. SCOPE OF EXAMINATION**

The 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 (“Act”) and covered the examination period (“Examination Period”) of January 1, 2017, through June 30, 2018, with an analysis of certain Company operations conducted through June 30, 2019. The purpose of the Examination was to determine the Company’s full and timely implementation and compliance with all the recommendations (“Recommendations”) from the previous examination and the Consent Order dated September 23, 2015 and with Section 403-B of the Insurance Department Act of 1921. The Examination focused on the Company's operation in areas such as: Producer Licensing, Forms, Annuity Suitability, Underwriting Practices and Procedures as well as Consumer Complaints and MCAS.

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 the 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 Report.

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

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

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

As of the Annual Statement for the year 2018, for Pennsylvania, the Baltimore Life Insurance Company reported direct premium for ordinary life insurance and annuities consideration in the amount of \$38,570,569 and direct premium for accident and health in the amount of \$308,661. And, as of the Annual Statement for the year 2019, for Pennsylvania, the Baltimore Life insurance Company reported direct premium for ordinary life insurance and annuities consideration in the amount of \$43,699,889 and direct premium for accident and health in the amount of \$288,737.

#### **IV. EXAMINER'S METHODOLOGY**

During the course of the Examination, the examiners reviewed and tested randomly selected samples related to the scope of the Examination, which were approved by the Department. The Examination focused on determining the Company's full and timely implementation and compliance with the Recommendations and Consent Order dated September 23, 2015, which required the Company to comply with the 14 recommendations included in the prior examination report and which the Department found necessary as a result of the number of some violations, or the nature and severity of other violations, noted in the prior Report. The Recommendations required the Company to review, revise or implement policies and procedures, internal controls, or general business practices to ensure compliance with Pennsylvania Statutes and Regulations as follows:

1. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of 31 Pa. Code, Chapter 81.
2. The Company must review internal control procedures to ensure compliance with disclosure requirements of 31 Pa. Code, Chapter 83.
3. The Company must review the criteria in use for specific form filings for Department review as well as for the general content of forms to ensure compliance with 31 Pa. Code, Chapter 89b.
4. The Company must review and revise internal control procedures to ensure compliance with the filing of individual life applications requirements of 31 Pa. Code, Chapter 90c.
5. The Company must review and revise Licensing procedures to ensure compliance with 40 P.S. §310.71.

6. The Company must review and revise its general business practices to ensure compliance with this Commonwealth's requirements for the authority, scope and scheduling of examinations as per 40 P.S. §323.3.
7. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4.
8. The Company must review internal control procedures to ensure compliance with the uniform policy provisions of 40 P.S. §510.
9. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of 40 P.S. §625-4.
10. The Company must review internal control procedures to ensure compliance with application alteration requirements of 40 P.S. §625-6.
11. The Company must review internal control procedures to ensure compliance with illustration requirements of 40 P.S. §625-8.
12. The Company must review internal control procedures to ensure compliance with replacement with same insurer or insurer group per 40 P.S. §625-9.
13. The Company must implement procedures to ensure compliance with the requirements of Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of insurance - per 40 P.S. §1171.5.
14. The Company must implement procedures to ensure compliance with 40 P.S. §477b.

The review of the testing sections was accomplished through the examination of multiple forms of documentation which included, but was not limited to, the Company's policies and procedures associated with life new business, annuity new business, and complaint handling, new application files, licensing and appointment records, complaint files and MCAS documentation, relying on data and related information provided by BLIC. The examiners requested documentation relating to the areas under review. Unless noted, all documents identified in the universe by the Company were requested, received and reviewed by the examiners. In the event the initial documents provided by the Company did not provide sufficient information, the examiners issued information requests, which resulted in additional documents that were included in the review.

The examiners used Galvanize Analytics (formerly ACL) to select random samples from the universe of files provided by the Company. During the Examination, 1 life new business sample, 3 separate annuity new business samples, and 1 complaint sample as described below were selected and reviewed.

### ***Life New Business***

The Company identified a universe of 3,685 life insurance applications taken during the Examination Period. A random sample of 15 life insurance application files were requested, received and reviewed for compliance with Pennsylvania issuance, underwriting, and replacement statutes and regulations identified in the Consent Order. Six of the applications files were determined to be for "non-illustrated" life insurance products. Three files were determined to be replacements and two of the three replacement files were external replacements. Two application files were declined for issue by the Company.

### ***Annuity New Business Replacements***

The Company identified a universe of 182 annuity replacement applications taken during the Examination Period. A random sample of 35 annuity replacement application files were requested, received and reviewed for compliance with Pennsylvania issuance,

underwriting, and replacement statutes and regulations identified in the Consent Order. Nine of the application files were determined not to be replacements. Two of the remaining 26 replacement files were external replacements.

#### ***Annuity New Business – Sample One***

The Company identified a universe of 227 annuity new business non-replacement applications taken during the Examination Period. A random sample of 25 annuity new business non-replacement application files were requested, received and reviewed for compliance with Pennsylvania issuance, underwriting, and replacement statutes and regulations identified in the Consent Order. Sixteen files were determined to be replacements and 1 of the files was determined to be an external replacement.

#### ***Annuity New Business – Sample Two***

The Company identified a universe of 337 annuity new business applications taken during the period of July 1, 2018 through June 30, 2019. A random sample of 25 annuity new business application files were requested, received and reviewed for compliance with Pennsylvania issuance, underwriting, and replacement statutes and regulations identified in the Consent Order. Eighteen files were determined to be replacements and 4 files were determined to be external replacements. Eleven of the 25 annuity new business sample files were determined to have applications dated subsequent to December 26, 2018 and were also reviewed for compliance with Section 403-B of the Insurance Company Act. Revisions to Section 403-B of the Act were approved on June 28, 2018, and were effective 180 days later or on December 26, 2018.

#### ***Complaints***

The Company identified a universe of 40 complaints received during the Examination Period. A random sample of 30 complaint files were requested, received and reviewed. The complaint files were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5 (a)(ii) of the Act requires maintenance of a complete

record of all complaints received. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, Pa. Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices

### **Market Conduct Annual Statement (MCAS)**

The examiners reviewed the Company's 2017 MCAS 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 examiners compared the source documents for the Company's 2017 MCAS Life and Annuity submissions to the information reported in the 2017 MCAS Life and Annuity MCAS submissions to determine completeness and accuracy of the information attested to by the Company in the 2017 submissions.

The Report focuses on the results of the Examination related to the identification of improper practices by the Company, which resulted in failure to comply with Pennsylvania Statues and Regulations. All violations and areas of non-compliance are cited in the Report. Violations related to Consent Order are included in "Section V. Consent Order".

## **V. PREVIOUS EXAM RECOMMENDATIONS**

The examiners requested that the Company identify and provide documentation to support all actions taken by the Company to ensure compliance with the Recommendations and Consent Order dated September 23, 2015. The examiners also requested, received and reviewed sample files for compliance with Pennsylvania Statutes and Regulations identified in the Consent Order. Instances where the Company did not identify or provide documentation to support specific actions taken to comply with the Recommendations and Consent Order were determined to be a violation and are identified below as 1 violation of the applicable statute. Only Recommendations from the Consent Order that were determined to have violations are included below.

### **A. Recommendation 1:**

The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of 31 Pa. Code, Chapter 81. No violations were noted.

### **B. Recommendation 2:**

The Company must review internal control procedures to ensure compliance with disclosure requirements of 31 Pa. Code, Chapter 83. The following violations were noted:

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

(a) *Required written disclosure.* A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. If the Appendix A disclosure statement will be used, a letter to that effect, prior to use, is adequate notification to the Department. However, if a statement different than Appendix A will be used, the statement shall be

filed with the Department for review prior to use. If an insurer desires to use an advertisement as its disclosure statement, the portion of the advertisement containing the disclosure statement shall be filed for review prior to use. A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered.

- (9) Surrender comparison index for policies.
  - (i) A disclosure that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. If requested earlier, the index disclosure must be provided as soon as reasonably possible. This requirement is not applicable to the following kinds of insurance:
    - (A) Annuities.
    - (B) Group life insurance.
    - (C) Credit life insurance.
    - (D) Life insurance of less than \$5,000.
    - (E) Life insurance of substandard risks.
    - (F) Life insurance issued in connection with qualified funded pension plans and qualified retirement plans.
    - (G) Life insurance issued as a result of a contractual policy change or conversion provision.
    - (H) Life insurance where the cost is borne in whole or in part by the employer of the insured.
    - (I) Policies having a varying face amount (resulting from other than the application of dividends).
    - (J) Variable life insurance.
    - (K) Family policies.
    - (L) Term policies.
    - (M) Riders.

The option to select the earlier delivery of the index disclosure was not completed in 1  
Life Insurance New Business file.

**1 Violation – 31 Pa. Code §83.55(a) – Delivery.**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible. The Surrender Comparison Index Disclosure was not made available in 1 Life Insurance New Business file.

**1 Violation – 31 Pa. Code §83.55a– Certification of surrender comparison index disclosure delivery.**

The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant. The policy was delivered to the applicant; however, the agent's certification of the Surrender Comparison Index Disclosure was not made available in 1 Life Insurance New Business file.

**1 Violation – 31 Pa. Code §83.55b – Maintenance of surrender comparison index disclosure delivery certification.**

The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute *prima facie* evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The policy was delivered to the applicant; however, the agent's certification of the Surrender Comparison Index Disclosure was not made available in 1 Life Insurance New Business file.

**C. Recommendation 3:**

The Company must review the criteria in use for preparing specific form filings for Department review as well as for the general content of forms to ensure compliance with 31 Pa. Code, Chapter 89b. The following violations were noted:

**11 Violations – 31 Pa. Code §89b.11(f)(3) – General contents of forms.**

(f) *Readability*. A form:

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

The Company provided contradictory or inconsistent language and time periods (days to examine and return the policy contract) in the Free Look Notices provided on the face page of the policy, the accompanying welcome letter and or the accompanying Notice Regarding Replacement of Life Insurance and Annuities in 13 Life Insurance New Business files.

**CONCERN:** The Company provided contradictory or inconsistent language and time periods in its Free Look Notices. Specifically, instances were found where the days to examine and return the policy contract varied between the face page of the policy, the accompanying welcome letter and/or the accompanying Notice Regarding Replacement of Life Insurance and Annuities. Multiple and conflicting Free Look Notices can be confusing to the customer in that they may not know which time period to review and return the policy or annuity applies to their situation. The Company needs to provide the correct free look period notice as per Pennsylvania Statute.

**D. Recommendation 4:**

The Company must review internal control procedures to ensure compliance with disclosure requirements of 31 Pa. Code, Chapter 83. No violations were noted.

**E. Recommendation 5:**

The Company must review and revise Licensing procedures to ensure compliance with 40 P.S. §310.71. No violations were noted.

**F. Recommendation 6:**

The Company must review and revise its general business practices to ensure compliance with this Commonwealth's requirements for the authority, scope and scheduling of examinations as per 40 P.S. §323.3. The following violations were noted:

**40 P.S. §323.3(a) – Authority, scope and scheduling of examinations.**

(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.

a. Annuity New Business Replacements (10 Violations):

- i. **9 Violations:** The application was not a replacement of another life insurance or annuity product and was incorrectly identified in the Company's system as a replacement in 9 Annuity New Business Replacement files.
- ii. **1 Violation:** The application date was incorrectly input into the system for 1 Annuity New Business Replacement file.

b. Annuity New Business – Sample One (4 Violations):

**4 Violations:** The application was a replacement of another life insurance or annuity product but was not identified as a replacement in the Company's system in 4 Annuity New Business – Sample One files.

- c. Annuity New Business – Sample Two (8 Violations):
  - i. **1 Violations:** Documentation to support the reason for replacement was not made available in 1 file.
  - ii. **1 Violations:** Documentation to address discrepancies noted in file documentation was not made available in 2 Annuity New Business – Sample Two files.
  - iii. **2 Violations:** Documentation to support that the file was submitted for suitability review was not made available for 2 Annuity New Business – Sample Two files.
  - iv. **2 Violations:** Questions on the application were not answered or were not answered correctly in 2 Annuity New Business – Sample Two files.

**CONCERN:** The Company provided consumers with replacement notices in instances where replacement was not involved in the transaction. The Company should refrain from providing replacement notices which are not applicable because it may cause confusion to the policyholder.

- v. **1 Violation:** The Suitability Questionnaire Customer Acknowledgement form was not signed by the applicant or agent in 1 Annuity New Business – Sample Two file.

vi. **1 Violation:** Question number 15 “Method of Payment” did not include the applicant’s signature in 1 Annuity New Business – Sample Two file.

#### **G. Recommendation 7:**

The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4. The following violations were noted during this examination:

#### **40 P.S. §323.4(b) – Conduct of examinations.**

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

**1 Violation:** The Company failed to identify adequate actions taken to reinforce its internal data controls to comply with the Consent Order and Recommendation 7 in the prior examination report to ensure compliance with 40 P.S. §323.4(b).

**11 Violations:** In addition, the Company provided inaccurate policy count responses to

11 of the 27 (41%) line items on the life insurance MCAS.

<b>Life Insurance MCAS Question #</b>	<b>Description</b>	<b>Examiner Comments</b>
12	Number of policies replaced where age of insured at replacement was < 65	Thirty-nine Individual Life Non-Cash Value policies were identified to be replacements in the source data file but were not included in the total reported on the MCAS. The Company acknowledged this reporting error.
13	Number of policies replaced where age of insured at replacement was age 65 and over	Two Individual Life Non-Cash Value policies were identified to be replacements in the source data file but were not included in the total reported on the MCAS. The Company acknowledged this reporting error.
18	Number of policies issued during the period where age of insured at issue was <65	Two hundred sixty-one Individual Non-Cash Value policies were identified in the source data file but were not included in the Non-Cash Value total reported on the MCAS. These policies were erroneously reported as Cash Value policies. The Company acknowledged this reporting error.
19	Number of policies issued during the period where age of insured at issue was age 65 and over	Sixteen Individual Non-Cash Value policies were identified in the source data file but were not included in the Non-Cash Value total reported on the MCAS. These policies were erroneously reported as Cash Value policies. The Company acknowledged this reporting error.
20	Number of new policies issued during the period	Sixteen hundred and seven Cash Value policies were identified in the source data file. However, sixteen hundred and eighteen Cash Value policies were reported on the MCAS. The Company acknowledged this reporting error.
28	Number of death claims, closed with payment, within 60 days from the date the claim was received (include claims where the final decision was payment in full, and was made within 60 days from when the claim was received)	The Company stated Non-Cash Value policies were incorrectly reported as Cash Value policies on the MCAS. In response to IR 3.2, the Company provided revised Cash Value and Non-Cash Value policy counts to the Examiners which also did not agree with what was reported on the MCAS for Cash Value policies. No source data was provided to support the revised policy counts. The Company acknowledged this reporting error

29	Number of death claims, closed with payment, beyond 60 days from the date the claim was received (include claims where the final decision was payment in full, and was NOT made within 60 days from when the claim was received)	Two Non-Cash Value policies were reported on the MCAS. However, the source data file did not include two Non-Cash Value policies. In response to IR 3.2, the Company provided revised numbers which agreed to what was reported on the MCAS but did not provide a source document to support the revised numbers.
30	Number of death claims, closed with payment, within 60 days from the date of due proof of loss was received (include only claims where the final decision was payment in full, and was made within 60 days from the date of due proof of loss)	The Company stated Non-Cash Value policies were incorrectly reported as Cash Value policies on the MCAS. In response to IR 3.2, the Company provided revised Cash Value and Non-Cash Value policy counts to the Examiners which did not agree with what was reported on the MCAS for Cash Value policies. No source data was provided to support the revised policy counts. The Company acknowledged this reporting error
32	Number of claims denied, resisted or compromised during the period	In response to IR 3.2, the Company stated that the six Cash Value policies and one Non-Cash Value policy reported in response to question 32 were incorrectly reported and should have been reported in response to Question 34.
34	Number of death claims denied during the period, which occurred within the contestability period	There were no Cash Value or Non-Cash Value policies reported on the MCAS. However, in response to IR 3.2, the Company stated that the six Cash Value policies and one Non-Cash Value policy reported in response to question 32 were incorrectly reported and should have been reported in response to question 34.
35	Number of death claims received during the period.	The Company stated Non-Cash Value policies were incorrectly reported as Cash Value policies on the MCAS. In response to IR 3.2, the Company provided revised Cash Value and Non-Cash Value policy counts to the Examiners which did not agree with what was reported on the MCAS for Cash Value policies. No source data was provided to support the revised policy counts. The Company acknowledged this reporting error.

## **H. Recommendation 8:**

The Company must review internal controls to ensure compliance with the uniform policy provision of 40 P.S. §510. No violations were noted.

## **I. Recommendation 9:**

The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of 40 P.S. §625-4. The following violations were noted:

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

(a) For purposes of determining the commencement of the period during which the owner of an individual insurance policy or annuity may exercise any statutory right to examine, surrender or return the policy for cancellation, the date of delivery of the policy or annuity shall be:

- (1) the date of mailing of the policy or annuity by the insurer if the delivery is by the United States mail or other postal delivery system;
- (2) the date the policy or annuity is physically delivered to the owner by a representative of the insurer; or
- (3) the date of electronic transmission of the policy or annuity provided the electronic transmission has been effected in accordance with this section and the provisions of section 354.7 and any other state or Federal laws governing the electronic transmission of documents and information. The insurer shall retain evidence of electronic transmittal for the entire period of the insurance policy or annuity.

(b) In the event of a dispute with the owner of a policy or annuity, the burden of proof shall be on the insurer to establish that the policy or annuity was delivered. An insurer or representative of the insurer shall be deemed to have satisfied the burden of proof by showing, to the department's satisfaction, it has sent the policy or annuity in

the normal course of business. Verification of the date of policy delivery could not be established in 4 Life Insurance New Business files.

**J. Recommendation 10:**

The Company must review internal control procedures to ensure compliance with application alteration requirements of 40 P.S. §625-6. The following violations were noted:

**1 Violation – 40 P.S. §625-6 – Application.**

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant. An alteration without the applicant's consent was present in 1 Annuity New Business file.

**K. Recommendation 11:**

The Company must review internal control procedures to ensure compliance with illustration requirements of 40 P.S. §625-8. The following violations were noted:

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

(e)(2) The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed.

- (i) The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge that no illustration was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer as soon as practical after the application is

signed by the applicant. The required agent certification, that no illustration was used in the sale of the life insurance policy, was not made available for review in 2 Life Insurance New Business files.

**1 Violation – 40 P.S. §625-8(e)(2)(ii) – Life insurance illustrations.**

(e)(2) The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed.

(ii) Where a computer screen illustration is used, the producer shall certify in writing on a form provided by the insurer that a computer screen illustration was displayed. Such form shall require the producer to provide, as applicable, the generic name of the policy and any riders illustrated, the guaranteed and nonguaranteed interest rates illustrated, the number of policy years illustrated, the initial death benefit, the premium amount illustrated and the assumed number of years of premiums. On the same form, the applicant shall further acknowledge that an illustration matching that which was displayed on the computer screen will be provided no later than the time the application is provided to the insurer. A copy of this signed form shall be provided to the applicant at the time it is signed. The guaranteed and non-guaranteed interest rates illustrated were not provided by the producer on the insurer's form in 1 Life Insurance New Business file.

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

(e)(5) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. A copy need not be retained if no policy is issued. There was no certification made available for review in 1 Life Insurance New Business file that either no illustration was used or that the policy was applied for other than as illustrated.

**L. Recommendation 12:**

The Company must review internal control procedures to ensure compliance with replacement with same insurer or insurer group per 40 P.S. §625-9. No violations were noted.

**M. Recommendation 13:**

The Company must implement procedures to ensure compliance with the requirements of Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of insurance - per 40 P.S. §1171.5. The following violations were noted:

**10 Violations – 40 P.S. §1171.5(a)(11) – Unfair methods of competition and unfair or deceptive act or practices defined.**

(a) “Unfair methods of competition” and “unfair or deceptive acts or practices” in the business of insurance means:

(11) Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this paragraph; "complaint" means any written communication primarily expressing a grievance. A review of the Company's complaint log and complaint file documentation revealed missing information necessary to verify compliance with the laws and regulations of the Commonwealth in 10 complaint files. A complaint file was only counted as one violation even if the complaint file included more than one error.

**N. Recommendation 14:**

The Company must implement procedures to ensure compliance with 40 P.S. §477b. The following violation was noted:

**19 Violations – 40 P.S. §477b – Approval of policies, contracts, etc.; prohibiting the use thereof unless approved; judicial review; penalty.**

It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance, or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner, and copies filed in the Insurance Department, except riders and endorsements relating to the manner of distribution of benefits, and to the reservation of rights and benefits under any such policy, and used at the request of the individual policyholder, and except any forms which, in the opinion of the Insurance Commissioner, do not require his approval.

Forms so filed, forms filed under the act, approved the eleventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1210), 1 or any amendments thereof, or filed under any other section of this law, shall be deemed approved at the expiration of thirty (30) days after filing, unless earlier approved or disapproved by the Insurance Commissioner. The Insurance Commissioner by written notice to the insurer may, within such thirty-day period, extend the period for approval or disapproval for an additional thirty (30) days.

Such approval shall become void upon any subsequent notice of disapproval from the Insurance Commissioner, or upon any subsequent withdrawal of license or refusal of the Insurance Commissioner to relicense any such company, association, or exchange, or upon the subsequent passage of an act which would no longer make such contracts or related forms a fit subject for approval, except that this provision shall not affect contracts issued prior thereto.

Upon any disapproval, the Insurance Commissioner shall notify the insurer in writing, specifying the reason for such disapproval; and within thirty (30) days from the date of mailing of such notice to the insurer, such insurer may make written application to the Insurance Commissioner for a hearing thereon, and such hearing shall be held within thirty (30) days after receipt of such application. The procedure before the Insurance Commissioner shall be in accordance with the adjudication procedure set forth in the “Administrative Agency Law,” and the insurer shall be entitled to the judicial review as provided for in said law.

Any person, corporation, insurance company, exchange, order, or society that shall, either as principal or agent, issue, or cause to be issued, any policy or contract of insurance within the Commonwealth, contrary to this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500.00).

Upon satisfactory evidence of the violation of this section by any such person, corporation, insurance company, exchange, order, or society, the Insurance Commissioner may, in his discretion, pursue any one or more of the following courses of action: (1) Suspend or revoke the license of such offending person, corporation, insurance company, exchange, order or society; (2) refuse, for a period of not to exceed one year thereafter, to issue a new license to such person, corporation, insurance company, exchange, order, or society; (3) impose a fine of not more than one thousand dollars (\$1,000.00) for each and every act in violation of this act. Evidence of a policy form filing approval was not provided for 13 Annuity New Business – Sample One files and 6 Annuity New Business – Sample Two files.

## **VI. RECOMMENDATIONS FOR RE-EXAM**

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. The following recommendations were identified from the previous Consent Order with continuing violations.

1. Recommendation 2 - The Company must review internal control procedures to ensure compliance with disclosure requirements of 31 Pa. Code, Chapter 83.
2. Recommendation 3 - The Company must review the criteria in use for specific form filings for Department review as well as for the general content of forms to ensure compliance with 31 Pa. Code, Chapter 89b.
3. Recommendation 6 - The Company must review and revise its general business practices to ensure compliance with this Commonwealth's requirements for the authority, scope and scheduling of examinations as per 40 P.S. §323.3.
4. Recommendation 7 - The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4.
5. Recommendation 9 - The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of 40 P.S. §625-4.
6. Recommendation 10 - The Company must review internal control procedures to ensure compliance with application alteration requirements of 40 P.S. §625-6.

7. Recommendation 11 - The Company must review internal control procedures to ensure compliance with illustration requirements of 40 P.S. §625-8.
8. Recommendation 13 - The Company must implement procedures to ensure compliance with the requirements of Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of insurance - per 40 P.S. §1171.5.
9. Recommendation 14 -The Company must implement procedures to ensure compliance with 40 P.S. §477b.

**CONCERN:** Recommendation 3 - The Company provided contradictory or inconsistent language and time periods in its Free Look Notices. Specifically, instances were found where the days to examine and return the policy contract varied between the face page of the policy, the accompanying welcome letter and/or the accompanying Notice Regarding Replacement of Life Insurance and Annuities. Multiple and conflicting Free Look Notices can be confusing to the customer in that they may not know which time period to review and return the policy or annuity applies to their situation. The Company needs to provide the correct free look period notice as per Pennsylvania Statute.

**CONCERN:** Recommendation 6 - The Company provided consumers with replacement notices in instances where replacement was not involved in the transaction. The Company should refrain from providing replacement notices which are not applicable because it may cause confusion to the policyholder.

**XV. COMPANY RESPONSE**



The Baltimore Life  
COMPANIES

Via Electronic Mail

May 18, 2021

Crystal B. Welsh, MCM  
Special Projects Manager  
Office of Market Regulation  
Pennsylvania Insurance Department  
1209 Strawberry Square  
Harrisburg, PA 17120

Re: The Baltimore Life Insurance Company  
Examination Warrant Number: 18-M08-028

Dear Ms. Welsh:

Baltimore Life Insurance Company ("Company") has received the cover letter and the Report of Examination of the Company covering the period of January 1, 2017 through June 30, 2018 with an analysis of certain Company operations conducted through June 30, 2019, as of the close of business on April 16, 2021 dated April 19, 2021 ("Report"). The Company would like to thank the Pennsylvania Insurance Department ("Department") for its efforts in conducting the examination in a professional and timely manner as well as the opportunity to respond to the Report findings contained therein.

While the Company agrees with most of the Report recommendations, there remain a few findings the Company respectfully disagrees with and/or would appreciate additional guidance from the Department on regarding the applicable requirements. Please find in the attached document the Company's final responses and any related concerns in regards to the Report findings.

Should the Department require any additional information concerning the Company's responses please contact the undersigned at your convenience.

Sincerely,

Christopher Wilkie  
AVP Legal & Compliance  
The Baltimore Life Insurance Company  
10075 Red Run Blvd.  
Owings Mills, MD 21117

**Please find below the Department recommendations the Company respectfully disagrees with and/or would appreciate additional guidance regarding the applicable requirements. The Company agrees with any & all recommendations not included in the list below.**

**Recommendation 3:**

The Company must review the criteria in use for preparing specific form filings for Department review as well as for the general content of forms to ensure compliance with 31 Pa. Code, Chapter 89b. The following violations were noted:

**11 Violations – 31 Pa. Code §89b.11(f)(3) – General contents of forms.**

(f) *Readability. A form:*

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

*The Company provided contradictory or inconsistent language and time periods (days to examine and return the policy contract) in the Free Look Notices provided on the face page of the policy, the accompanying welcome letter and or the accompanying Notice Regarding Replacement of Life Insurance and Annuities in 13 Life Insurance New Business files.*

**CONCERN:** The Company provided contradictory or inconsistent language and time periods in its Free Look Notices. Specifically, instances were found where the days to examine and return the policy contract varied between the face page of the policy, the accompanying welcome letter and/or the accompanying Notice Regarding Replacement of Life Insurance and Annuities. Multiple and conflicting Free Look Notices can be confusing to the customer in that they may not know which time period to review and return the policy or annuity applies to their situation. The Company needs to provide the correct free look period notice as per Pennsylvania Statute.

**Company Response:**

**Replacement Notice**

Per 31 Pa. Code § 81.4(b)(1): (b) If replacement is involved, the agent or broker shall:

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

The Company respectfully disagrees with the finding that its use of the Notice Regarding Replacement of Life Insurance and Annuities is a violation. The Company provides applicants with the exact notice as described in 31 Pa. Code 81 APPENDIX A pursuant to the requirements of 31 Pa. Code § 81.4(b)(1). Depending upon how a policy is issued and to whom, the free look period may vary. For example, if the policy is not issued as a result of a replacement, the replacement form free look period would not apply.

**Policy Contract Forms**

The policy forms at issue under Recommendation 3 were all filed with and approved for use by the Department, and there has been no Department assertion that they were approved in error. When a policy is read in conjunction with a policyholder's specific fact pattern, there is no confusion about the appropriate free look period.

If there are varying time frames for free look periods, it is because they are required by a Pennsylvania regulation or because the Company is providing a more generous free look period. As a result, any alleged confusion is not due to Company conduct that runs afoul of any Pennsylvania statute or regulation and is therefore by definition not a violation.

#### Welcome Letter

In an effort to promote state consistency, the Company provides a universal 30-day free-look when a replacement is occurring, which is greater than the period required under the applicable Pennsylvania law or regulation. The Company does not believe that providing a greater free look period than what is required by Pennsylvania regulation constitutes a violation.

#### Summary

The inconsistencies identified by the Department as violations are contained within forms that were either established by (replacement notice) or approved by (policy contract forms) the Department and that do not run afoul of regulation. Therefore, the Company respectfully disagrees that there are any regulatory violations. Notwithstanding, the Company would certainly appreciate any guidance from the Department to help mitigate the possibility of confusion on the part of policyowners.

#### **Recommendation 6:**

The Company must review and revise its general business practices to ensure compliance with this Commonwealth's requirements for the authority, scope and scheduling of examinations as per 40 P.S. §323.3. The following violations were noted:

#### **40 P.S. §323.3(a) – Authority, scope and scheduling of examinations.**

*(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.*

#### **Annuity New Business – Sample Two**

**2 Violations: Documentation to support that the file was submitted for suitability review was not made available for 2 Annuity New Business – Sample Two files.**

**CONCERN:** The Company provided consumers with replacement notices in instances where a replacement was not involved in the transaction. The Company should refrain from providing replacement notices which are not applicable because it may cause confusion to the policyholder.

#### **Company Response:**

The Company respectfully disagrees with the Department's findings of violations. The Company provided screen prints from its administrative system that proved that a Company employee, who completes the suitability reviews in our new business area, reviewed & approved the applications at issue on 10/25/18 and 4/23/19 respectively. The regulation cited by the Department, 40 P.S. §323.3(a), requires the Company to maintain certain records. The regulation does not require the Company to maintain these records in any specific format. Therefore, the Company has not violated any regulation. Notwithstanding,

the Company would welcome the Department's perspective on how to best comply with the applicable regulation in the absence of any detailed record format requirements.

**Recommendation 9:**

The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of 40 P.S. §625-4. The following violations were noted:

**4 Violations – 40 P.S. §625-4 – Policy delivery.**

(a) *For purposes of determining the commencement of the period during which the owner of an individual insurance policy or annuity may exercise any statutory right to examine, surrender or return the policy for cancellation, the date of delivery of the policy or annuity shall be:*

(1) *the date of mailing of the policy or annuity by the insurer if the delivery is by the United States mail or other postal delivery system;*

(2) *the date the policy or annuity is physically delivered to the owner by a representative of the insurer; or*

(3) *the date of electronic transmission of the policy or annuity provided the electronic transmission has been effected in accordance with this section and the provisions of section 354.7 and any other state or Federal laws governing the electronic transmission of documents and information. The insurer shall retain evidence of electronic transmittal for the entire period of the insurance policy or annuity.*

(b) *In the event of a dispute with the owner of a policy or annuity, the burden of proof shall be on the insurer to establish that the policy or annuity was delivered. An insurer or representative of the insurer shall be deemed to have satisfied the burden of proof by showing, to the department's satisfaction, it has sent the policy or annuity in the normal course of business. Verification of the date of policy delivery could not be established in 4 Life Insurance New Business files.*

**Company Response:**

40 P.S. §625-4(b) requires the Company to prove, to the Department's satisfaction, that it sent the policy/annuity to the owner only if there has been a dispute between the Company and the owner.

Since there were no disputes between the Company and the owner regarding the four Life Insurance New Business files at issue, it is the Company's position that 40 P.S. §625-4(b) is inapplicable. Therefore, the Company respectfully disagrees with the violation findings.

**Recommendation 13:**

The Company must implement procedures to ensure compliance with the requirements of Insurance Department Act of 1921 "Unfair Methods of Competition" and "Unfair or Deceptive Acts or Practices" in the business of insurance - per 40 P.S. §1171.5. The following violations were noted:

**10 Violations – 40 P.S. §1171.5(a)(11) – Unfair methods of competition and unfair or deceptive act or practices defined.**

(a) *"Unfair methods of competition" and "unfair or deceptive acts or practices" in the business of insurance means:*

(11) Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this paragraph; "complaint" means any written communication primarily expressing a grievance. A review of the Company's complaint log and complaint file documentation revealed missing information necessary to verify compliance with the laws and regulations of the Commonwealth in 10 complaint files. A complaint file was only counted as one violation even if the complaint file included more than one error.

#### **Company Response:**

The Company respectfully disagrees with seven out of the ten Department violations, specifically those regarding samples IR12-002, IR12- 009, IR12- 014, IR12- 018, IR12- 023, IR12- 026, & IR12- 027. In each instance the Department alleges the Company did not record a complete and/or accurate description of the Complaint resolution in the Complaint log by identifying the resolution as "Answering Questions". 40 P.S. section 1171.5(a)(11) only requires the Company to record "**the disposition of these complaints**." In the aforementioned file samples, it appears the examiners disagreed with the Company's disposition categorization based not on the applicable regulation but rather on subjective determinations.

The Company is unaware of any Pennsylvania law or regulation requiring a specific method for documenting complaint resolutions. It is the Company's position that its categorized resolution methods allow for monitoring through trend analysis. Resolutions that are overly detailed cannot be assessed in this way. And, as with complaint receipt dates, we are not aware of any Pennsylvania law or regulation that mandates any specific method to record a complaint resolution. And finally, the Company's processes in this area have not changed since the previous exam, and the Department accepted our processes at that time. In summary, 40 P.S. section 1171.5(a)(11) only requires that the Company record a disposition and we believe we have complied with that requirement.

#### **Recommendation 14:**

The Company must implement procedures to ensure compliance with 40 P.S. §477b. The following violation was noted:

#### **19 Violations – 40 P.S. §477b – Approval of policies, contracts, etc.; prohibiting the use thereof unless approved; judicial review; penalty.**

*It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance, or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner, and copies filed in the Insurance Department, except riders and endorsements relating to the manner of distribution of benefits, and to the reservation of rights and benefits under any such policy, and used at the request of the individual policyholder, and except any forms which, in the opinion of the Insurance Commissioner, do not require his approval.*

*Forms so filed, forms filed under the act, approved the eleventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1210), 1 or any amendments thereof, or filed under any other section of this law, shall be deemed approved at the expiration of thirty (30) days after filing, unless earlier approved or disapproved by the Insurance Commissioner. The Insurance Commissioner by written notice to the*

*insurer may, within such thirty-day period, extend the period for approval or disapproval for an additional thirty (30) days.*

*Such approval shall become void upon any subsequent notice of disapproval from the Insurance Commissioner, or upon any subsequent withdrawal of license or refusal of the Insurance Commissioner to relicense any such company, association, or exchange, or upon the subsequent passage of an act which would no longer make such contracts or related forms a fit subject for approval, except that this provision shall not affect contracts issued prior thereto.*

*Upon any disapproval, the Insurance Commissioner shall notify the insurer in writing, specifying the reason for such disapproval; and within thirty (30) days from the date of mailing of such notice to the insurer, such insurer may make written application to the Insurance Commissioner for a hearing thereon, and such hearing shall be held within thirty (30) days after receipt of such application. The procedure before the Insurance Commissioner shall be in accordance with the adjudication procedure set forth in the "Administrative Agency Law," and the insurer shall be entitled to the judicial review as provided for in said law.*

*Any person, corporation, insurance company, exchange, order, or society that shall, either as principal or agent, issue, or cause to be issued, any policy or contract of insurance within the Commonwealth, contrary to this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500.00).*

*Upon satisfactory evidence of the violation of this section by any such person, corporation, insurance company, exchange, order, or society, the Insurance Commissioner may, in his discretion, pursue any one or more of the following courses of action: (1) Suspend or revoke the license of such offending person, corporation, insurance company, exchange, order or society; (2) refuse, for a period of not to exceed one year thereafter, to issue a new license to such person, corporation, insurance company, exchange, order, or society; (3) impose a fine of not more than one thousand dollars (\$1,000.00) for each and every act in violation of this act.*

**Evidence of a policy form filing approval was not provided for 13 Annuity New Business – Sample One files and 6 Annuity New Business – Sample Two files.**

#### **Company Response:**

The Company respectfully disagrees with the violation findings. The forms in question are administrative forms for contractually exercised settlement options; they are not new contracts but rather written confirmations of elected settlement options on existing filed and approved contracts. The Company certainly could generate a letter or provide other correspondence that would accomplish the same result, but we chose to call them "supplementary contracts". The Company believes that it is entitled to name such elections as it deems appropriate. Regardless of the name, it is not a new policy form, cannot exist without an associated policy form since it is only documenting the payout option selected by the owner/beneficiary, does not meet the definition of a new policy form, and is not marketed as a policy form. These administrative forms were created to facilitate the administration and automation of a beneficiary's or owner's payout. Our policy administration system requires the Company to assign a payout account number beginning with "SC" to distinguish it from a policy form. We can change the name to something more descriptive such as "settlement option election summary", but our supplementary contract is still not a form requiring the filing and approval by the Department. In sum, how we document a settlement option does not run afoul of Pennsylvania law or regulation and is therefore not a violation.