



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

CONDITION:

JUNE 30, 2012

DATE OF REPORT:

MARCH 1, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

DENNIS G. BENSON

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	4
4. Agent Compensation Plans	5
5. Market conduct activities	7
A. Advertising and sales activities	7
B. Underwriting and policy forms	10
C. Treatment of policyholders	10
6. Prior report summary and conclusions	11
7. Summary and conclusions	12



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

April 11, 2014

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30890, dated October 16, 2012 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,” at its home office located at 1295 State Street, Springfield, MA 01111.

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

The report of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- 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. (See Item 4 of this report)
- The Company violated several sections of Department Regulation No. 60 by failing to examine disclosure statements; failing to ascertain if they were accurate and met the requirements of the insurance law; failing to furnish to the replaced company the subsequent notification letters (10-Day Letters); failing to provide such letters within the ten day time period; failing to issue revised disclosure statements in the instances where the policy issued differed from the policy applied for; and failing to present a copy of the completed Disclosure Statement and Important Notice to the applicant at the time of the application. (See Item 5A of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2009 through June 30, 2012. As necessary, the examiner reviewed matters occurring subsequent to June 30, 2012 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 six 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 under the laws of the Commonwealth of Massachusetts on May 15, 1851, commenced business on August 1, 1851 and was licensed in 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 (“CML”). 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.

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 and Puerto Rico. In 2011, 17.2% of life premiums, 14.4% of annuity considerations and 10.4% of accident and health premiums were received from New York. 51.6% of Deposit type funds were received from Delaware and 47.6% of Deposit type funds were received from Massachusetts. Policies are written on a participating and non-participating basis.

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 investment management and supporting administrative and recordkeeping services for defined contribution, defined benefit and deferred compensation retirement plans.

The Company's agency operations are conducted on a general agency and multiple channel distribution basis. On June 30, 2012, the Company had 82 general agencies located in the United States and Puerto Rico and 4,631 career agents. The multiple channel distribution system consisted of independent life insurance brokerage agencies, banks and wire houses.

4. AGENT COMPENSATION PLANS

Section 4228(f)(1)(B) of the New York Insurance Law states, in part:

“Filings are required on or before the effective date of any changes to compensation arrangements as defined in this section, or to plans described in paragraphs one and two of subsection (g) of this section. These filings shall consist of a summary of information in enough detail to generally describe the filing's contents. A company may implement such compensation arrangements immediately upon filing same. If the superintendent notifies the company within ninety days of the receipt of the filing, that in his opinion the compensation arrangement described in such filing is not permitted under the law, and if the company within sixty days of the superintendent's notice, is not able to satisfy the superintendent's concern, with or without modifying the plan, the superintendent may order the company to cease using the plan. The company may request a formal hearing, but the plan that is the subject of the hearing may not be used unless and until permitted as a result of the hearing.”

The company established the following benefit and compensation programs for agents in 2001:

- The Non-Qualified Thrift Plan - Company payments to agents under this plan provided for lump sum payments to agents upon termination of employment. A portion of these payments reflect previous company subsidized contributions to the agent.
- The Agent Assistance Program - This program provides free confidential support services for items such as childcare, education, college preparation, health and wellness.

- The Agent Adoption Program - This program reimburses agents for certain eligible adoption expenses.

The value to the agent of any company “paid-for benefit” under the above programs fall within the definition of a compensation arrangement as defined in Section 4228(b)(6)(D). This subsection defines a compensation arrangement as agent compensation that is other than commission-based or fund-based.

Section 4228 of the New York Insurance law further requires an insurer to make a filing that shows compliance with the maximum agent compensation limits of a new compensation arrangement or a change in an existing compensation arrangement.

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.

Although the Company disagrees with the Department’s position regarding the applicability of the aforementioned section of the insurance law to these compensation plans, the Company filed the Plans with the Department, and they were subsequently approved by the Department.

5. 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 and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Section 51.5 of Department Regulation No. 60 states, in part:

"Each agent and broker shall . . .

(c) Where a replacement has occurred or is likely to occur . . .

(3) 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 of Insurance and leave copies of such forms with the applicant for his or her records."

Section 51.6 of Department Regulation No. 60 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 . . .

(3) Examine any proposal used, including the sales material used in the sale of the proposed 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 this Part, . . .

(4) Within ten days of receipt of the application 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 or annuity contract, and the completed "Disclosure Statement;" . . .

(6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed 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 whose life insurance policy or annuity contract is to be replaced indexed by agent and broker, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later . . .

(7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this Part or are not accurate, 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. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of Section 51.6(b)(6) herein; . . .

(9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the relating to the life insurance policy or annuity contract as issued, including but not limited to the revised "Disclosure Statement," . . .

(e) Both the insurer whose life insurance policy or annuity contract is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt. Such insurers shall also designate a principal officer specifically responsible for the monitoring and enforcement of these procedures. All insurers covered under this Part shall furnish the Superintendent of Insurance with these procedures and the name and title of the designated principal officer by the effective date of this Part. Any changes in these procedures or the designated principal officer shall be furnished to the Superintendent of Insurance within thirty days of such change."

1. In 18 of the 66 (27.3%) life insurance policy replacements reviewed and in eight of 43 (18.6%) annuity contract replacements reviewed, the sales material indicator in the disclosure statement was left blank.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to examine Disclosure Statements and ascertain that they were accurate and met the requirements of the Insurance Law.

2. In 14 out of 66 (21.2%) life insurance policy replacements reviewed, the Company failed to provide the company being replaced with a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy, and the completed Disclosure Statement

(10 instances) or failed to provide the documentation within 10 days of receipt of the completed application (4 instances).

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 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.

3. In 41 of 66 (62.1%) life insurance policy replacements reviewed, the Disclosure Statements maintained as part of the file contained data items that were crossed out and other types of alterations made to the signed document. The Company indicated that its underwriting unit makes the final review of the Disclosure Statements and it is then that the cross-outs and other alterations were made by this unit. In all instances, the Company did not furnish the applicant with a revised Disclosure Statement for signature.

In 34 of 66 (52%) life insurance policy replacements reviewed by the examiner, the Company failed to, within ten days from the date of receipt of the application, either have the deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefor.

In seven of 66 (11%) life insurance policy replacements reviewed by the examiner, the Company failed to issue a revised Disclosure Statement in cases where the policy issued differed from the policy applied for.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 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.

The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to issue a revised Disclosure Statement in cases where the policy issued differed from the policy applied for.

4. In three out of 43 (7%) annuity contract replacements reviewed, the Company presented the completed Disclosure Statement and “Important Notice” after the application was signed.

The Company violated Section 51.6(e) of Department Regulation No. 60 by not enforcing its filed procedures that would ensure compliance with Section 51.5(c)(3) of

Department Regulation No. 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.

B. Underwriting and Policy Forms

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

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, maturities, conversions, lapses, and expires.

Based upon the sample reviewed, no significant findings were noted.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation, and recommendation 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 3201(b)(1) of the New York Insurance Law by using unapproved policy forms.</p> <p>The current examination's review of policy forms indicated that all forms were filed and approved for use in New York.</p>
B	<p>The examiner recommended that the Company obtain approval for new policy forms to replace the CML products that it intended to market on an ongoing basis.</p> <p>The current examination's review of policy forms indicated that all forms were filed and approved for use in New York.</p>

7. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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.	6
B	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to examine the Disclosure Statements and ascertain that they were accurate and met the requirements of the Insurance Law.	8
C	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 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.	8
D	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 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.	9
E	The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to issue a revised Disclosure Statement in cases where the policy issued differed from the policy applied for.	9
F	The Company violated Section 51.6(e) of Department Regulation No. 60 by not enforcing its filed procedures that would ensure compliance with Section 51.5(c)(3) of Department Regulation No. 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.	9

Respectfully submitted,

_____/s/
Dennis G. Bensen
Associate Insurance Examiner

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

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

_____/s/
Dennis G. Bensen

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30890

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, 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:

DENNIS BENSEN

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 16th day of October, 2012

*BENJAMIN M. LAWSKY
Superintendent of Financial Services*

By:

MICHAEL MAFFEI

*ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU*

