



MARKET CONDUCT REPORT ON EXAMINATION

OF THE

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

AS OF DECEMBER 31, 2019

EXAMINER:

RORY CUMMINGS

DATE OF REPORT:

MARCH 18, 2021

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Territory and plan of operation	5
4. Market conduct activities	8
A. Advertising and sales activities	8
B. Underwriting and policy forms	18
C. Treatment of policyholders	20
5. Annual illustration certifications	26
6. Prior report summary and conclusions	44
7. Summary and conclusions	46

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

November 30, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32061, dated March 13, 2020, and annexed hereto, an examination has been made into the condition and affairs of Massachusetts Mutual Life Insurance Company, hereinafter referred to as “the Company”. The Company’s home office is located at 1295 State Street, Springfield, MA 01111. Due to the COVID-19 pandemic, the examination was conducted remotely.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated several sections of 11 NYCRR 219 and 11 NYCRR 215 (Insurance Regulation 34-A and Insurance Regulation 34) by failing to: (i) disclose that issuance of the policy or the payment of benefits may depend upon the answers given in the application and the truthfulness thereof; (ii) include the name of the insurer and the name of the city, town, or village of its home office in the United States and/or did not identify the policy number when the Haven Term policy is mentioned or used a trade name or affiliate that mislead or deceived as to the true identity of the insurer that created the impression that someone other than the insurer would have any responsibility for the financial obligation under a policy on such advertisements; and (iii) maintain the extent and manner of distribution of each life, annuity, and health advertisements used and disseminated in New York. (See items 4A5, 4A6 and 4A7 of this report.)
- The Company violated several sections of 11 NYCRR 51 (Insurance Regulation 60) by failing to: (i) examine and ascertain that the Disclosure Statement was complete, accurate and met the requirements of the insurance law; and (ii) provide the completed Disclosure Statement and list of sale materials used in the sale of a life insurance policy or annuity contract to the insurer that issued the coverage that is being replaced. (See items 4A11 and 4A12 of this report.)
- The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy and application forms that were not filed with and approved by the superintendent. (See item 4B1 of this report.)
- The Company violated Section 3211(b)(2) of the New York Insurance Law by not having premium due notices and insufficiency notices that contain the language "... the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit". (See item 4C3 of this report.)
- The Company violated Section 3227(b) of the New York Insurance Law by failing to pay interest on surrendered policies. (See item 4C4 of this report.)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2013, through December 31, 2019. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2019, but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' *Market Regulations Handbook* or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 6 of this report.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a mutual life insurance company under the laws of the Commonwealth of Massachusetts on May 15, 1851, commenced business on August 1, 1851, and was admitted to the State of New York on December 27, 1855.

In December of 1994, the Company ceded all of its group life and accident and health business to its subsidiary, Mirus Life Insurance Company (currently doing business as UniCARE Life & Health Insurance Company).

On March 1, 1996, the Company acquired Connecticut Mutual Life Insurance Company. The merger was accounted for under the pooling of interests method of accounting.

On March 31, 1996, the Company sold MassMutual Holding Company Two, Inc., a wholly owned subsidiary, and its subsidiaries, including Mirus Life Insurance Company.

In 1999, the Company established a marketing name, MassMutual Financial Group, incorporating the Company and its subsidiaries.

On March 23, 2000, the Company entered the Asian market by acquiring CRC Protective Life Insurance Company Limited, a Hong Kong based life insurance company.

In 2004, the Company acquired Baring Asset Management Limited expanding its international asset management operations.

In May 2015, the Company launched the Haven Life Insurance Agency (“Haven Life”) in Massachusetts to provide direct-to-consumer term life insurance online. In September 2016, Haven life began selling the term life insurance product to New York customers. Haven Life is currently licensed in all 50 states and the District of Columbia.

In November 2015, the Company purchased corporate-owned life insurance from unaffiliated third-party insurers on certain qualified senior employees. The purpose of the program was to offset future employee benefit expenses. The Company pays all premiums and is the beneficiary of these policies.

In July 2016, the Company acquired MetLife’s U.S. retail advisor force, the MetLife Premier Client Group MetLife’s broker-dealer and certain of MetLife’s employees. The acquisition significantly expanded MassMutual’s footprint in the U.S. The network of

MassMutual financial professionals increased 60 percent to more than 9,200, and sales and advisory offices across the country increased nearly 45 percent to more than 2000.

In October 2016, the Company purchased MassMutual International LLC (“MMI”) from Mass Mutual Holdings LLC for \$3,904,116,608. The purchase was to segregate its foreign insurance subsidiaries from its asset manager subsidiaries. MMI is the Company’s holding company for its international operations. MMI participates in strategic partnerships and joint ventures in Asia.

In May 2018, the Company and MMI completed the sale of 85.1% of MassMutual Life Insurance Company in Japan, a wholly-owned life insurance and wealth management subsidiary of MMI, to Nippon Life Insurance Co. MMI received \$960 million in cash proceeds from the sale.

On May 24, 2019, an indirectly wholly owned subsidiary of MassMutual, MM Asset Management Holding LLC (“MMAMH”), executed the sale of its retail asset management affiliate, Oppenheimer Acquisition Corp. (“OAC”), to Invesco Ltd (“Invesco”), a global asset manager. Under the terms of the sale, MMAMH and OAC employee shareholders received 81.8 million of Invesco common shares and \$4.0 billion in perpetual, non-cumulative preference shares with a fixed cash dividend rate of 5.9%.

B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all 50 states, the District of Columbia, the United States territories of Puerto Rico and the U.S Virgin Island, and Canada. In 2019, 16.6% of life premium and 11.6% of accident and health premium were received from New York, and 11.5% of annuity consideration were received from California. Policies are written on a participating and non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2019:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	16.6%	California	11.5%
California	11.9	New York	8.1
Florida	6.9	Florida	7.8
Illinois	6.2	Massachusetts	6.9
New Jersey	<u>5.6</u>	Ohio	<u>6.8</u>
Subtotal	47.2%	Subtotal	41.1%
All others	<u>52.8</u>	All others	<u>58.9</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>
<u>Accident and Health Insurance Premiums</u>		<u>Other Considerations</u>	
New York	11.7%	New Jersey	14.4%
California	8.7	Massachusetts	10.2
Texas	6.5	New York	10.0
Pennsylvania	5.3	California	6.6
New Jersey	<u>5.3</u>	Illinois	<u>6.5</u>
Subtotal	37.5%	Subtotal	47.7%
All others	<u>62.5</u>	All others	<u>52.3</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

The Company's principal business is ordinary life insurance. In addition, the Company provides annuity, disability income and long-term care products directly or through its subsidiaries, as well as retirement plans, medical supplemental products, other pension related products and services, and investment product and services to individuals, corporation and other institutions.

For institutions, the Company provides products and services for defined benefit, defined contribution, nonqualified deferred compensation plans, investment-only solutions and pension risk transfer contracts, as well as a full suite of worksite insurance solutions such as bank-owned life insurance and corporate-owned life insurance, executive group carve out life insurance products, group universal life insurance and group whole life insurance.

The Company's agency operations are conducted on a general agency and multiple channel distribution basis. As of December 31, 2019, 68 General Agents were contracted with the Company, and 6,839 producers licensed in New York were contracted with General Agents of the Company.

The Company's four distribution channels include MassMutual Financial Advisors ("MMFA") formerly known as Career Agency, Digital Direct to Consumer & Business to Business ("DTC&B2B"), Institutional Solutions ("IS") and Workplace Solutions ("WS") distribution channels.

MMFA distribution channel includes General Agents contracted with Company and producers contracted with a General Agent of Company as either "Career Agents" or "Career Brokers", and is the primary distribution channel for MassMutual. MMFA is a sales force that operates in the U.S. MMFA sells individual life, individual annuities and disability insurance.

The Company's DTC&B2B distribution channel sells individual life and supplemental health insurance primarily through direct response television advertising, digital media, search engine optimization and search engine marketing.

The Company's IS distribution channel sells group annuities, group life and guaranteed interest contracts primarily through retirement advisory firms, actuarial consulting firms, investment banks, insurance benefit advisors and investment management companies.

The Company's WS distribution channel sells group life insurance and annuity products as well as individual life insurance, critical illness and long-term care products distributed through investment advisors.

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files. The sample consisted of 183 advertisement files. The files were comprised of 98 life, 41 health and 44 general advertisements. General advertisements are advertisements that could be classified as either life, health or both.

1. Section 219.4(m) of 11 NYCRR 219 (Insurance Regulation 34-A) states:

“In the event an advertisement uses nonmedical, no medical examination required, or similar terms where issue is not guaranteed, such terms shall be accompanied, in each instance, by a disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy or payment of benefits may depend upon the answers given in the application and the truthfulness thereof.”

In 7 out of 98 life advertisements reviewed (7.1%), the Company used terms “without a medical exam”, “remove the need for a medical exam”, “no medical exam” or similar terms without providing a disclosure in each instance indicating that the issuance of a policy or payment of benefits is dependent on the answers in the application and the veracity of the answers.

The Company violated Section 219.4(m) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to disclose that issuance of the policy or the payment of benefits may depend upon the answers given in the application and the truthfulness thereof.

Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) states, in part:

“In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States ... If a specific policy or policy series is being advertised, the form or series number or other appropriate description shall be shown. An advertisement shall not use a trade name, an insurance group designation, name of the parent company or affiliate of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or

reference if such use would have the tendency to mislead or deceive as to the true identity of the insurer, or create the impression that someone other than the insurer would have any responsibility for the financial obligation under a policy.”

In 10 out of 98 life advertisement reviewed (10.2%), the Company did not identify the name of the insurer and the city, town, or village in which it has its home office in the United States on such advertisements. In addition, for these advertisements, the Company did not identify the policy number when the Haven Term policy is mentioned and used the Haven Life trade name which was misleading and created the impression that someone other than the Company would have responsibility for the financial obligation under the policy.

In 8 out of 98 life advertisements reviewed (8.2%), the Company referenced “Haven Life” or “Haven Life Insurance Company” in its advertisement which was misleading and created the impression that someone other than the Company would have responsibility for the financial obligation under the policy.

The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to include the name of the insurer and the name of the city, town, or village of its home office in the United States. In addition, the Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to identify the policy number when the Haven Term policy is mentioned or by using a trade name or affiliate that mislead or deceive as to the true identity of the insurer that created the impression that someone other than the insurer would have any responsibility for the financial obligation under a policy on such advertisements.

Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) states:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons. That portion of the advertising file which has been covered by a filed report on examination may be eliminated.”

In 27 out of 98 life advertisements reviewed (27.5%), the Company’s advertising files did not include a notation indicating the extent of distribution of such advertisements.

The Company violated Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to maintain the extent of distribution of some life advertisements used and disseminated in New York.

Section 215.17(b) of 11 NYCRR 215 (Insurance Regulation 34) states:

“Certificate of compliance. Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this Part must file with this department with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this state as implemented and interpreted by this Part.”

Section 219.5(b) of 11 NYCRR 219 (Insurance Regulation 34-A) states:

“Each insurer which now or hereafter becomes subject to these rules, must file with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by or on behalf of the insurer in this state during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this state as implemented and interpreted by this Part.”

The examiner requested the Company’s certificate of compliance signed by an authorized officer for all years under examination (2013 through 2019). The Company was only able to provide the signed certificate of compliance for the years 2013, 2014, and 2019. The Company failed to provide the signed certificate of compliance for the years 2015, 2016, 2017 and 2018.

The Company violated Section 215.17(b) of 11 NYCRR 215 (Insurance Regulation 34) and Section 219.5(b) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to provide a signed certificate of compliance for the years 2015, 2016, 2017 and 2018.

The examiner reviewed a sample of the Company’s replacement files and the sales activities of the agency force including trade practices and solicitation of these replacement insurance policies.

The sample consisted of 133 replacements files. The replacements were comprised of 23 external life replacements, 18 internal life replacements, 10 combination life replacements, 14 external variable annuity replacements, 8 internal variable annuity replacements, 15 external fixed & income annuity replacements, 15 internal fixed & income annuity replacements, 15 external

Single Premium Immediate Annuities (SPIA) replacements and 15 internal SPIA replacements. Combination life replacement are replacement of policies from the replaced Company and internal policies from the replacing Company. The SPIA replacement review were the replacement of life policies to SPIA.

The sample of replacement files were obtained from a population of 14,841 external life replacement, 2,798 internal life replacements, 287 combination life replacement, 1215 fixed annuity replacement (297 internal & 918 external), 1280 variable annuity replacement (85 internal & 1195 external) and 552 SPIA replacement (189 internal & 363 external).

2. Section 51.6 of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“(a) Each insurer shall:...

(3) maintain signed and completed copies of the ‘Definition of Replacement’ in accordance with Part 243 of this Title (Regulation 152); ...”

In 1 out of 30 external and internal fixed deferred and income annuity replacement files reviewed (3.3%), the Definition of Replacement form was not found in the file.

The Company violated Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to maintain a signed and completed copy of the “Definition of Replacement” in accordance with Part 243 of this Title (Insurance Regulation 152).

Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall: ...

(3) prior to the delivery of the life insurance policy or annuity contract, require an accurate and complete ‘Disclosure Statement’ signed by the insurance agent or broker in the form prescribed in Appendices 10A or 10B to this Part, including the primary reason or reasons for recommending the new life insurance policy or annuity contract and why the existing life insurance policy or annuity contract cannot meet the applicant's objectives;”

In 1 out of 23 external life replacement files reviewed (4.3%), the Company did not prepare a Disclosure Statement prior to the delivery of the life insurance policy.

In 1 out of 18 internal life replacement files reviewed (5.5%), the Company did not prepare a Disclosure Statement prior to the delivery of the life insurance policy.

The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to prepare and complete a Disclosure Statement prior to delivery of the life insurance policy.

Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states in part:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall: ...

(4) examine the sales material, including any proposal, used in the sale of the life insurance policy or annuity contract, and the "Disclosure Statement", and ascertain that they are accurate and meet the requirements of the Insurance Law and regulations promulgated thereunder;”

In 6 out of 23 external life replacement files reviewed (26.1%), different sections of the Disclosure Statements were not complete. In some instances, the uncompleted items include Riders, Surrender Charge, Guaranteed Interest Rate, Loan Interest Rate, Contestable and Suicide Expiry Dates, Cash Surrender Value, Face Amount, Premium, Summary Result Comparison, and Agent’s or Broker’s Statement. If these sections were not applicable or there was no value, using the notation N/A or “0” would be appropriate instead of leaving these sections blank.

In 3 out of 23 external life replacement files reviewed (13%), policies were whole policies that did not have a premium load/charge, the agent failed to disclose the premium load/charge of the universal life policies in the remarks section of the Disclosure Statement. Of the 3 existing policies that were replaced, 2 policies were whole life policies that did not have a premium load/charge and the remaining policy was a variable universal life policy

In 5 out of 23 external life replacement files reviewed (21.7%), the information presented on the Disclosure Statement as the reason for replacement was not factual or could not be validated by the Company.

In 1 out 23 external life replacement files reviewed (4.3%), the Company did not disclose the existing Accelerated Death Benefit rider on the Disclosure Statement.

In 3 out of 18 internal life replacement files reviewed (16.7%), different sections of Disclosure Statements were not complete. In some instances, the uncompleted items include

Riders, Surrender Charge, Guaranteed Interest Rate, Loan Interest Rate, Contestable and Suicide Expiry Dates, Cash Surrender Value, Face Amount, Premium, Summary Result Comparison, and Agent's or Broker's Statement. If these sections were not applicable or there was no value, using the notation "N/A" or "0" would be appropriate instead of leaving these sections blank.

In 4 out of 18 internal life replacement files reviewed (22.2%), the information presented on the summary results comparison and agent statement section of the Disclosure Statement were not factual or were erroneously placed in wrong areas of the Disclosure Statement.

In 6 out of 10 combination life replacement files reviewed (60%), different sections of Disclosure Statements were not complete. In some instances, the uncompleted items include Riders, Surrender Charge, Guaranteed Interest Rate, Loan Interest Rate, Contestable and Suicide Expiry Dates, Cash Surrender Value, Face Amount, Premium, Summary Result Comparison, and Agent's or Broker's Statement. If these sections were not applicable or there was no value, using the notation "N/A" or "0" would be appropriate instead of leaving these sections blank.

In 6 out of 10 combination life replacement files reviewed (60%), the information presented on the Disclosure Statement was not factual or the disclosure statement was processed incorrectly.

In 22 out of 22 external and internal variable annuity replacement files reviewed (100%), different sections of Disclosure Statements were not complete. In some instances, the uncompleted items include description of transactions, Riders, Surrender Charge, Guaranteed Interest Rate, Loan Interest Rate, Contestable and Suicide Expiry Dates, Cash Surrender Value, Face Amount, Premium, Summary Result Comparison, Sales Material Indicator, and Agent's or Broker's Statement. If these sections were not applicable or there was no value, using the notation "N/A" or "0" would be appropriate instead of leaving these sections blank.

In 29 out of 29 [¹]external and internal fixed deferred and income annuity replacement files reviewed (100%), different sections of Disclosure Statements were not complete. In some instances, the uncompleted items include description of transactions, Riders, Surrender Charge, Guaranteed Interest Rate, Loan Interest Rate, Contestable and Suicide Expiry Dates, Cash Surrender Value, Face Amount, Premium, Summary Result Comparison, and Agent's or Broker's Statement. If these sections were not applicable or there was no value, using the notation "N/A" or "0" would be appropriate instead of leaving these sections blank.

¹ One Disclosure Statement was not available for review. See page 16.

In 29 out of 29 [2]external and internal SPIA replacement (life to SPIA) files reviewed (100%), different sections of Disclosure Statements were not completed including the Sale Material Indicator which was unchecked. Where applicable the Company should have noted the following significant information:

- Report the proposed or existing annuity rates and values in the Description of Transaction section of the Disclosure Statement or where no values are required, using the notation “N/A” or “0” would be appropriate instead of leaving these sections blank.
- For the proposed annuity, the Company should have noted in the surrender value column or the Remarks section that the SPIA cannot be surrendered and note the Death Benefit if applicable.
- Report the annuity cumulative payment amount or the annual or monthly payment amounts in the Remarks section of the Disclosure Statement.
- Report the surrender charges in the Remarks section of the Disclosure Statement in the event of withdrawal for period certain annuities.

The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Regulation.

The Company was cited for violating 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) [Currently Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment)] for not completing the sales material indicator in the prior report on market conduct examination.

Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall: ...

(6) within ten days of the delivery of the life insurance policy or annuity contract, furnish to the insurer that issued the coverage that is being replaced the completed ‘Disclosure Statement’ and a list of the sales material, including any proposal, used in the sale of the life insurance policy or annuity contract with an offer to provide a copy of such material within ten days of a request for the material...”

² One Disclosure Statement was not available for review. See page 16.

In 3 out of 10 combination life replacement files reviewed (30%), the Company did not provide the completed Disclosure Statements to the insurer that issued the coverage that is being replaced.

In 11 out of 14 external variable annuity replacement files reviewed (78.6%), the Company could not document that the completed Disclosure Statements were provided to the insurer that issued the coverage that is being replaced. In addition, the list of sales materials were not provided to the insurer that issued the coverage that is being replaced.

In 14 out of 15 external fixed deferred and income annuity replacement files reviewed (93.3%), the Company could not document that the completed Disclosure Statements were provided to the insurer that issued the coverage that is being replaced. In addition, the list of sales materials were not provided to the insurer that issued the coverage that is being replaced.

In 13 out of 15 external SPIA replacement files reviewed (86.7%), the Company could not document that the completed Disclosure Statements were provided to the insurer that issued the coverage that is being replaced. In addition, the list of sales materials were not provided to the insurer that issued the coverage that is being replaced.

The Company violated Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to provide the completed Disclosure Statement and list of sale materials used in the sale of life insurance policy or annuity contract to the insurer that issued the coverage that is being replaced.

The Company was cited Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) [Currently Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment)] for this violation on the prior market conduct report on examination.

Section 51.6(b)(8) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall:...

(8) maintain copies of: the sales material, including any proposal, used in the sale of the life insurance policy or annuity contract; proof of receipt by the applicant of the ‘*IMPORTANT* Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts’; the signed and completed ‘Disclosure Statement’; and the notification of replacement to the insurer that issued the life insurance policy or annuity contract that is to be replaced, indexed by insurance agent and broker, in accordance with Part 243 of this Title (Regulation 152);...”

In 1 out of 22 external and internal variable annuity replacement files reviewed (4.5%), the Important Notice Regarding Replacement or Change of Annuity Contracts was not found in the file.

In 1 out of 30 external and internal fixed deferred and income annuity replacement files reviewed (3.3%), the complete Important Notice Regarding Replacement or Change of Annuity Contracts was not found in the file.

In 1 out of 30 external and internal fixed deferred and income annuity replacement files reviewed (3.3%), the signed and completed Disclosure Statement was not found in the file.

In 1 out of 30 external and internal SPIA reviewed (3.3%), the signed and completed Disclosure Statement was not found in the file.

The Company violated Section 51.6(b)(8) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to maintain proof of receipt by the applicant of the Important Notice Regarding Replacement or Change of Annuity Contracts, and the completed Disclosure Statement.

Section 51.6(d) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Any insurer that issues a replacement life insurance policy or annuity contract shall provide to the policy or contract owner the right to return the policy or contract within sixty days from the date of delivery of such policy or contract and receive an unconditional full refund of all premiums or considerations paid on it, or in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender benefits provided under the policy or contract, plus the amount of all fees and other charges deducted from gross considerations or imposed under the policy or contract. . . .”

In 2 out of 22 external and internal variable annuity replacement files reviewed (9.1%), the annuity contract MUVAC96(98) did not include the right to examine language, which advises policyholders of their right to cancel their policies for a full refund of premium but only within 10 days of receiving the policy. The language contradicts the 60-day free look provision required for replacement policies.

In 5 out of 30 external and internal SPIA replacement files reviewed (16.7%), the annuity contract SPIA05(NY) did not include the right to examine language, which advises policyholders of their right to cancel their policies for a full refund of premium but only within 10 days of

receiving the policy. The language contradicts the 60-day free look provision required for replacement policies.

The examiner recommends that the Company file an endorsement with the Department that reflects the 60-day free look provision required by Section 51.6(d) of 11 NYCRR 51 (Insurance Regulation 60) and attach such endorsement whenever issuing a replacement policy.

3. Section 243.2 of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“(b) Except as otherwise required by law or regulation, an insurer shall maintain:

(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer. Policy records need not be segregated from the policy records of other states as long as they are maintained in accordance with the provisions of this part. A separate copy need not be maintained in an individual policy record, provided that any data relating to a specific contract or policy can be retrieved pursuant to section 243.3(a) of this Part. A policy record shall include . . .

(ii) The application, including any application form or enrollment form for coverage under any insurance contract or policy;

(iii) The contract or policy forms issued including the declaration pages, endorsements, riders, and termination notices of the contract or policy. Binders shall be retained if a contract or policy was not issued; and

(iv) Other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy.

(2) An application where no policy or contract was issued for six calendar years or until after the filing of the report on examination in which the record was subject to review, whichever is longer. . . .

(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.”

In 1 out of 22 external and internal variable annuity replacement files reviewed (4.5%), the Authorization for Disclosure of Information from the applicant was not found in the file.

In 1 out of 30 external and internal fixed deferred and income annuity replacement files reviewed (3.3%), the Authorization for Disclosure of Information from the applicant was not found in the file.

In 1 out of 22 external and internal variable annuity replacement files reviewed (4.5%), the annuity contract was not found in the file.

In 1 out of 30 external and internal fixed deferred replacement files reviewed (3.3%), the disclosure of information package from the replaced Company was not found in the file.

In 3 out of 15 internal SPIA replacement files reviewed (20%), the contract Specification/Declaration Page for the replaced policy was not found in the file.

The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain in its policy records the proper authorization to the replaced company for disclosure of information, annuity contract, Specification/Declaration page and the disclosure of information package for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

1. Section 3201 of the New York Insurance Law states, in part:

“(a) . . . policy form means any policy, contract, certificate, or evidence of insurance and any application therefor, or rider or endorsement thereto . . .

(b)(1) No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. . .”

A. The examiner reviewed a sample of 25 Long Term Care (“LTC”) policies issued during the examination period. In 15 out of 25 LTC issued policies reviewed (60%), the Company utilized policy form “Policy Amendment Forms# MM-0126” that were not filed with and approved by the Department.

B. The examiner reviewed a sample of 45 SPIA contracts issued during the examination period of which 30 were replacement new issues. In 29 of the 45 SPIA contracts reviewed, the annuitant selected the Period Certain Annuity Option.

In 13 of these 29 contracts (44.8%), an endorsement “Form No. SPIA_ASSIGN – Period Certain Annuity Option Assignment Endorsement For Non-Qualified Contracts” were utilized by the Company and were not filed with and approved by the Department.

C. The examiner reviewed a sample of 15 universal life policies issued during the examination period.

In 1 out of 15 universal life new issue files reviewed (6.67%), the Company utilized application form “A60NY 1112 LI” that was not filed with and approved by the Department.

D. The examiner reviewed a sample of 26 online Haven Term life insurance application forms. The sample consisted of 5 A2200HL-NY 0116 application forms and 21 A2200HL-NY 1016 application forms. Application form A220HL-NY 0116 was superseded by application form A2200HL-NY 1016. The examiner compared the application forms used by the Company to underwrite the policy and the application forms approved by the Department.

- i. In 26 out of 26 online Haven Life A2200HL-NY 0116 and A200HL-NY 1016 application forms reviewed (100%), the Company used application forms that did not have the language “You’re almost done! Before we finish, please make sure the emails below are correct.” which appears on the approved application forms.
- ii. In 1 out of 21 A2200HL-NY 1016 application forms reviewed (4.8%), the Company used application forms that had the following omissions or changes:
 - The request for an email address was removed from the electronic application.
 - The annual earned income was changed to the “Annual household earned income”.
 - The request for the applicant’s occupation, current employer and employer city and state were excluded from the electronic application.
 - These statements, “Do you want to include the ‘waiver of premium’ rider on your policy at an additional charge per month? Yes or No. This rider protects you in case of Total Disability. If you are covered under this Rider and you become Totally Disabled, we will waive premiums for this policy.”, were removed from the Company’s electronic application.
 - The “Modify Policy (/modify-face-term)” wording on the first page of the signed application is not in the approved form.
 - The language and layout of the “Please Acknowledge” section beginning on page 16 of the signed application differs from the approved form.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy and application forms, “Policy Amendment Forms# MM-0126”, “Form No. SPIA_ASSIGN – Period Certain Annuity Option Assignment Endorsement For Non-Qualified Contracts”,

“A2200HL-NY 0116” and “A2200HL-NY1016” that were not filed with and approved by the superintendent.

2. Section 3209 of the New York Insurance Law states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state after the applicable effective date, as set forth in subsection (n) of this section, unless the prospective purchaser has been provided with the following:

(A) a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken...”

The examiner reviewed a sample of 10 term life policies issued during the examination period. In 4 out of 10 term life new issue files reviewed (40%), the company did not provide the preliminary information to the applicant.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

1. Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) states:

“Location of warning statements and type size. The warning statements required by subdivisions (a), (b) and (e) of this section shall be placed immediately above the space provided for the signature of the person executing the application or claim form and shall be printed in type which will produce a warning statement of conspicuous size. On claim forms which require execution by a person other than the claimant, or in addition to the claimant, the warning statements required by subdivisions (a), (b) and (e) of this section shall be placed at the top of the first page of the claim form or in the page containing instructions, either in print, by stamp or by attachment and shall be in type size which will produce a warning statement of conspicuous size.”

The examiner reviewed a total of 182 claims files. The claim files were comprised of 80 life death claims, 30 life maturity claims, 16 LTC paid claims, 20 LTC denied claims, 15 annuity claims, 15 disability paid claims and 6 life denied claims.

In 181 out of 182 claim files reviewed (99.4%), the claim forms utilized did not have the required fraud warning statement placed immediately above the space provided for the signature of the person executing the claim form. In one LTC paid claim, the company used a claim form that was compliant. This form, MM-0208-2(NY) was effective August 30, 2018.

The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by failing to place the fraud warning statement immediately above the space provided for the signature of the person executing the claim.

2. Section 2108 of the New York Insurance Law states, in part:

“(a)(1) Adjusters shall be licensed as independent adjusters or as public adjusters...

(3) No adjustor shall act on behalf of an insurer unless licensed as an independent adjustor, and no adjustor shall act on behalf of an insured unless licensed as a public adjustor.

(4) No insurer, agent or other representative of an insurer shall pay any fees or other compensation to any person, firm, association or corporation for acting as an independent adjustor except to a licensed independent adjustor or to a person excepted from the licensing requirement pursuant to subsection (g) of section two thousand on hundred one of this article...”

The examiner reviewed the Master Profession Service agreement, Statement of Works and other supporting documents between the Company and Disability Insurance Specialist (“DIS”) and determined that DIS was tasked to adjust disability claims on behalf of the Company from July 2012 until the contract is terminated for cause or convenience.

The review indicated that the Company compensated DIS to adjust claims on behalf of the Company but was not licensed as an independent adjuster in New York from 2013 through 2017.

The Company violated Section 2108(a)(3) of the New York Insurance Law by allowing an unlicensed third-party administrator (DIS) to adjust claims on behalf of the Company.

The Company violated Section 2108(a)(4) of the New York Insurance Law by paying fees or other compensation to a third-party administrator (DIS) that was not licensed as an independent adjuster.

3. Section 3211(b)(2) of the New York Insurance Law states:

“state the amount of such payment, the date when due, the place where and the person to whom it is payable; and shall also state that unless such payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit”.

Section 3211(f)(2) of the New York Insurance Law states:

“Any policy of insurance requiring the payment of premiums monthly or at shorter intervals, provided in the case of policies of life insurance the insurer issuing such policy elects with respect to all such policies to mail a written notice within six months after termination or lapse to the insured or to any other person who shall have been designated in writing to receive such notice, stating the type and amount of any automatic nonforfeiture benefit in force.”

The examiner reviewed a sample of 93 lapsed policy files. The sample were comprised of 49 term life, 20 whole life, and 24 universal life policies. Of the 69 term and whole life policies reviewed, 23 consisted of payment of premiums monthly or shorter. The 23 payment of premiums monthly or shorter were comprised of 8 term life policies and 15 whole life policies.

A. In 2 out of 23 term and whole lapsed files reviewed (8.7%) which require the payment of premiums monthly or shorter, the termination notices did not state the type and amount of any automatic nonforfeiture benefit in force.

The Company violated Section 3211(f)(2) of the New York Insurance Law by failing to include the type and amount of any automatic nonforfeiture benefits in force on the termination notices.

B. In 46 out of 46 term and whole life lapsed policies files reviewed (100%), the Company failed to include in the premium due notices the language “... the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit”.

In 21 out of 24 universal life lapsed policies files reviewed (87.5%), the Company failed to include in the insufficiency notices the language “... the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.”

The Company violated Section 3211(b)(2) of the New York Insurance Law by not having premium due notices and insufficiency notices that contain the language “... the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit”.

The Company agreed to pay the death benefit for all policies if the policyholder received a defective notice during the examination period (and until August 6, 2022), and the insured person under the policy died within one year of the date of default.

4. Section 3227 of the New York State Insurance Law states:

“(a) Interest, at the rate provided for in section three thousand two hundred fourteen of this article, shall be payable by life insurers . . . upon: (1) the value of policies surrendered by policyholders for cash values, including the rollover of annuity funds to other entities, and (2) the funds disbursed as policy loans. Such interest payment shall be added to and be a part of the total sum paid or be paid separately at the option of the insurer.

(b) The interest calculated on amounts described in paragraphs one and two of subsection (a) hereof shall be calculated from the date the documentation necessary to complete the transaction is received by the insurer and shall be payable if the funds are not mailed or delivered by the insurer within ten working days of said receipt.

(c) No interest need be payable pursuant to this section unless the amount of such interest is at least twenty-five dollars or if the payment of benefits by the insurer has been deferred pursuant to other provisions of this chapter.”

The examiner reviewed a sample of 55 surrenders. The surrenders were comprised of 35 life surrenders, and 20 partial life surrenders.

In 11 out of 55 surrender files reviewed (20%), the Company failed to pay interest on the amounts surrendered when the funds are not mailed or delivered by the insurer within ten working days.

The Company violated Section 3227(b) of the New York Insurance Law by failing to pay interest on surrendered policies.

Upon notification, the Company agreed to review all surrender transactions during the examination period in which the amounts surrendered were not mailed within ten working days and agreed to pay interest on these amounts if the interest was at least twenty-five dollars.

5. Section 3234 of the New York Insurance Law states, in part:

“(a) Every insurer . . . is required to provide the insured or subscriber with an explanation of benefits form in response to the filing of any claim under a policy or certificate providing coverage for hospital or medical expenses, including policies and certificates providing nursing home expenses or home care expense benefits.

(b) The explanation of benefits form must include at least the following . . .
 (7)...a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made. . . .”

The examiner reviewed a sample of 21 LTC payments files. These 21 LTC payments were from 16 LTC claims. In 21 out of 21 explanation of benefits (“EOB”) reviewed (100%), the EOB provided to the insureds did not include a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with the requirements for appealing denied benefits may lead to forfeiture of a consumer’s right to challenge a denial or rejection even when a request for clarification has been made.

The Company violated Section 3234(b)(7) of the New York Insurance Law by failing to include on the EOB, the description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with the indicated requirements for appealing denied benefits may lead to forfeiture of a consumer’s right to challenge a denial or rejection, even when a request for clarification has been made.

6. Section 3240(i) of the New York Insurance law states:

“Reports. An Insurer subject to this section shall include in the report required under section seven hundred three of the abandoned property law any information on unclaimed benefits pursuant to this section and the number of policies and accounts that the insurer has identified pursuant to this section for the prior calendar year under which any outstanding monies have not been paid or distributed by December thirty-first of such year, except potential matches still being investigated pursuant to paragraph one of subsection (f) of this section. A copy of the report also shall be filed with the superintendent.”

Section 226.6 of 11 NYCRR 226 (Insurance Regulation 200) states:

“An insurer subject to this Part shall include in the report required under Abandoned Property Law section 703 any information on unclaimed benefits due pursuant to this Part and the number of policies and accounts that the insurer has identified pursuant to section 226.4 of this Part for the prior calendar year under which any outstanding monies have not been paid or distributed by December thirty-first of

such year, except potential matches still being investigated pursuant to section 226.4 of this Part. A copy of the report also shall be filed with the superintendent.“

The examiner requested the annual reports required by section 703 of the Abandoned Property Law and Section 3240(i) of the New York Insurance Law. The examiner found that the Company filed the annual reports required by the abandoned property law for the examination period 2013 through 2019. In addition, the Company filed these reports to the Superintendent for the examination period 2013 through 2017 but did not file the reports for the examination period 2018 through 2019.

The Company violated Section 3240(i) of the New York Insurance law by failing to file the 2018 and 2019 annual reports with the superintendent.

5. ANNUAL ILLUSTRATION CERTIFICATIONS

The examiner conducted a review of the marketing, illustration and annual reporting of the Company's individual and group universal life and variable universal life policy forms. The review identified a number of departures and violations from Section 3209(b)(1)(A) of the New York Insurance Law, Section 53 of 11 NYCRR 53 (Insurance Regulation 74) and Section 4221(a)(7) of the New York Insurance Law. For some policy forms, the violations occurred prior to 2015, dating back to when the policy form was initially opened to sales. The violations and the corrective actions as proposed by the Company, when applicable, are summarized herein.

Variable Universal Life Basic Illustration – Policy Form P2-2008(NY)

The Department has published guidance in its Individual Variable Life Insurance Product Outline (March 8, 2013) regarding compliance with Section 3209 of the New York Insurance Law for variable life products, including variable universal life policies. If an insurer chooses to use a sales illustration in lieu of providing preliminary information and a policy summary as permitted by Section 3209(l), then the insurer must comply with all the applicable provisions of Section 53 of 11 NYCRR 53 (Insurance Regulation 74). The Company designated this form as being marketed with an illustration. A review of the basic illustration example provided for policy form P2-2008(NY) on November 29, 2018, revealed the following:

Section 53-3.2 of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“(a) An illustration used in the sale of a life insurance policy and subject to this Subpart shall satisfy the applicable requirements of this Subpart, be clearly labeled ‘life insurance illustration’ and contain the following basic information: . . .

(7) Dividend option election or application of non-guaranteed elements, if applicable.

Policy form P2-2008(NY) is a participating policy. The example basic illustration for policy form P2-2008(NY) did not include the dividend option elected.

The Company violated Section 53-3.2(a)(7) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include the dividend option elected by the insured in the basic illustration for policy form P2-2008(NY).

The Company advised that it is no longer selling policy form P2-2008(NY), effective December 31, 2019. The Company has implemented a similar policy form, policy form P2-2019(NY) that was not included in the Department's review. Policy form P2-2019(NY) is not a participating policy.

Section 53-3.3 of 11 NYCRR.53 (Insurance Regulation 74) states, in part:

“(a) Format. A basic illustration shall conform with the following requirements: . .

(8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements") . . .

(12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(i) the benefits and values are not guaranteed;

(ii) the assumptions on which they are based are subject to change by the insurer; and

(iii) actual results may be more or less favorable . . .

(b) Narrative summary. A basic illustration shall include the following: . . .

(5) a statement containing in substance the following: "This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(c) Numeric summary.

(1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. Except as provided in subdivision (g) of this Section, this summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years 5, 10, 20 and 30. The three bases are as follows:

(i) Policy guarantees;

(ii) Insurer's illustrated scale;

(iii) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(a) Dividends at 50 percent of the dividends contained in the illustrated scale used;

(b) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(c) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(d) If coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.”

The illustration of premium outlay, policy benefits and values begin on Page 6 of the 18-page illustration based on a hypothetical gross investment return of 0 and 8% using current premium expense and policy charges or cost factors. A median scale is not included. The illustration based on guaranteed cost factors begin on Page 9 of the 18-page illustration.

The Company violated Section 53-3.3(a)(8) of 11 NYCRR 53 (Insurance Regulation 74) by presenting the policy benefits and values on a current basis before the guaranteed policy cost factors, as required.

The Company agreed to adjust the order in which the illustration of policy benefits and values appears so that guaranteed values precede current values.

The pages depicting the illustration of benefits and values includes the following language:

“The hypothetical returns used do not reflect past performance and are not predictive of future results. Actual results could be less or greater than the hypothetical results and in all likelihood will vary from year to year.”

The required disclosures concerning the non-guaranteed (current) cost assumptions indicating that: (1) benefits and values are not guaranteed; (2) the assumptions on which they are based are subject to change by the insurer; and (2) actual results may be more or less favorable are missing and should be added to the basic illustration.

The Company violated Section 53-3.3(a)(12) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include required disclosures in any illustration or depiction of policy benefits and values based on non-guaranteed elements (i.e., current cost assumptions).

Similarly, the Narrative Summary section of the basic illustration for policy form P2-2008(NY) does not include the required disclosure concerning non-guaranteed elements.

The Company violated Section 53-3.3(b)(5) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include the required disclosure in the Narrative Summary that the illustration assumes specific investment returns and that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown.

The Company agreed to add the missing disclosures required by Section 53-3.3(a)(12) and Section 53-3.3(b)(5) of 11 NYCRR 53 (Insurance Regulation 74).

The basic illustration for policy form P2-2008-NY does not contain a Numeric Summary as required.

The Company violated Section 53-3.3(c) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include a Numeric Summary of the death benefits and values and the annual premium outlay based on guaranteed, median and current interest and cost assumptions.

The Company agreed to add a Numeric Summary that will include 3 sets of values: guaranteed charges and a 0% interest rate, current charges and a rate chosen by the user (not to exceed a set maximum, currently 12%), and the median of those 2 sets of charges and interest rates.

Since the Company is not actively selling policy form P2-2008-NY, the Department comments that the required system programming changes should be made to the illustration software to address the noted deficiencies in basic illustrations for policy form P2-2019(NY). Policy form P2-2019(NY) was approved July 24, 2019.

The Company accepted 911 applications for policy form P2-2008-NY since it was introduced for sale in New York through December 6, 2019. Effective December 31, 2019, the Company is no longer selling policy form P2-2008(NY). Policy form P2-2019(NY) was approved for use in New York on July 24, 2019 but was not included in the Department's review.

Section 3209 of the New York Insurance Law states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state . . . unless the prospective purchaser has been provided with the following:
(A) . . . the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken . . .”

Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“(d) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this Subpart is required . . .”

Section 53-3.5 of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“(a) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this Subpart, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant . . .”

(d) Such basic illustration or revised illustration shall satisfy the requirements for preliminary information required under Section 3209(d) of the Insurance Law and Section 53-2.1 of this Part, and the requirements for the policy summary required under Section 3209(e) of the Insurance Law and Section 53-2.2 of this Part if delivered to the applicant or policyowner in conformance with this Subpart . . .”

In its response to the September 7, 2018 letter from the Department, the Company admitted that it accepted applications for policy form P2-2008(NY) without evidence that the agent or producer furnished the applicant with a basic illustration. In such instances, the Company stated that it provides the illustration with delivery of the policy.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed, since the Company did not comply with Section 3209(l) when it opted to designate the policy form as one to be illustrated.

The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) because the policy was designated as illustrated and the Company failed to deliver the illustration in accordance with Section 53-3 of 11 NYCRR 53 (Insurance Regulation 74).

Over the span of 12 months ending in November 2018, the Company stated that it received 170 applications for its Variable Universal Life III product (Policy Form P2-2008(NY)). Only 140 or (82%) of the applications were submitted in accordance with Regulation 74 and included an illustration signed and dated by both the agent and the producer.

Effective January 27, 2020, the Company implemented revised policy and procedures so that all applications signed in New York must include a basic illustration signed by the applicant and the producer.

Individual Universal Life Policy Forms Marketed on a Guarantee Only Basis

In its Annual Illustration Certifications, the Company advised that commencing January 2, 2008, the Company would no longer be using an illustration to market its UL Guard (policy form P8-2005 (NY) and SUL Guard (policy form P9-2005 (NY) series of policy forms. Both policy forms were actively marketed through November 22, 2019.

Section 3209 of the New York Insurance Law states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state . . . unless the prospective purchaser has been provided with the following:
(A) . . . the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken . . .

Section 53-2.1 of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“(c) The preliminary information shall be provided to the prospective purchaser at or prior to the time an application is taken and shall be signed and dated by the agent or broker and the applicant and a copy of the preliminary information shall be attached to the application submitted to the insurer . . .”

In its response to the September 7, 2018, letter from the Department, the Company admitted that it accepted applications without evidence that the agent or producer furnished the applicant with the required preliminary information. In such instances, the Company stated that it provides the preliminary information with delivery of the policy.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed.

The Company violated Section 53-2.1(c) of 11 NYCRR 53 (Insurance Regulation 74) by accepting applications for insurance where there was no evidence that the agent provided the prospective purchaser with preliminary information at or prior to the time that the application was signed.

Over the span of 12 months ending in November 2018, the Company stated that it received 922 applications for its UL Guard and SUL Guard products. Only 338 (37%) of the applications were submitted in accordance with Section 53 of 11 NYCRR 53 (Insurance Regulation 74) and included preliminary information signed and dated by both the agent and the producer.

As of November 7, 2018, the Company has received 8,790 applications for the affected policy forms, P8-2005(NY), P8-2005U(NY), P9-2005(NY)a, and P9-2005U(NY)a.

Effective March 2019, the Company implemented revised policy and procedures so that all applications signed in New York for these products must include preliminary information signed by the applicant and the producer.

Section 3211(g) of the New York Insurance Law states, in part:

“In the case of life insurance policies to which this section is applicable and which contain a cash surrender value, the insurer must provide an annual notification that the policy contains a cash surrender value and that further information, including the amount thereof, is available from the insurer upon written request from the policyowner. Such notification shall include a statement that the insured has the right to request an updated policy illustration based . . . in respect to a policy subject to subsection (a) of section four thousand two hundred thirty-two of this chapter, on the then current mortality, interest and expense assumptions . . .”

Section 53-3.6(c) of 11 NYCRR 53 (Insurance Regulation 74) states:

“Upon the request of the policyowner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer’s present illustrated scale. This illustration shall comply with the requirements of Sections 53-3.2(a), 53-3.3(a), and 53-3.3(e) of this Subpart. No signature or other acknowledgement of receipt of this illustration shall be required.”

In April 2015, the Department addressed concerns regarding the Company’s compliance with Section 3211(g) of the New York Insurance Law and advised the Company of the requirements in New York.

For products that were marketed with an illustration, the Company states that an in-force illustration of those products contained both guaranteed and non-guaranteed values. However, for products that were not marketed with an illustration, the company’s practice was to show only guaranteed values on an in-force basis. The Department reviewed examples of in-force illustrations for the affected policy forms and they indeed contained guaranteed premium, benefits and values.

With respect to the correspondence in 2015, the Company states that the Department inquired about a specific product, the cohort Strategic Edge GUL. When the issue was raised by the Department, the Company implemented a manual process for this product only to ensure that non-guaranteed charges were shown in the in-force illustrations to reflect what is actually charged. The Company asserts that it misinterpreted the requirements to pertain to that product only, and therefore did not take corrective action for other policies subject to Section 4232(b) of the New York Insurance Law.

With respect to the UL Guard and SUL Guard policy forms (P8-2005(NY), P8-2005U(NY), P9-2005(NY)a, and P9-2005U(NY)a., the in-force illustrations provided to policyholders displayed guaranteed elements only.

The Company violated Section 3211(g) of the New York Insurance Law and Section 53-3.6(c) of 11 NYCRR 53 (Insurance Regulation 74) by providing in force illustrations to policyholders that were not based upon the current mortality, interest, and expense assumptions.

The Company had 5,421 policies in-force on February 22, 2019 for these policy forms.

Effective July 2019, the Company changed this practice so that it now provides policyholders with in-force illustrations depicting current as well as guaranteed premium, benefits and policy values.

Policy forms P8-2005(NY), P8-2005U(NY), P9-2005(NY)a, and P9-2005U(NY)a were actively marketed in New York through November 22, 2019. Effective November 23, 2019, the Company introduced P8-2019(NY), P8-2019(NY)-SP, P8-2019U(NY), P8-2019U(NY)-SP, P9-2019(NY) P9-2019(NY)-SP, P9-2019U(NY), and P9-2019U(NY)-SP in New York, which were not included in the Department's review.

Annual Reports

Section 4221(a)(7) of the New York Insurance Law states, in part:

“That the company shall deliver . . . and shall mail to each such holder at least once each policy year or within sixty days after the end of a policy year a statement as of a date during such year as to the death benefit, cash surrender value and loan value under the policy. . . .”

The annual report examples provided by the Company do not comply with Section 4221(a)(7) of the New York Insurance Law. The annual reports provide the amount of any outstanding loans against the policy, where applicable, but they do not provide the loan value available to the policyholder under the policy.

The Company violated Section 4221(a)(7) of the New York Insurance Law by failing to specify the loan value available to the policyholder under the policy in annual reports furnished to New York policyholders.

The Company agreed to add the loan value available to the policyholder under their policy going forward. The Company anticipates that the necessary programming changes should be fully implemented and moved into production by September 30, 2020.

The Company had 25,341 affected universal and variable universal life policyholders that received a deficient annual report during the examination period.

Group Universal and Variable Universal Life

The Group Universal Life Product Outline published on the Department’s website states, in part:

“II.E.2) Policy Illustration

The submission letter must state whether the group policy and certificate is to be marketed with or without an illustration. Section 53-3.1(b) of Regulation 74. If the policy will be marketed with an illustration, submit the certification required by Section 53-3.7(d) of Regulation 74.

Please note all illustrations used in lieu of the preliminary information required by Section 3209 must comply with Regulation 74. Please see the guidance on the Department’s website.”

The Department has permitted Group Universal Life (“GUL”) and Group Variable Universal Life (“GVUL”) to be sold as long as it generally complies with individual requirements. So, while Section 3209(a) of the New York Insurance Law may state that it does not apply to group life insurance, for GUL and GVUL products, the Department applies individual requirements (as communicated in the GUL and GVUL product outlines published on the Department’s website).

The Company’s February 28, 2020 response identified four group policy forms that were marketed during the certification period covered by this Comment Letter: Policy Forms GULCM-NY-9700 (Strategic Group Universal Life); GVULCM-NY-9700 (Strategic Group Variable Universal Life); MM-GPUL-2015(NY) (Group Flexible Premium Life Insurance Policy); and MM-GCUL-2015(NY) (Group Flexible Premium Life Insurance Certificate).

Worksite Marketed Illustrated Policy Forms GULCM-NY-9700 and GVULCM-NY-9700 “Strategic Group Universal Life”

GULCM-9700 is a group life insurance certificate issued to eligible employees of an employer (plan sponsor) who is a participant in the Strategic Group Universal Life Trust, established by a Trust Agreement between the Company and the Trustee.

GVULCM-9700 is a group life insurance certificate with a variable rider. The variable rider allows the owner (employee) the ability to allocate certificate values among a variable account where certificate values vary in accordance with the investment experience and a fixed account where a minimum investment return is guaranteed. The employer decides whether it will offer the Group Universal Life product or the Group Universal Life product with the variable rider to its eligible employees. If the employer decides to offer its employees the Group Universal Life

with the variable rider, each employee makes the decision whether they want the variable investment option (i.e., the variable rider) or the group universal life (no variable rider).

Coverage is either: 1) employer paid coverage only (100% of the premium paid by the employer and group policyholder) or 2) a combination of the employer paid coverage and optional voluntary coverage, where the cost of the voluntary portion is borne entirely by the employee/enrollee and the amount of insurance is usually a predetermined formula selected by the employer, such as a multiple of the employee's salary.

In the case of the Company's Strategic Group Universal Life policies, the employer may elect employer-paid coverage or employer-paid coverage with an option for employee-paid supplemental coverage. In general, the Department does not consider the coverage to be employer-pay-all (or noncontributory) if there is an option for the employee member to purchase additional coverage. For groups that offer its eligible employees to purchase additional voluntary insurance or make additional contributions of premiums at the individual level, the Company should be providing the employee with a basic illustration for the voluntary coverage during the enrollment process, on or before the application is signed. If the Company has designated the policy as one that is marketed with an illustration and meets the definition of non-term group life as defined in Section 53-1.3(v) of 11 NYCRR 53 (Insurance Regulation 74), the Department has permitted insurers to provide a quotation to potential enrollees with the enrollment materials during the enrollment process (on or before the enrollment application is signed). The quotation must show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage and must be consistent with the illustrated scale. The insurer must make a basic illustration available if the enrollee requests one (prior to delivery). The basic illustration is provided with delivery of the certificate.

The Company has designated policy forms GULCM-NY-9700 and GVULCM-NY-9700 as ones where an illustration will be used to market the policy.

Section 3209(b)(1) of the New York Insurance Law states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state after the applicable effective date, as set forth in subsection (n) of this section, unless the prospective purchaser has been provided with the following:

(A) a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken. When sales solicitations are made by mail, without the involvement of an agent or broker, each initial solicitation must include a copy of the buyer's guide

unless the policy for which application is made provides for a period of at least thirty days within which the applicant may return the policy for an unconditional refund of the premiums paid, in which event the buyer's guide must be delivered with the policy or prior to delivery of the policy; in addition, such solicitation must alert the prospective purchaser of the right to receive, upon request, a buyer's guide and a policy summary prior to delivery of the policy; and
 (B) a policy summary upon delivery of the policy . . .”

Section 3209(l) of the New York Insurance Law states:

“(l) An insurer of any life insurance policy or annuity contract subject to this section shall notify the superintendent whether its policies or contract forms have been or will be marketed with or without an illustration. For those policies and contracts marketed with an illustration which complies with the regulations promulgated pursuant to subsection (k) of this section, no preliminary information or policy summary shall be required. For those policies which are not marketed with an illustration, the preliminary information and policy summary shall be provided pursuant to the provisions of this section.”

Section 53-3.1 of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“. . . (b) Each insurer marketing policies to which this Subpart is applicable shall notify the superintendent whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this Subpart, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this Subpart, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the superintendent . . .

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

(e) Potential enrollees of non-term group life subject to this Subpart shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this Subpart, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit

protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.”

Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74) states:

“(a) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this Subpart, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant. If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this Subpart, shall be labeled ‘Revised Illustration’ and shall be signed and dated by the applicant or policyowner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policyowner.”

With respect to groups where the coverage is employer paid (100% of the cost is borne entirely by the employer and group policyholder), the Company does not furnish a basic illustration to the covered employee insured at the point of sale. The Company believes that such coverage falls under Section 53-1.4(d) of 11 NYCRR 53 (Insurance Regulation 74) and as such does not require the Company to furnish the individual employees with a basic illustration because the coverage is not marketed to the covered employees.

However, Section 53-1.4(d) of 11 NYCRR 53 (Insurance Regulation 74) states that the illustration furnished to an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or a composite illustration representative of the coverage on the lives of the members of the group or the multiple lives covered.

The Company confirmed that composite illustrations were available upon request when the Company was actively marketing these plans in New York, but as a practice the Company did not provide a composite illustration to the group policyholder on or before the group application was signed.

The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) by failing to furnish an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives either an individual or a composite illustration representative of the coverage on the lives of the members of the group or the multiple lives covered under the policy.

The Company states that there are 56 employer groups with 3,163 certificates in force on May 29, 2020 where the cost of the coverage is 100% paid by the employer. Effective January 1, 2020, the Company states that the group policy is no longer actively marketed in New York. The Company does allow add-ons for existing groups. The Company estimates that each year it issues approximately 220 new certificates to the existing groups.

With respect to the employer groups where the employer offers its employee the option of purchasing additional voluntary coverage: premiums are typically collected by the employer through payroll deduction and remitted to the Company; the employer selects what voluntary coverage plans will be offered to its employees; coverage is offered to 100% of eligible employees in the employer group; and simplified or guaranteed issue underwriting is used, dependent upon the amount of coverage and the age of the employee.

The Company confirmed that it has not provided enrollees with quotations or a basic illustration at the time of enrollment. During the enrollment process, the Company only provides the employee with the actual cost of the coverage amounts available to them. The Company also confirmed that it does not furnish an illustration with delivery of the certificate.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed, since the Company did not comply with Section 3209(1) when it opted to designate the policy form as one to be illustrated.

The Company violated Section 3209(b)(1)(B) of the New York Insurance Law by failing to provide a policy summary upon delivery of the policy.

The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) because the policy was designated as illustrated and the Company failed to deliver the illustration in accordance with Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74).

As of May 29, 2020, the Company has 21 employer groups with 1,761 certificates in-force that offer voluntary coverage. Going forward, the Company states that for voluntary coverage, a basic illustration will be provided at delivery of the policy. The Company updated the enrollment process to include the quotation pursuant to Section 53-3.1(e) of 11 NYCRR 53 (Insurance Regulation 74) on November 30, 2020.

Worksite Marketed Non-illustrated Policy Forms MM-GPUL-2015(NY)/MM-GCUL-2015(NY)
“MassMutual@WORK”

The Company has designated policy forms MM-GPUL-2015(NY)/MM-GCUL-2015(NY) as non-illustrated. Since the Company states that the forms are not marketed using an illustration, the quotation described in Section 53-3.1(e) of 11 NYCRR 53 (Insurance Regulation 74) is not applicable (as this applies to illustrated forms only).

The Company provided screen prints for a hypothetical enrollment using its electronic enrollment tool. The employee was able to select the amount of coverage desired and the actual cost of the coverage was provided to the consumer on-line.

As this is non-illustrated voluntary coverage, where the cost of the insurance is borne in entirety or in part by the employee, the Company must comply with the preliminary information and policy summary requirements outlined in Sections 53-2.1 and 53-2.2 of 11 NYCRR 53 (Insurance Regulation 74) for policies subject to Section 4232(b) of the New York Insurance Law.

Section 3209(b)(1)(A) states, in part:

“(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state after the applicable effective date, as set forth in subsection (n) of this section, unless the prospective purchaser has been provided with the following:
(A) a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken. . .”

Section 3209(l) of the New York Insurance Law states:

“(l) An insurer of any life insurance policy or annuity contract subject to this section shall notify the superintendent whether its policies or contract forms have been or will be marketed with or without an illustration. For those policies and contracts marketed with an illustration which complies with the regulations promulgated pursuant to subsection (k) of this section, no preliminary information or policy summary shall be required. For those policies which are not marketed with an illustration, the preliminary information and policy summary shall be provided pursuant to the provisions of this section.”

Sections 53-2.1 and Section 53-2.2 of 11 NYCRR 53 (Insurance Regulation 74) set forth the requirements for policies subject to Section 4232(b) of the New York Insurance Law:

“11 NYCRR 53-2.1

(a) The preliminary information shall be in writing and include, to the extent applicable, the following:

(1) the name and address of the insurance agent or broker, or if no agent or broker is involved, a statement of the procedure to be followed to receive responses to inquiries concerning the preliminary information;

(2) the full name and home office, administrative office or branch or agency office address of the insurer in whose name the life insurance policy is to be written;

(3) the date of the preliminary information and the generic name of the policy, the initial amount of insurance and the initial annual premium for the base policy and each rider, if applicable;

(4) a table of values and benefits based upon current, median and guaranteed policy cost factors for the base policy and any rider at the end of each of the first five policy years, the tenth policy year and at the end of the policy years in which the proposed insured attains age 65, 75, 85 and 95. These values may be shown on a per thousand or per unit basis;

(5) the year coverage will terminate based upon current, median and guaranteed policy cost factors. These values may be shown on a per thousand or per unit basis;

(6) the interest rate basis for each table of values based upon current, median and guaranteed policy cost factors;

(7) the effective policy loan annual percentage interest rate and whether this rate is applied in advance or in arrears, adjustable or fixed;

(8) acknowledgment that the potential purchaser understands that policy values, cash surrender values and death benefits based on current and median policy cost factors are not guaranteed and that any changes in the company's interest earnings, expenses or claim experience may result in lower or higher premium payments or lower or higher policy benefits;

(9) a statement advising the applicant that when the policy is issued, a complete policy summary including cost data, based on the benefits, premiums and dividends of the policy as issued will be furnished, and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premium paid or the adjusted amount if such policy provides for a market-value adjustment pursuant to Section 3203(a)(11) of the Insurance Law; and

(10) life insurance cost indexes and the equivalent level annual dividend for the basic policy for 10 and 20 years, but in no case beyond the premium-paying period.

(b) The table of values and benefits based on guaranteed policy cost factors shall be labeled in a prominent manner ‘guaranteed’ and the table of values and benefits based on current and median policy cost factors shall be labeled in a prominent manner ‘not guaranteed.’

(c) The preliminary information shall be provided to the prospective purchaser at or prior to the time an application is taken and shall be signed and dated by the

agent or broker and the applicant and a copy of the preliminary information shall be attached to the application submitted to the insurer. Notwithstanding the foregoing, no applicant for life insurance shall be prevented or delayed in effecting or applying for coverage by the requirements of this Subpart. In such cases where prior to application it is impractical to provide any items prescribed by this Subpart, such items may be estimated in good faith or furnished as soon thereafter as practical prior to the delivery of policy.

11 NYCRR 53-2.2

(a) A policy summary shall include the following:

(1) a prominently placed title as follows:

‘STATEMENT OF POLICY COST AND BENEFIT INFORMATION’;

(2) the name and address of the insurance agent or broker, or, if no agent or broker is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary;

(3) the full name and home office, administrative office or branch or agency office address of the insurer in whose name the life insurance policy is to be or has been written;

(4) the generic name of the basic policy and each rider;

(5) tables for the first five policy years and every fifth year thereafter until the maturity date containing the following:

(i) the annual premium or annual planned premium for the basic policy;

(ii) the annual premium or annual planned premium or maximum cost of insurance rate for each rider;

(iii) the death benefit at the beginning of the policy year shown separately for the basic policy and each rider;

(iv) the policy value and cash surrender value at the end of each year with values shown separately for the basic policy and each rider;

(v) the death benefits, policy values and cash surrender values based on the annual premium or annual planned premium using the current, median and guaranteed policy cost factors;

(vi) the interest rate assumptions for each projection of policy values and death benefits based upon current, median and guaranteed policy cost factors;

(vii) the dates the policy will terminate based on the annual premium or annual planned premium and on the current, median and guaranteed policy cost factors; and,

(viii) the level annual premium from the issue date that would, based upon guaranteed policy cost factors, continue the policy to the maturity date.

(6) the effective policy loan annual percentage interest rate specifying whether this rate is applied in advance or arrears, adjustable or fixed, and if adjustable, the frequency at which such rate is to be determined and the index upon which the maximum rate is based at the time the policy is issued; and,

(7) the date on which the policy summary is prepared;

(8) life insurance cost indexes for 10 and 20 years but in no case beyond the premium-paying period. Separate indexes are to be displayed for the basic policy and each optional term life insurance rider. Such indexes need not be included for

optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits, nor for basic policies or optional riders covering more than one life;

(9) the equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed;

(10) a policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed; in addition, the summary shall include a statement in close proximity to the equivalent level annual dividend as follows: "An explanation of the intended use of the equivalent level annual dividend is included in the buyer's guide"; and

(11) a statement in close proximity to the life insurance cost indexes as follows: 'AN EXPLANATION OF THE INTENDED USE OF THESE INDEXES IS PROVIDED IN THE BUYER'S GUIDE.'

(b) The table of values and benefits based on guaranteed policy cost factors shall be labeled in a prominent manner "guaranteed" and the table of values and benefits based on current and median policy cost factors shall be labeled in a prominent manner "not guaranteed."

(c) The annual planned premium used for each table shall be the actual planned premium selected by the applicant in the application without regard to any future unscheduled premium payments but may take into account any additional premium, in excess of the planned premium, paid with the application if identified separately in the application.

(d) The policy summary for life insurance policies which use a market-value adjustment formula in determining cash surrender benefits shall include the information required by Section 43.5 of Part 43 of this Title with an appropriate statement that the cash surrender value does not reflect any adjustment based on such formula.

(e) The policy summary shall be a separate document.

(f) If more than one insured is covered under the policy, other than a joint life policy, or any rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class."

The Department comments that the preliminary information described in, Section 53-2.1 of 11 NYCRR 53 (Insurance Regulation 74) must be furnished to the prospective purchaser at or prior to the time that the enrollment application is signed. The applicant (employee) and the producer must sign and date the preliminary information.

The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed.

The Company violated Section 53-2.1(c) of 11 NYCRR 53 (Insurance Regulation 74) by accepting applications for insurance where there was no evidence that the agent provided the prospective purchaser with preliminary information at or prior to the time that the application was signed.

The Company violated Section 53-2.2 of 11 NYCRR 53 (Insurance Regulation 74) by failing to furnish a compliant policy summary with delivery of the certificate of insurance.

As of March 29, 2020, the Company has 1 New York group with 1,060 certificates in-force.

The Company implemented an automated process to satisfy the preliminary information requirement on July 12, 2021. In addition, the Company implemented an automated process to satisfy the policy summary requirement on December 11, 2020.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 4228(f)(1)(B) of the New York Insurance Law by paying agent compensation during the examination period utilizing the Non-Qualified Thrift Plan, the Agent Assistance Program and the Agent Adoption Program without filing these compensation plans with the Department.</p> <p>The examination revealed that the Company filed the compensation plans with the Department.</p>
B	<p>The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) [Currently Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment)] when it failed to examine the Disclosure Statements and ascertain that they were accurate and met the requirements of the Insurance Law.</p> <p>The examination revealed that the Company failed to take corrective action in response to this prior report violation. (See item 4A of this report.)</p>
C	<p>The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) [Currently Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment)] by either failing to furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy, and the completed Disclosure Statement, or failing to provide the information within 10 days of receipt of the application.</p> <p>The examination revealed that the Company failed to take corrective action in response to this prior report violation. (See item 4A of this report.)</p>
D	<p>The Company violated Section 51.6(b)(7) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to within ten days from the date of receipt of the application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefor.</p> <p>The examination did not uncover any life Disclosure Statement with crossed outs and other alterations without a revised Disclosure Statement furnished to the applicant. The current examination did not uncover any applications which required the deficiencies corrected within 10 days of receipt of the application by the Company.</p>

Item	<u>Description</u>
E	<p>The Company violated Section 51.6(b)(9) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to issue a revised Disclosure Statement in cases where the policy issued differed from the policy applied for.</p> <p>The examination did not uncover any life policies where the policy issued differed from the policy applied for.</p>
F	<p>The Company violated Section 51.6(e) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by not enforcing its filed procedures that would ensure compliance with Section 51.5(c)(3) of 11 NYCRR 51 (Insurance Regulation 60) which requires an agent to present to the applicant, not later than at the time the applicant signs the Application, the Important Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts and a completed Disclosure Statement signed by the agent or broker in the form prescribed by the Superintendent and leave copies of such forms with the applicants for their records.</p> <p>The examination did not uncover any completed Disclosure Statement or Important Notice that was presented to the applicant after the signing of the application.</p>

7. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 219.4(m) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to disclose that issuance of the policy or the payment of benefits may depend upon the answers given in the application and the truthfulness thereof.	8
B	The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to include the name of the insurer and the name of the city, town, or village of its home office in the United States. In addition, the Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to identify the policy number when the Haven Term policy is mentioned or by using a trade name or affiliate that mislead or deceive as to the true identity of the insurer that created the impression that someone other than the insurer would have any responsibility for the financial obligation under a policy on such advertisements.	9
C	The Company violated Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to maintain the extent of distribution of some life advertisements used and disseminated in New York.	10
D	The Company violated Section 215.17(b) of 11 NYCRR 215 (Insurance Regulation 34) and Section 219.5(b) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to provide a signed certificate of compliance for the years 2015, 2016, 2017 and 2018.	10
E	The Company violated Section 51.6(a)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to maintain a signed and completed copy of the “Definition of Replacement” in accordance with Part 243 of this Title (Insurance Regulation 152).	11
F	The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to prepare and complete a Disclosure Statement prior to delivery of the life insurance policy.	12
G	The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Regulation.	14

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The Company violated Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to provide the completed Disclosure Statement and list of sale materials used in the sale of life insurance policy or annuity contract to the insurer that issued the coverage that is being replaced.	15
I	The Company violated Section 51.6(b)(8) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) when it failed to maintain proof of receipt by the applicant of the Important Notice Regarding Replacement or Change of Annuity Contracts, and the completed Disclosure Statement.	16
J	The examiner recommends that the Company file an endorsement with the Department that reflects the 60-day free look provision required by Section 51.6(d) of 11 NYCRR 51 (Insurance Regulation 60) and attach such endorsement whenever issuing a replacement policy.	17
K	The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain in its policy records the proper authorization to the replaced company for disclosure of information, annuity contract, Specification/Declaration page and the disclosure of information package for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.	18
L	The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy and application forms, "Policy Amendment Forms# MM-0126", "Form No. SPIA_ASSIGN – Period Certain Annuity Option Assignment Endorsement For Non-Qualified Contracts", "A2200HL-NY 0116" and "A2200HL-NY1016" that were not filed with and approved by the superintendent.	19
M	The Company violated Section 3209(b)(1)(A) of the New York Insurance Law by failing to provide the applicant with the required preliminary information at or prior to the time the application was signed.	20, 30, 31, 38, 42
N	The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by failing to place the fraud warning statement immediately above the space provided for the signature of the person executing the claim.	21
O	The Company violated Section 2108(a)(3) of the New York Insurance Law by allowing an unlicensed third-party administrator (DIS) to adjust claims on behalf of the Company.	21

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
P	The Company violated Section 2108(a)(4) of the New York Insurance Law by paying fees or other compensation to a third-party administrator (DIS) that was not licensed as an independent adjuster.	21
Q	The Company violated Section 3211(f)(2) of the New York Insurance Law by failing to include the type and amount of any automatic nonforfeiture benefits in force on the termination notices.	22
R	The Company violated Section 3211(b)(2) of the New York Insurance Law by not having premium due notices and insufficiency notices that contain the language "... the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit".	22
S	The Company violated Section 3227(b) of the New York Insurance Law by failing to pay interest on surrendered policies.	23
T	The Company violated Section 3234(b)(7) of the New York Insurance Law by failing to include on the EOB, the description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with the indicated requirements for appealing denied benefits may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made.	24
U	The Company violated Section 3240(i) of the New York Insurance law by failing to file the 2018 and 2019 annual reports with the superintendent.	25
V	The Company violated Section 53-3.2(a)(7) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include the dividend option elected by the insured in the basic illustration for policy form P2-2008(NY).	26
W	The Company violated Section 53-3.3(a)(8) of 11 NYCRR 53 (Insurance Regulation 74) by presenting the policy benefits and values on a current basis before the guaranteed policy cost factors, as required.	28
X	The Company violated Section 53-3.3(a)(12) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include required disclosures in any illustration or depiction of policy benefits and values based on non-guaranteed elements (i.e., current cost assumptions).	28

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
Y	The Company violated Section 53-3.3(b)(5) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include the required disclosure in the Narrative Summary that the illustration assumes specific investment returns and that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown.	28
Z	The Company violated Section 53-3.3(c) of 11 NYCRR 53 (Insurance Regulation 74) by failing to include a Numeric Summary of the death benefits and values and the annual premium outlay based on guaranteed, median and current interest and cost assumptions.	29
AA	The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) because the policy was designated as illustrated and the Company failed to deliver the illustration in accordance with Section 53-3 of 11 NYCRR 53 (Insurance Regulation 74).	30
BB	The Company violated Section 53-2.1(c) of 11 NYCRR 53 (Insurance Regulation 74) by accepting applications for insurance where there was no evidence that the agent provided the prospective purchaser with preliminary information at or prior to the time that the application was signed.	31, 43
CC	The Company violated Section 3211(g) of the New York Insurance Law and Section 53-3.6(c) of 11 NYCRR 53 (Insurance Regulation 74) by providing in force illustrations to policyholders that were not based upon the current mortality, interest, and expense assumptions.	33
DD	The Company violated Section 4221(a)(7) of the New York Insurance Law by failing to specify the loan value available to the policyholder under the policy in annual reports furnished to New York policyholders.	33
EE	The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) by failing to furnish an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives either an individual or a composite illustration representative of the coverage on the lives of the members of the group or the multiple lives covered under the policy.	37
FF	The Company violated Section 3209(b)(1)(B) of the New York Insurance Law by failing to provide a policy summary upon delivery of the policy.	38

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
GG	The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) because the policy was designated as illustrated and the Company failed to deliver the illustration in accordance with Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74).	38
HH	The Company violated Section 53-2.2 of 11 NYCRR 53 (Insurance Regulation 74) by failing to furnish a compliant policy summary with delivery of the certificate of insurance.	43

Respectfully submitted,



Rory Cummings
Associate Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Rory Cummings, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.



Audrey Hall

Subscribed and sworn to before me
this 30th day of November, 2022
Audrey Hall

AUDREY HALL
Notary Public, State of New York
No. 01HA6274900
Qualified in Kings County
Commission Expires January 28, 2025

Respectfully submitted,

_____/s/
Vincent Targia
Principal Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Vincent Targia, being duly sworn, deposes and says that the foregoing report, subscribed by him,
is true to the best of his knowledge and belief.

_____/s/
Vincent Targia

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 32061

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

RORY CUMMINGS

*as a proper person to examine the affairs of the
MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
and to make a report to me in writing of the condition of said
COMPANY*

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 13th day of March 2020

*LINDA A. LACEWELL
Superintendent of Financial Services*

By: Mark McLeod

*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

