

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

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

NOVEMBER 21, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

MARKET CONDUCT REPORT ON EXAMINATION

OF THE

CMFG LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2018

DATE OF REPORT:

NOVEMBER 21, 2019

EXAMINER:

RORY CUMMINGS

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 operations	4
4. Market conduct activities	7
A. Advertising and sales activities	7
B. Underwriting and policy forms	11
C. Treatment of policyholders	11
5. Summary and conclusions	13



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

August 13, 2020

The Honorable Linda A. Lacewell
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31947, dated May 10, 2019, and annexed hereto, an examination has been made into the condition and affairs of CMFG Life Insurance Company, hereinafter referred to as “the Company,” at its administrative office located at 5910 Mineral Point Road, Madison, WI 53705. The Company’s home office is located on 2000 Heritage Way, Waverly, IA 50677.

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 Section 3211(b)(2) of the New York Insurance Law by not having premium due 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 4C1 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 accurate and met the requirements of the insurance law; (ii) maintain the Disclosure Statement and proof of receipt by the applicant of the Important Notice Regarding Replacement; and (iii) notify the replaced insurer regarding replacement within ten days of reviewing the application. (See items 4A3 and 4A4 of this report.)
- The Company violated several sections of 11 NYCRR 219 (Insurance Regulation 34-A and Insurance Regulation 34) by failing to: (i) list all the policy forms associated with the life, credit life, and credit disability products advertised; (ii) maintain the extent and manner of distribution of each life, annuity, and credit life advertisement used and disseminated in New York; and (iii) failing to maintain extent of distribution of credit disability advertisements used and disseminated in New York. (See items 4A1 and 4A2 of this report.)
- The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest or the correct amount of interest on proceeds left under the interest settlement option from the date of maturity of an endowment contract to the date of payment and from the date of death of an insured of a life insurance contract to the date of escheatment. (See item 4C2 of this report.)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2012, to December 31, 2018. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2018, 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.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or matters 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 State of Wisconsin on May 20, 1935, under the name CUNA Mutual Insurance Society and commenced business on August 13, 1935. The Company was admitted to the State of New York on June 5, 1970.

The Company was established by credit union interests to provide for the insurance needs of credit unions, credit union organizations, and credit union members. Ownership and control of the Company is vested in the Company's policyholders, which primarily comprises credit union institutions and individual members of credit unions.

The Company re-domesticated to Iowa effective May 3, 2007, following a vote of the shareholders on April 20, 2007, and upon approval by the Insurance Commissioners of Wisconsin and Iowa.

The Company and CUNA Mutual Life Insurance Company, an Iowa-domiciled life insurer, had been joined in a permanent affiliation agreement since 1990. The two companies applied to the Iowa Division of Insurance for permission to merge the two companies, with CUNA Mutual Insurance Society being the surviving company. The Board of Directors, the policyholders of both companies, and the Iowa Insurance Department approved the merger, which was completed on December 31, 2007. The merger was accounted for using the statutory merger method.

On June 2, 2011, the Board of Directors of the Company unanimously approved and adopted a Plan of Reorganization ("the Plan") whereby the Company would reorganize from a mutual life insurance company into a stock life insurance company, and would become an indirect subsidiary of a newly formed mutual insurance holding company. Policyholders and Iowa Division of Insurance approved and adopted the Plan on September 7, 2011, and October 7, 2011, respectively. The Plan became effective January 31, 2012, and the Company then adopted its present name.

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 Islands, and Canada. In 2018, 10.5% of life premium and 11.6% of accident and health premiums were received from Texas, and 8.9% of annuity considerations were received from Michigan. 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 2018:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
Texas	10.5%	Michigan	8.9%
Florida	6.5	Pennsylvania	8.7
Michigan	5.7	Texas	7.4
New York	<u>4.8</u>	Illinois	6.0
		New York	<u>4.0</u>
Subtotal	27.5%	Subtotal	35.0%
All others	<u>72.5</u>	All others	<u>65.0</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>
<u>Accident and Health Insurance Premiums</u>		<u>Other Considerations</u>	
Texas	11.6%	Wisconsin	6.8%
New York	6.7	New York	6.6
California	6.3	Texas	5.3
Florida	6.1	Illinois	<u>5.2</u>
Michigan	<u>5.3</u>		
Subtotal	36.0%	Subtotal	23.9%
All others	<u>64.0</u>	All others	<u>76.1</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

The Company's lines of business include ordinary life, group credit life and group credit disability insurance, group accidental death and dismemberment, and ordinary and group annuities. The ordinary life insurance line includes term life, simplified issue term life, traditional whole life insurance products, and final expense life insurance; the ordinary annuities line includes single premium deferred fixed annuities, single premium immediate fixed annuities, index-linked

deferred annuities, and variable deferred annuities; and the group annuities line includes group deposit administration deferred annuities and group pension risk transfer deferred and immediate annuities used to fund defined benefit pension plans. The Company entered the pension risk transfer annuity business outside of New York in 2017 and expanded to include New York in 2018.

The Company exited its group life and disability, and loan protection and life savings lines, and stopped writing new long term care business. The Company have long term care products that it no longer offers and are administered by a third party. The Company's business strategy has become increasingly focused on the credit union marketplace.

The Company's primary marketplace is the credit unions, their employees, and their members. Each credit union is assigned a relationship manager. These individuals are employees of the Company who are trained and licensed to work with the credit union to identify its specific insurance needs. Each relationship manager is also supported by licensed specialists who are familiar with a specific product line and who support the sales of that product line within their assigned territory.

The Company's agency operations are conducted on a general agency basis. The Company's products are marketed to members of the credit unions through face-to-face and direct response distribution channels and sold primarily by salaried representatives.

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

1. 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. An advertisement shall prominently describe the type of policy advertised. If a specific policy or policy series is being advertised, the form or series number or other appropriate description shall be shown. . . .”

Section 215.13(a) of 11 NYCRR 215 (Insurance Regulation 34) states:

“The name of the actual insurer and the form number or numbers advertised shall be identified and made clear in all of its advertisements. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.”

The examiner reviewed a sample of 119 advertisement files. The files comprised 38 life, 40 annuity, 2 credit life, and 39 credit disability advertisements.

In 32 out of 80 life, annuity, and credit life advertisements reviewed (40%), the Company did not include the name of the city, town, or village in which it has its home office in the United States on such advertisements.

In 5 out of 80 life, annuity, and credit life advertisements reviewed (6.2%), the Company did not include the name of the insurer on such advertisements.

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 on such advertisements.

In 3 out of the 38 life advertisements reviewed (7.8%), the Company did not list the policy form numbers of the products being advertised on such advertisements.

The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to list the policy form numbers of the product being advertised on such advertisements.

In 20 out of the 39 credit disability advertisements reviewed (51.3%), the Company did not list the policy form numbers of the products being advertised on such advertisements.

The Company violated Section 215.13(a) of 11 NYCRR 219 (Insurance Regulation 34) by failing to list the policy form numbers of the credit disability products being advertised on such advertisements.

2. Section 219.5(a) 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.”

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

“**Advertising file.** Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by the department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.”

The examiner reviewed a sample of 119 advertisement files. The files comprised 38 life, 40 annuity, 2 credit life, and 39 credit disability advertisements.

In 5 out of the 38 life advertisements reviewed (13.1%) and in 13 out of the 40 annuity advertisements reviewed (32.5%), the Company’s advertising files did not include a notation indicating the extent of distribution of such advertisements.

In 27 out of 41 credit life and disability advertisements reviewed (65.8%), 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 each life, annuity, and credit life advertisements used and disseminated in New York.

The Company violated Section 215.17(a) of 11 NYCRR 215 (Insurance Regulation 34) by failing to maintain the extent of distribution of credit disability advertisements used and disseminated in New York.

3. Section 51.6(b) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) states, in part:

“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; . . .

(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, 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 . . .”

The examiner reviewed a sample of 38 internal life replacements files, which comprised 35 whole life and 3 term life replacements. In 9 out of the 38 replacements reviewed (23.7%), different items of the Disclosure Statements were not fully completed. 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.

The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) when it failed to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the New York Insurance Law.

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

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

(4) Within 10 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’ . . .”

The examiner reviewed a sample of 35 external life replacements, which comprised 28 whole life and 7 term life. In 13 out of the 35 replacements reviewed (37.1%), where the applicant answered “yes” on the “Definition of Replacement,” the Company did not notify the replaced insurer regarding policy replacement within 10 days of reviewing the application.

The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) when it failed to notify the replaced insurer regarding policy replacement within ten days of reviewing the application.

5. Section 51.6(d) of 11 NYCRR 51 (Insurance Regulation 60, Second 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. . . .”

The examiner reviewed a sample of 38 internal life and 35 external life replacements. In all 38 life internal replacement and all 35 life external replacement files reviewed (100%), the policies issued included the right to examine language, which advises policyholders of their right to cancel their policies for a full refund of premium but only within 30 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 reflect the 60-day free look provision required by Section 51.6(d) of 11 NYCRR (Insurance Regulation 60) and attach such endorsement whenever issuing a replacement policy.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, 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, 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 3211(a)(1) of the New York Insurance Law states, in part:

“No policy of life insurance or non-cancellable disability insurance delivered or issued for delivery in this state, and no life insurance certificate delivered or issued for delivery in this state by a fraternal benefit society, shall terminate or lapse by reason of default in payment of any premium, installment, or interest on any policy loan in less than one year after such default, unless, for scheduled premium policies, a notice shall have been duly mailed at least fifteen and not more than forty-five days prior to the day when such payment becomes due . . .”

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

“The notice required by paragraph one of subsection (a) hereof shall: . . .
(2) 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.”

In all 48 lapsed policy files reviewed (100%), the Company did not include in the premium due notices the statement that “the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.”

Upon notification, the Company completed a lapse remediation and determined that 34 insureds died within one year of the non-compliant lapse notice. The Company has paid 30 of the claims and will escheat the benefits to the State for the other 4 if it cannot locate the beneficiaries.

The Company violated Section 3211(b)(2) of the New York Insurance Law by failing to include in the premium due notices the statement that “the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit.”

2. Section 3214(c) of the New York Insurance Law states:

“If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured or annuitant in connection with a death claim on such a policy of life insurance or contract of annuity and from the date of maturity of an endowment contract to the date of payment and shall be added to and be a part of the total sum paid.”

The examiner reviewed a sample of 27 maturity claim files, of which 14 were endowment contracts. In 11 out of the 14 maturity endowment claims files reviewed (79%), the Company did not pay interest on the proceeds of endowment contracts left under the interest settlement option from the date of maturity to the date of payment.

The examiner reviewed a sample of 21 life escheated claims. All escheatments resulted from death claims. In 15 out of the 21 escheated claim files reviewed (72%), the Company underpaid interest on the proceeds of escheated policies left under the interest settlement option.

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on proceeds of endowment contracts left under the interest settlement option from the date of maturity to the date of payment and by failing to pay the correct amount of interest on the proceeds of escheated policies left under the interest settlement option from the date of death of an insured of a life insurance contract to the date of escheatment.

5. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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 on such advertisements.	7
B	The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to list the policy form numbers of the product being advertised on such advertisements.	8
C	The Company violated Section 215.13(a) of 11 NYCRR 219 (Insurance Regulation 34) by failing to list the policy form numbers of the credit disability products being advertised on such advertisements.	8
D	The Company violated Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to maintain the extent of distribution of each life, annuity, and credit life advertisements used and disseminated in New York.	9
E	The Company violated Section 215.17(a) of 11 NYCRR 215 (Insurance Regulation 34) by failing to maintain the extent of distribution of credit disability advertisements used and disseminated in New York.	9
F	The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) when it failed to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the New York Insurance Law.	9
G	The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) when it failed to notify the replaced insurer regarding policy replacement within ten days of reviewing the application.	10
H	The examiner recommends that the Company file an endorsement with the Department that reflect the 60-day free look provision required by Section 51.6(d) of 11 NYCRR (Insurance Regulation 60) and attach such endorsement whenever issuing a replacement policy.	10

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
I	The Company violated Section 3211(b)(2) of the New York Insurance Law by failing to include in the premium due notices the statement that “the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit.”	11
J	The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on proceeds of endowment contracts left under the interest settlement option from the date of maturity to the date of payment and by failing to pay the correct amount of interest on the proceeds of escheated policies left under the interest settlement option from the date of death of an insured of a life insurance contract to the date of escheatment.	12

Respectfully submitted,

_____/s/
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.

_____/s/
Rory Cummings

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31947

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, Acting 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

CMFG 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 10th day of May, 2019

*LINDA A. LACEWELL
Acting Superintendent of Financial Services*

By:

Mark McLeod

**MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU**

