

**In the Matter of**

**PRINCIPAL LIFE INSURANCE COMPANY.**

**Respondent.**

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**CONSENT ORDER**

WHEREAS, the New York State Department of Financial Services (“DFS” or “Department”) identified a practice arising from the replacement of deferred annuity contracts with immediate income annuity contracts, in violation of the disclosure and suitability requirements of New York Regulations 60 and 187;

WHEREAS, the Department commenced an investigation (“Investigation”), including Principal Life Insurance Company (“Principal”), in connection with the practice described in the preceding paragraph, from the period of January 1, 2011 through December 31, 2018 (the “Relevant Period”);

WHEREAS, the Department found that Principal (1) failed to obtain appropriate annuitization information for replaced deferred annuities, (2) failed to disclose adequate suitability and annuitization information to contract holders, and (3) thereby prevented contract holders from being fully informed in deciding whether to replace deferred annuities;

WHEREAS, the Department found that Principal issued replacement immediate annuity contracts to consumers without sufficient Annuitization (as that term is subsequently defined in this Consent Order) information to determine suitability;

WHEREAS, the Department found that Principal (1) failed to adequately train agents and brokers to conduct proper suitability reviews, (2) failed to adequately train agents and brokers to provide disclosures to contract holders when replacing their deferred annuities with Principal's immediate annuities, and (3) failed to maintain adequate supervisory controls over its agents and brokers to ensure compliance with applicable regulations;

WHEREAS, the Department found Principal's conduct and failures to disclose to consumers that they could annuitize their existing deferred annuities with higher guaranteed income harmed certain consumers, causing them to exchange more financially favorable deferred annuities with immediate annuities; and

WHEREAS, Principal has cooperated with the Department's Investigation, has adopted the revised LICONY Disclosure Statement approved by the Department and has agreed to work with the Department's Life Bureau to revise its procedures, after the Department identified these improper practices.

NOW, THEREFORE, the Department and Principal are willing to resolve the matters cited herein in lieu of proceeding by notice and a hearing.

### **FINDINGS**

The findings of the Department's Investigation are as follows:

#### **Respondent**

1. Principal is a wholly owned subsidiary of Principal Financial Services Inc., an intermediate Iowa holding company which, in turn, is a wholly owned subsidiary of Principal Financial Group, Inc., a global investment management company, incorporated in the State of Delaware.

2. Principal is authorized to write life insurance, annuities, and accident and health insurance, and is licensed to transact business in the District of Columbia and fifty states, including New York State.

3. Principal's principal products subject to the Department's investigation during the Relevant Period were fixed and variable annuities, including single premium deferred and immediate annuities, and flexible premium variable annuity contracts.

4. Career agents, independent broker-dealer firms, independent agents, and financial institutions market Principal's products.

5. Principal is headquartered in Des Moines, Iowa.

### **Terms**

6. For purposes of this Consent Order, the following terms shall have the meanings set forth herein:

- a. "Annuitization" refers to the conversion of the actual accumulation amount of a deferred annuity into a series of annuity payments to the contract holder. Upon Annuitization, the annuity payments are calculated as the greater of the guaranteed annuity purchase rates in the contract applied to the actual accumulation amount or the company's current single premium immediate annuity rates applied pursuant to Insurance Law § 4223(a)(1)(E).
- b. "Deferred annuity" refers to an annuity contract in which periodic income payments are not scheduled to commence during the first 13 months after the contract is issued.

- c. “Disclosure Statement” means the form prescribed in Appendix 10B to Insurance Regulation 60, which, in connection with the issuance of a replacement annuity, requires accurate completion of certain disclosures and information, including but not limited to a side-by-side comparison of the deferred annuity and proposed replacement immediate annuity.
- d. “Immediate annuity” refers to an annuity contract in which the first periodic income payment begins in 13 or fewer months after the contract is issued. The immediate annuity is usually purchased with a single premium.
- e. “Replacement Contracts” refers to new single premium immediate annuities delivered or issued for delivery in the State of New York by Principal during the Relevant Period, and which were known by Principal to include, as part of the resulting transactions, existing annuity contracts that have been or were likely to be lapsed, surrendered, partially surrendered, or otherwise terminated, as provided in Regulation 60, 11 NYCRR § 51.2(a).

### **Findings**

7. An annuity is a contract between a purchaser and an insurance company in which the purchaser agrees to make a lump sum payment or series of payments in return for regular payments, also known as annuity payments, that begin either immediately (within the first 13 months following purchase of the annuity) or, for a deferred annuity, at some future date. Annuity payments are designed to provide a steady stream of income for a specified period of time or for the remainder of one or more lives.

8. Replacement of existing deferred annuities with immediate annuities without disclosing annuitization income comparison information may cost consumers substantial lifetime income.

9. Principal's producers marketed to consumers Principal immediate annuities and replaced consumers' deferred annuities with immediate annuities during the Relevant Period.

10. In these efforts to sell the Replacement Contracts and replace the deferred annuities with immediate annuities, Principal's producers failed to provide to consumers required disclosures with annuitization income information, which would have revealed the detrimental nature of certain of these transactions.

11. Principal did not require or ensure that contract holders received for their review a comparison between the income benefit that contract holders would derive from their existing deferred annuity contracts and the income benefit available from Principal's proposed Replacement Contracts.

12. As a result, Principal did not satisfy its obligations regarding the suitability of the Replacement Contracts, as required by Regulation 187, 11 NYCRR § 224:

- a. Principal failed to make reasonable efforts to obtain contract holders' complete suitability information, which would have included information about existing assets, such as the amount of guaranteed income available if the existing deferred annuity contracts were annuitized, prior to the recommendation of a Replacement Contract;
- b. Principal failed to properly consider whether proposed Replacement Contracts were suitable for consumers in some instances, including

whether the consumers would lose existing benefits available through annuitization options in the existing deferred annuities;

- c. Principal issued Replacement Contracts to consumers without reasonable bases to believe the annuities at issue were suitable in some instances, and without providing consumers with the required Annuitization information for replaced deferred annuities;
- d. Principal did not establish a supervisory system reasonably designed to achieve compliance with Regulation 187; and
- e. Principal failed to ensure that every producer recommending Principal's immediate annuities to consumers was adequately trained to make those recommendations.

13. The Department's investigation found that the Disclosure Statements provided by Principal to contract holders were inadequate because they failed to include information regarding the Annuitization of the existing deferred annuities, including periodic payment amounts available.

14. The Department's investigation also found that Principal's producers did not adequately discuss with consumers the disadvantages of replacing their existing deferred annuities, including losing the opportunity to annuitize their deferred annuities, potentially on more advantageous terms than the proposed Replacement Contracts.

15. Due to these failures, certain consumers were uninformed regarding material disadvantages relating to the Replacement Contracts and were therefore prevented from making fully informed decisions with respect to the Replacement Contracts, resulting in less income for substantially similar or identical payout options.

16. Certain of the replaced deferred contracts also had more favorable guaranteed purchase rates, resulting in some contract holders receiving less retirement income from the Replacement Contracts.

17. When the Department brought its concerns regarding suitability and disclosure in replacement transactions to the attention of Principal, Principal adopted the revised version of the LICONY Disclosure Statement.

### **Violations**

18. Based on the foregoing, the Department finds that Principal violated New York Insurance Regulations 187 and 60.

### **AGREEMENT**

IT IS HEREBY UNDERSTOOD AND AGREED by Principal and the Department that:

#### **Monetary Penalty**

19. Principal shall pay a civil monetary penalty of two million two hundred ninety-six thousand five hundred dollars (\$2,296,500) to DFS within ten days of the Effective Date of this Consent Order. The payment shall be in the form of a wire transfer in accordance with instructions provided by DFS.

20. Principal agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order. Principal further agrees that it will not claim, seek, or receive indemnification or reimbursement of the civil monetary penalty from any other person or entity.

## **Injunctive Relief**

21. Principal shall comply with Regulations 187 and 60.

## **Remediation and Restitution**

22. Principal represents to the Department that it sold or issued 1,531 Replacement Contracts during the Relevant Period.

23. Going forward, Principal will obtain income information regarding replaced deferred annuities and replacement immediate annuities in all deferred-to-immediate replacement transactions and will disclose this information to consumers to ensure compliance with Insurance Regulations 187 and 60.

24. Principal and the Department have agreed upon restitution and remediation for the affected contract holders of the Replacement Contracts. Principal will administer the payment and notice provisions discussed below in paragraphs 25-30 (the “Review and Restitution Process”).

25. Pursuant to the Review and Restitution Process, Principal has compared the income options and payment amounts available under each replaced deferred annuity contract with the income options and payment amounts of each Replacement Contract.

26. Principal has submitted to the Department for its review and approval all annuity contract comparison information and a recommendation for each of the Replacement Contracts.

The recommendations placed each Replacement Contract into one of three categories:

- a. *Remediation*: contract holders of the Replaced Contracts shall receive restitution and remediation because the income options of the Replacement Contracts are substantially the same as the replaced deferred



annuities and the contract holders are receiving less income from the Replacement Contracts than they would have received if their replaced deferred annuities were annuitized;

- b. *No remediation*: contract holders of the Replaced Contracts will not receive restitution and remediation because the income options of the Replacement Contracts are substantially the same as the replaced deferred annuities and the contract holders are receiving either the same or more income from the Replacement Contracts; or
- c. *Indeterminable*: the Replacement Contracts and the replaced deferred annuities are materially different in their income options and contract features, and the contracts cannot be readily compared.

27. The Department and Principal have agreed on the type and amount of restitution and remedies for affected contract holders:

- a. *Remediation*: for contract holders whose Replacement Contracts pay less than they would have received through the Annuitization of their replaced deferred annuities, Principal shall determine the amount the contract holder would have received if, from the time of replacement to the Effective Date of this Consent Order, the contract holder had annuitized the replaced policy. Principal will include in this amount the applicable interest agreed to by the Department and Principal. Principal will issue a notice, subject to DFS's approval, that will accompany checks for the amounts owed to contract holders in this category that explains why contract holders are receiving the checks including, at a minimum, the

comparison of income options and payment amounts between the replaced deferred annuities and the Replacement Contracts. Lastly, Principal shall determine the monthly (or other frequency) difference between the payments from Replacement Contracts and the replaced deferred annuities, an amount that will be added to each such contract holder's monthly (or other frequency) annuity payments within 30 days of the Effective Date of this Consent Order and stated clearly on that notice.

- b. *Indeterminable*: The Department has identified certain contract holders in this category pursuant to the Department's review, and Principal will provide restitution as appropriate. Principal will issue a notice, subject to DFS's approval, that will accompany checks for the amounts designated for contract holders in this category that explains the differences in income options and payout amounts between the replaced deferred annuities and the Replacement Contracts. Principal will issue a separate notice, subject to DFS's approval, that will be sent to certain other contract holders, which may result in payment of appropriate amounts to these contract holders.

28. In accordance with paragraph 27, Principal shall, within 30 days or other time period approved by DFS, deposit in the facilities of the U.S. Post Office, for delivery by prepaid first-class mail to all affected contract holders or their beneficiaries, notices and checks, or other payment means approved by the Department, in the required amounts. All checks must be valid for six months.

29. For any payment or notice to a contract holder or beneficiary that is returned as undeliverable or not deposited within six months, Principal shall conduct a reasonable search for a current address. Should the search show a more current address, Principal shall re-issue a check valid for six months in the amount of the returned or undeposited check, and/or re-send the notice to the current address within fifteen days.

30. If a contract holder or beneficiary did not cash his or her check before the expiration date of the check or the check was returned after Principal re-sent it as described in paragraph 29, Principal shall follow all applicable provisions of the New York State Abandoned Property Law, including all reporting, mailing, and remittance requirements.

31. Upon the commencement of the process described in paragraphs 28-30, Principal will provide to the Department quarterly reports detailing the number of checks mailed, the total amount of individual checks, and the number of checks deposited, undelivered, and/or not deposited.

32. Principal may contract with a third party to conduct the Review and Restitution Process. Alternatively, the Department, in its discretion, may at any time select an independent third-party administrator (“TPA”) to conduct the Review and Restitution Process. Principal will retain the TPA after the Department’s review and approval of the retainer agreement. Principal shall be fully and solely responsible for all proper fees, expenses, and disbursements of the TPA in connection with the Review and Restitution Process provided for in this Consent Order and the TPA’s retainer agreement.

### **Breach of the Consent Order**

33. In the event that the Department believes Principal to be materially in breach of the Consent Order (“Breach”), the Department will provide written notice to Principal of the

Breach. Within ten business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, Principal must appear before the Department and shall have an opportunity to rebut the Department's assertion that a Breach has occurred and, to the extent pertinent, demonstrate that any such Breach is not material or has been cured.

34. Principal understands and agrees that its failure to appear before the Department to make the required demonstration within the specified period set forth in paragraph 33 is presumptive evidence of Principal's Breach. Upon a finding of Breach, the Department has all the remedies available under the New York State Insurance Law, Financial Services Law, or other applicable laws and may use any and all evidence available to the Department for all ensuing hearings, notices, orders, and other remedies that may be available under the New York State Insurance Law, Financial Services Law, or other applicable laws.

#### **Other provisions**

35. Principal represents and warrants, through the signatures below, that the terms and conditions of this Consent Order are duly approved, and execution of this Consent Order is duly authorized.

36. If Principal defaults on any of its material obligations under this Consent Order, DFS may terminate the Consent Order, at its sole discretion, upon ten days' written notice to Principal. In the event of such termination, Principal expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding against Principal, however denominated, related to the Consent Order, or from using in any way statements, documents, or other materials produced or provided by Principal prior to or after the date of this Consent Order,

including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.

37. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Principal. To the extent that representations made by Principal are later found to be materially incomplete or inaccurate, this Consent Order is voidable by the Department in its sole discretion.

38. All notices, reports, requests, certifications, and other communications to either party pursuant to this Consent Order shall be in writing and shall be directed as follows:

**For the Department:**

Laura Sarli  
Senior Assistant Deputy Superintendent, Enforcement  
New York Department of Financial Services  
One State Street  
New York, New York 10004-1511

**For Principal:**

Sarah James  
Counsel, Government Relations  
Principal Life Insurance Company  
711 High Street  
Des Moines, Iowa 50392-0001

39. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

40. Principal waives its right to further notice and hearing in this matter as to any allegations of past violations relating to the subject matter of this Consent Order up to and including its Effective Date and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside of the Department.

41. This Consent Order may not be amended except by an instrument in writing signed on behalf of both parties to this Consent Order.

42. This Consent Order constitutes the entire agreement between the Department and Principal and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

43. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Consent Order.

44. Upon execution by the parties to this Consent Order, the Department will discontinue the Investigation as against Principal with respect to the identified Replacement Contracts. The Department will not take any further action against Principal with respect to the Replacement Contracts for the conduct detailed herein that was found to have violated the Insurance Law and Regulations provided that Principal complies fully with the terms of the Consent Order.

45. This Consent Order may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by both of the parties hereto and the Consent Order is So Ordered by the Superintendent of Financial Services or her designee (“Effective Date”).

WHEREFORE, the signatures evidencing assent to this Consent Order have been affixed hereto on the dates set forth below.

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**

**PRINCIPAL LIFE INSURANCE COMPANY**

By: Laura C. Sarli  
Laura C. Sarli  
Senior Assistant Deputy Superintendent,  
Enforcement  
Consumer Protection & Financial  
Enforcement

October 29, 2020

By: Christopher B. Mulvihill  
Christopher B. Mulvihill  
Deputy Superintendent  
Consumer Protection & Financial  
Enforcement

October 29, 2020

By: Katherine A. Lemire  
Katherine A. Lemire  
Executive Deputy Superintendent  
Consumer Protection & Financial  
Enforcement

October 29, 2020

By: Joseph W. McCarty  
Joseph W. McCarty  
Vice President, Retirement and Income  
Solutions

October 23, 2020

By: Srinivas D. Reddy  
Srinivas D. Reddy  
Senior Vice President, Retirement and  
Income Solutions

October 23, 2020

**THE FOREGOING IS HEREBY APPROVED.  
IT IS SO ORDERED.**

Linda A. Lacewell  
LINDA A. LACEWELL  
Superintendent of Financial Services

October 29, 2020