

**STATE OF MICHIGAN**

**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**



**MARKET CONDUCT EXAMINATION**

**NUMBER 2015C-0086**

**October 20, 2015**

***TARGETED MARKET CONDUCT EXAMINATION REPORT***

***OF***

***LAFAYETTE LIFE INSURANCE COMPANY***

***CINCINNATI, OHIO***

***NAIC COMPANY CODE 65242***

***For the Period January 1, 2013 through December 31, 2014***

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## **I. EXECUTIVE SUMMARY**

This examination was conducted by the Michigan Department of Insurance and Financial Services (DIFS) in conformance with the National Association of Insurance Commissioners (NAIC) *Market Regulation Handbook* (2013) (*Handbook*) and the Michigan Insurance Code, MCL 500.100 et seq. (the Code).

Lafayette Life Insurance Company (Lafayette or Company) is an Ohio domiciled company, authorized to do insurance business in Michigan, since December 14, 1911.

This targeted desk examination was called pursuant to analysis findings of the Company's NAIC Market Conduct Annual Statement (MCAS) submission. According to Lafayette's MCAS data, the Company exceeded Michigan, and national, averages for a number of tracked ratios related to individual fixed annuities sold in Michigan, including total replacement sales, replacement contracts sold to individuals over the age of 80, deferred contracts sold to individuals over the age of 80, and early surrenders (less than ten (10) years).

The purpose of the exam was to conduct a risk assessment and evaluate the Company's compliance with applicable Michigan statutes, NAIC Guidelines, and DIFS regulations, as related to the Company's individual fixed annuity line of business written in Michigan.

The exam period covered January 1, 2013 through December 31, 2014. The scope of the exam included Marketing and Sales, Underwriting & Rating, and Producer Licensing.

This summary of this targeted market conduct examination of the Company is intended to provide a high-level overview of the examination results. The body of the report provides details of the scope of the examination, as well as any findings, DIFS recommendations, and Company responses that may have resulted.

Lafayette responded timely to the examination and data requests. The Company's responses to the interrogatories were satisfactory to explain the ratio deviations and allay any concerns with its suitability programs. There were no substantive issues or findings for this examination.

DIFS considers a substantive issue one in which a "finding" or violation of Code was found to have occurred, or one in which corrective action on the part of the Company is deemed advisable.

### **Findings:**

There are no substantive issues or findings from this targeted examination.

### **Recommendations:**

There are no recommendations for the Company at this time.

### **Company Response:**

The Lafayette Life Insurance Company (the "Company") agrees with the draft Target Market Conduct Examination Report and has no additional responses to provide.

**DIFS Supplement to the Company Response:**

DIFS accepts Lafayette’s response to the Draft Report as broadly covering the report as a whole and it will be relied on as such, as documented in the section immediately above; therefore, all other response sections intended for the Company to comment on the Draft Report have been removed from the Final Report.

**II. OBJECTIVES, SCOPE AND METHODOLOGY**

This report is based on a targeted market conduct examination of Lafayette. The examination was a desk examination conducted remotely from the offices at DIFS. The contact for this exam was Kyle Sullivan, FLMI, ACS, Project & Process Analyst, Western & Southern Financial Group, Cincinnati, Ohio. The Examiner-in-Charge (EIC) for DIFS was Michael Draminski, MCM, assisted by Zachary Dillinger, MCM, Examiner, and was conducted under the supervision of Sherry J. Bass-Pohl, Manager of the Market Conduct Company Examination Unit.

DIFS conducted this examination in accordance with statutory authority of MCL 500.222 et seq. All Michigan laws, regulations and bulletins cited in this report may be viewed on the DIFS website at [www.michigan.gov/difs](http://www.michigan.gov/difs) or <http://www.legislature.mi.gov>. Note: Code citations may be sans specific statutory language when a statute is significantly long or a chapter is applied broadly to one or more standards (“et seq.” will then be used). However, statutory language may be included with certain citations, when and if there are findings, observations or discussion points within the report or management letter that benefit from specific reference.

The purpose of the exam was to conduct a risk assessment and evaluate the Company’s compliance with applicable Michigan statutes, NAIC Guidelines and DIFS regulations, as related to the Company’s individual fixed annuity line of business written in Michigan.

This examination includes reviews of Marketing and Sales, Underwriting & Rating, and Producer Licensing. The examination covers the period January 1, 2013 through December 31, 2014.

The examination was called and conducted pursuant to analysis findings of the Company’s NAIC Market Conduct Annual Statement (MCAS) submission. According to the Company’s MCAS data, Lafayette exceeded Michigan averages for a number of tracked ratios related to individual fixed annuities sold in Michigan, including total replacement sales, replacement contracts sold to individuals over the age of 80, deferred contracts sold to individuals over the age of 80, and early surrenders (less than ten (10) years).

Lafayette ranks in the top eight (8) outlying companies determined by MCAS factors and ratios, exceeding state averages for four (4) of five (5) issues of concern, including:

- Ratio 1: 56.38% of all individual fixed annuities issued by Lafayette were replacements – exceeds the state average (20.52%).
- Ratio 2: 13.21% of all Lafayette individual fixed annuity replacement contracts were issued to annuitant age 80 and older – exceeds the state average (9.78%).
- Ratio 3: 13.83% of all Lafayette individual fixed annuity deferred contracts were issued to annuitants age 80 and older – exceeds the state average (8.9%).

- Ratio 4: 81.82% of Lafayette's surrendered contracts surrendered less than 10 years from contract issuance – exceeds the state average (73.73%).

On May 4, 2015, pursuant to the analysis of Lafayette's 2014 MCAS submission of individual fixed annuities sold in Michigan during the year of 2013, the Market Conduct Section initiated an examination of Lafayette. The exam included interrogatories tailored to assess risk and evaluate the Company in the areas of Marketing and Sales, Producer Licensing, and the Suitability of Annuity Sales for the Individual. The overarching goal was to ascertain if Lafayette has adequate systems in place to ensure proper suitability of, and suitability oversight for, the sale of individual fixed annuities sold to Michigan consumers, in compliance with Michigan's insurance laws and regulations, and industry best practices.

DIFS employed only interrogatories, and data requests (related to producer licensing), for sales during the examination period. Subsequent data was requested from, and provided by, the Company for the purpose of ensuring proper licensure and appointment of producer agents and agencies.

This examination report is a report by test. The report contains a summary of pertinent information about the lines of business examined. This includes each NAIC *Handbook* source and Standard; Code citation; any examination findings detailing the non-compliant or problematic activities discovered during the exam; the Company response, including proposing methods for correcting the deficiencies; and recommendations to the Company or for any further action by DIFS.

### **III. COMPANY OPERATIONS AND PROFILE**

Lafayette Life Insurance Company (Lafayette or LLIC), an Ohio domiciled company, is a wholly owned subsidiary of Western & Southern Mutual Holding Company (W&SMHC), a subsidiary of Western & Southern Financial Group (W&SFG). Lafayette has been authorized in Michigan to write life and health, and disability insurance lines since 1911 and is licensed to do business in 48 states and the District of Columbia. W&SMHC's companies are grouped along the lines of distribution, with Lafayette selling primarily through independent agents (approximately 1,800), using producing general agents, independent marketing organizations and banks.

Lafayette markets primarily whole life and fixed indexed annuities, ranking among the top 30 in indexed annuity sales nationally in 2013. Lafayette's direct written premium (DWP) has declined over the last five (5) years nationally and Michigan DWP dropped from 5.6 million in 2013 to 2.8 million in 2014. As of 2015, Lafayette ranked as the 74<sup>th</sup> largest seller of individual annuities in Michigan.

### **IV. EXAMINATION FINDINGS AND RECOMMENDATIONS**

#### **A. MARKETING AND SALES**

**Standard 1:** All advertising and sales materials are in compliance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 2:** The insurer's rules pertaining to producer requirements in connection with replacements are in compliance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 3:** The insurer's rules pertaining to replacements are in compliance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 5:** The insurer has suitability standards for its products, when required by applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 9:** Insurer rules pertaining to producer requirements with regard to suitability in annuity transactions are in compliance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 10:** Insurer rules pertaining to suitability in annuity transactions are in compliance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 19.

**Standard 11:** The insurer has procedures in place to educate and monitor compliance with insurer-specific education and training requirements and with applicable statutes, rules and regulations regarding the solicitation, recommendation and sale of annuity products. NAIC *Handbook*, Chapter 19.

**Standard 12:** The insurer has product-specific training standards and materials designed to provide producers with adequate knowledge of the annuity products recommended prior to soliciting the sale of annuity products. The insurer must also have reasonable procedures in place to require its producers to comply with applicable producer training requirements. NAIC *Handbook*, Chapter 19.

**Michigan Statute:** MCL 500.4151 et seq.

**Testing:**

1. After reviewing the 2013 Market Conduct Annual Statement (MCAS) data, it appears that approximately 56.38% of all individual fixed annuity contracts issued were replacement contracts. This is almost three (3) times the Michigan average of 20.52%. Explain the circumstances under which the Company allows a replacement contract to be sold and why the Company is so much higher than the state average.

**Company Response to Question 1:**

The 53 replacement contracts in the year ended 12/31/13 were replaced with a fixed indexed annuity offered by the Company. The product provides a guaranteed minimum surrender value, similar to a traditional fixed annuity, but offers options that calculate interest linked to increases in the S&P 500® Index, without risk of loss attributable to downturns in the market. The product also offers a fixed option that provides a guaranteed minimum interest rate. The opportunity to earn interest linked, in part, to a popular equity index has proven to be more attractive to annuity owners in a low interest rate environment. The Company notes that the sample size for this data set is extremely small, which results

in significant percentage swings based on small changes in either the numerator or the denominator.

**DIFS Comment on Company Response to Question 1:**

The Company's responses to Q1, Q6 (suitability factors) and Q8 (manual review standards) as are applied to replacement applications, demonstrate adequate suitability and suitability oversight, according to Michigan Code standards and industry best practices. DIFS will continue to review replacement ratios on future MCAS filings in anticipation of lower ratios.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

2. The MCAS data also indicate that 13.21% of the Company's total individual fixed annuity replacement contracts are sold to annuitants over the age of 80. This is nearly 1.35 times the Michigan average. Provide an explanation as to why the Company sells so many replacement contracts to annuitants over the age of 80.

**Company Response to Question 2:**

In 2013, the Company issued seven replacement contracts to annuitants over the age of 80. In response to the Department's inquiry regarding these contracts, the Director responsible for the Suitability Review Desk reviewed each of the seven applications and confirmed that the sale for each was suitable. All seven replacement contracts in 2013 were replaced with an indexed annuity offered by the Company; please note the comments in the response above regarding the interest in this product from conservative clients, particularly given the low interest rate environment. The Company also notes that the sample size for this data set is extremely small, which results in significant percentage swings based on small changes in either the numerator or the denominator. Finally, because the Company makes certain products available up to age 85, while other companies often don't allow product sales after age 80, it is to be expected that it would attract this demographic. The Company offers conservative products that are suitable for these older ages.

**DIFS Comment on Company Response to Question 2:**

The Company's responses to Q1, including a unique product line to age 85, Q6 (suitability factors) and Q8 (manual review standards) as are applied to applicants over the age of 80, demonstrates adequate suitability and suitability oversight, according to Michigan Code standards and industry best practices.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

3. The MCAS data also indicate that 13.83% of the Company's deferred individual fixed annuities are sold to annuitants over the age of 80. This is more than 1.55 times the Michigan average. Provide an explanation as to why the Company sells so many deferred contracts to annuitants over the age of 80.

**Company Response to Question 3:**

During 2013, the Company sold 13 policies to contract owners over the age of 80. In response to the Department's inquiry regarding these contracts, the Director responsible for the Suitability Review Desk reviewed each of the 13 applications and confirmed that the sale for each was suitable. All 13 purchased an indexed annuity product offered by the Company; please note the comments in the response above regarding the interest in this product from conservative clients, particularly given the low interest rate environment. The Company also notes that the sample size for this data set is extremely small, which results in significant percentage swings based on small changes in either the numerator or the denominator. Finally, because the Company makes certain products available up to age 85, while other companies often don't allow product sales after age 80, it is to be expected that it would attract this demographic. The Company offers conservative products that are suitable for these older ages.

**DIFS Comment on Company Response to Question 3:**

The Company's responses to Q1, including a unique product line to age 85, Q6 (suitability factors) and Q8 (manual review standards) as are applied to applicants over the age of 80, demonstrates adequate suitability and suitability oversight, according to Michigan Code standards and industry best practices. DIFS appreciates the Director, responsible for the Suitability Review Desk, personally reviewing and assuring suitability for the identified sales.

Note: for clarification, the MCAS data set referred to in the Company Response included all policies issued and was not a "sample." However, DIFS recognizes the use of the phrase in the context in which the Company intended to convey the relative size of their data set in comparison to the larger data set it was compared to in the development of the Company's ratio.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

4. The MCAS data also indicate that 81.8% of the Company's total surrendered individual fixed annuity contracts are surrendered after less than ten (10) years in force. Please provide an explanation as to why the Company has so many surrendered contracts less than ten (10) years in force. Describe what plans, if any, you have in place to bring this number down.

**Company Response to Question 4:**

During 2013, 18 policies were reported as being surrendered after less than ten years in force. After a thorough review of MCAS data, the Company discovered two reported surrenders were annuitized contracts rather than surrenders. The Company regrets this error

and will take steps to avoid repeating it in future MCAS filings. With these two surrenders removed, 80% of the Company's total surrendered individual fixed annuity contracts were surrendered after less than ten years in force. According to the MCAS scorecard report for 2013, this puts the Company below at least 53 of the 120 reporting companies. Of the 16 surrenders, three were beyond the surrender charge period, meaning the contract owner elected to surrender the contract and did not incur a surrender fee. The Company notes the sample size for this data set is extremely small, which results in significant percentage swings based on small changes in either the numerator or the denominator. Considering the aforementioned comments, the Company does not have plans in place to bring down this number.

**DIFS Comment on Company Response to Question 4:**

It is vital that the Company provide accurate information when responding to MCAS. Given the discrepancy between the information initially provided in MCAS and the information provided here, DIFS asks the Company to take all necessary precautions to eliminate such errors for future MCAS reporting periods.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

5. Please give a brief description of the product development process currently in place in the Company. Describe what measures do you take during the product development phase to help ensure that the products developed will be sold to suitable clients.

**Company Response to Question 5:**

The Company utilizes a product development committee that is composed of senior officers from sales, marketing, financial, actuarial, and underwriting disciplines. Products are designed and submitted to the legal and compliance teams for drafting and state approval. The product development committee carefully reviews and considers the profile of clients likely to purchase the product to ensure that the product meets the needs of the policy owner.

Following a new product launch, the Company monitors any complaints to spot any trends or patterns. All new policy owners are sent a LIMRA Customer Assurance Survey to monitor a policy owner's understanding of the Company's products and to make sure their expectations are met. The Company's Suitability Review Desk reviews suitability questionnaires, where applicable, in order to ensure suitability and to meet policy owner expectations.

**DIFS Comment on Company Response to Question 5:**

DIFS has no comment to the Company's response to this question.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

6. What specific factors does the Company consider when determining if an annuity is suitable for a specific applicant?

**Company Response to Question 6:**

The Company collects and considers, both individually and in combination with one another, the applicant's age, annual household income, financial situation and needs, the source of the premium funding the annuity purchase, the financial experience, goals and objectives, risk tolerance, tax status, the intended use of the annuity, the time horizon for taking distributions and how the applicant will access funds in the contract, if at all, current assets, liquidity needs, liquid net worth, and whether the client has a reverse mortgage where a suitability review is applicable.

For transactions that involve the replacement of an existing life policy or annuity contract, the Company further collects information about the replaced policy and considers whether the recommended new annuity offers a tangible net benefit over and above the benefits of retaining the existing product.

**DIFS Comment on Company Response to Question 6:**

The specific suitability factors listed by the Company meet the requirements of the Code, specifically those factors required in Section 4151(e).

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

7. Does the Company allow the sale of an annuity if the applicant refuses to provide the necessary suitability information on the application? Attach the Suitability form that the Company uses for individual fixed annuity sales in Michigan.

**Company Response to Question 7:**

Yes, the Company allows the sale of an annuity if the applicant refuses to provide suitability information. The Company requires the applicant to complete at least page 1 of the suitability questionnaire and then sign the document attesting to the statements of understanding from page 1 and the statements in the applicant's signature block (attached below). In instances where a client declines a suitability review, the Company contacts all clients age 65 or older and all clients that indicate a replacement in the preceding 36 months where they incurred a charge or forfeited a benefit. The purpose of the call is to verify that the client fully understands the product purchased; that the client has, in their estimation,

adequate liquid resources for current and unforeseen expenses; and that the client discussed with their agent how the product will meet their goals and objectives.

**DIFS Comment on Company Response to Question 7:**

The Code does not specifically prohibit the sale of an annuity product to an individual who refuses to provide suitability information; however, the obvious opportunity for disguising an unsuitable sale makes this practice questionable. Refusing to sell an annuity contract in that situation could be considered a best practice for the industry.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

8. Does the Company utilize a computer system with built-in suitability “red flags” to screen applications or is every application manually screened for suitability? Describe under what circumstances the Company would automatically reject an application or hold it for further review.

**Company Response to Question 8:**

The Company reviews applications manually for suitability, where applicable. Applications are not automatically rejected; rather, additional information is sought from the applicant about their particular situation. The Company may hold an application for further review for various reasons, including:

- Applicants with an annual income of less than \$20,000;
- Applicants with a household net worth less than \$50,000;
- Purchases that represent more than 50% of the applicant’s liquid net worth;
- Replacement transactions where the applicant will incur a surrender charge;
- Replacement transactions where the applicant will lose a benefit, death benefit, living benefit, etc.;
- Transactions where the applicant’s goals and objectives do not appear to align with the product selected i.e., immediate income objective and a deferred annuity;
- Transactions where the applicant’s risk tolerance doesn’t align with the product or payout (e.g., immediate annuities) selected;
- Transactions funded by a reverse mortgage;
- Transactions where there is no obvious benefit – e.g., better rate, new or improved product feature or enhancement, or new crediting strategy – for the client; and
- Any transaction where the analysis of the applicant’s suitability information described in question 6 suggests that the transaction may not be suitable for the applicant.

**DIFS Comment on Company Response to Question 8:**

The Company’s manual policy, procedures, and standards provided in their response to this question, in addition to the suitability factors provided in response to Q6, are adequate to demonstrate suitability and suitability oversight annuity sales transactions of concern.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

9. Does the Company currently create a report to senior management with regards to the internal annuity suitability supervision system in Michigan? If so, attach a copy of the most recent report. If not, attach a copy of the most recent internal audit report relevant to this line of business in Michigan. In this case, detail why the Company does not currently produce a report to senior management for Michigan. Include if the Company has plans to generate this report in the future.

**Company Response to Question 9:**

Yes, the company provides a report to senior management annually. The 2014 report is attached.

**DIFS Comment on Company Response to Question 9:**

The Company's report, as provided, appears to meet the requirements of the Code, specifically Section 4158(f).

Note: the Company's internal report has not been reproduced in the examination Report.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

10. Describe how the Company provides product-specific training to producers in Michigan.

**Company Response to Question 10:**

The Company requires agents to pass a test on its indexed products; the training materials and test are located on the Company's website for agents.

**DIFS Comment on Company Response to Question 10:**

The Company's response and practices adequately demonstrate compliance with the requirements of the Code.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

11. Does the Company require continuing education with regard to the products offered? Describe your supervision system which ensures that requirements are met, and that the producers are adequately explaining the terms and conditions of an annuity before submitting the application.

**Company Response to Question 11:**

The Company does not require continuing education on company products. It requires agents to pass a test on its indexed products; the training materials and test are located on the Company's website for agents.

**DIFS Comment on Company Response to Question 11:**

The Company's response and practices adequately demonstrate compliance with the requirements of the Code.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

12. Does the Company monitor its producers in terms of the suitability of applicants on applications they turn in to the Company, or those which frequently withdraw applications instead of allowing them to be rejected? Does the Company maintain a list of those producers with a higher than average number of unsuitable applications or withdrawals? Does the Company require additional product training for those producers to help them match the appropriate product with its target demographic, or those which may require additional automatic scrutiny of the producer's submitted applications? Please explain.

**Company Response to Question 12:**

The Company monitors producers who have exhibited trends suggestive of potentially unsuitable sales, such as high rates of replacements or opt-outs of the suitability review process, complaints, similar paperwork, and a high percentage of senior clients. A producer may also be monitored based on information obtained from a client contacted during the suitability review process. Producers are flagged in a proprietary system that alerts the suitability reviewer when business from a flagged producer is received so that the transaction can be given heightened scrutiny and review.

The Company currently does not specifically track rejections or frequent withdrawals by agent. All withdrawn applications are counted as rejected cases in reporting to senior management.

**DIFS Comment on Company Response to Question 12:**

In addition to the Company's standards for red-flagging producers exhibiting trends suggestive of potentially unsuitable sales, identifying and tracking producers with rejections, or who frequently withdraw applications, may bolster the Company's suitability oversight efforts.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

13. Please describe the commission structure used to pay producers who sell individual fixed annuities for the Company. Include if the commissions vary depending on type of product sold or the manner in which it is funded, e.g. deferred versus immediate, 1035 exchange, etc.

**Company Response to Question 13:**

Commissions are calculated by multiplying a commission rate times the paid premium and vary by product sold, not the manner by which it is funded.

**DIFS Comment on Company Response to Question 13:**

Because the Company does not alter commission based on how the annuity is funded, it is likely to aid the Company in reducing the problems of “twisting” and “churning” in the annuity sales industry.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

14. Describe how advertising pieces for individual fixed annuities are created by the Company or by the Company’s producers. If created by producers, describe the approval process utilized by the Company to ensure compliance with Michigan rules and regulations, including the Michigan Insurance Code, MCL 500.001 et seq.

**Company Response to Question 14:**

Advertising pieces are created by the Company and approved by the Compliance Department.

**DIFS Comment on Company Response to Question 14:**

DIFS has no comment to the Company’s response specific to the creation of the Company created advertising pieces; however, if the Company does not include periodic reviews of producer internet or social media advertising of their products, under the compliance section of their advertisement policies and procedures, there is potential for significant compliance oversight failures given current marketing trends.

**Findings:**

There are no substantive issues or findings from this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

## **B. UNDERWRITING AND RATING**

**Standard 5:** All forms, including policies, contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable.

**Michigan Statute:** MCL 500.2236

**Michigan Statute:** MCL 500.4151 et seq.

### **Testing:**

15. Please provide a brief description for each of the Company's individual fixed annuity products available in Michigan during the exam period. Include each product's target demographic, any surrender period and penalties, deferment periods, and fees and interest rates for each year. Also, include the most recent SERFF Tracking Number proving that each annuity sold here has been approved for sale in Michigan.

### **Company Response to Question 15:**

The Company provided the requested data.

### **DIFS Comment on Company Response to Question 15:**

Data was tested; no comment to the Company's response to this question.

Note: the Company provided data has not been reproduced in the Examination Report.

### **Findings:**

There are no findings or recommendations related to Underwriting and Rating. All Company contracts in use in Michigan during the exam period were properly filed with DIFS.

The examiners also asked the following interrogatory question with regards to the area of Underwriting and Rating:

16. For rejected applications, describe the process the Company utilizes to verify the information provided on the applications. Include if the Company ever contacts the applicant or if the Company solely relies on the producer or a third party to verify information. If no direct contact is made with the applicant, describe how the Company ensures that the applicant does not have diminished capacity, especially with regard to seniors, which may prevent them from fully understanding the terms of the contract.

### **Company Response to Question 16:**

The Company verifies the product purchased, owner name, owner date of birth, and the anticipated initial premium by asking for that same information again on the suitability questionnaire. The Suitability Review Desk does not verify other information on the application. Rejections occur if the applicant's suitability information, the accuracy of which is signified by the applicant's attestation and acknowledgement in signing the questionnaire, does not align with the product recommended for purchase. In instances where a client declines a suitability review, the Company contacts all clients age 65 or

older and all clients that indicate a replacement in the preceding 36 months where they incurred a charge or forfeited a benefit. The purpose of the call is to verify that the client fully understands the product purchased; that the client has, in their estimation, adequate liquid resources for current and unforeseen expenses; and that the client discussed with their agent how the product will meet their goals and objectives.

The Company does take note of any indications suggestive of the applicant's diminished capacity. To date, the Company has not encountered that with any Lafayette Life applicants in Michigan. If concerns are noted, the Company shares the information with the agent and asks the agent to meet with the applicant and a family member or caregiver to ensure that the applicant fully understands the transaction before proceeding.

**DIFS Comment on Company Response to Question 16:**

When an application is rejected, the possibility that a producer may simply modify the application to comply with the suitability check is of concern to DIFS. This may be especially prevalent in circumstances when the applicant may not have the capacity to understand all of the terms and conditions of the product they are being sold. DIFS considers it a best practice to make an effort to verify the application information with the applicant when the application is rejected.

The Company exceeds this by individually contacting every applicant at the time of application. DIFS has no recommendations with regard to this question at this time.

**Findings:**

There are no findings for this question.

**Recommendations:**

There are no recommendations for the Company related to this question.

**C. PRODUCER LICENSING**

**Standard 1:** Regulated entity records of licensed and appointed (if applicable) producers and in jurisdictions where applicable, licensed company or contracted independent adjusters agree with insurance department records. NAIC *Handbook*, Chapter 16.

**Standard 2:** The producers are properly licensed and appointed and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken. NAIC *Handbook*, Chapter 16.

**Michigan Statute:** MCL 500.4151 et seq.

**Michigan Statute:** MCL 500.460:

An insurer authorized to transact business in this state shall not write, place or cause to be written or placed, any policy or contract of insurance in this state, except through an agent duly licensed by the commissioner.

**Michigan Statute:** MCL 500.1208a

(1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the commissioner, a notice of appointment for the qualifications held by that insurance producer within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint an insurance producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

(3) Upon receipt of the notice of appointment, the commissioner shall verify within a reasonable time not to exceed 30 days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the commissioner shall notify the insurer within 5 days of that determination.

(4) An insurer shall pay an appointment fee and a renewal appointment fee as provided under section 240(1)(c) for each insurance producer appointed or renewed by the insurer.

**Michigan Statute:** MCL 500.1240(1)

(1) An insurer or insurance producer shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

**Testing:**

17. Please provide a list of all producers from whom the Company accepted applications for Michigan products during the exam period. The list shall include, at least, the following information for each appointed producer; name, address, NPN, appointment date, and data the Company first accepted business from the producer.

**Company Response to Question 17:**

The Company provided the requested data.

| <b>File Data</b>   | <b>Population Size</b> | <b>Maximum Number of Failures Permitted in Sample</b> | <b>Stage 1 Sample Size</b> | <b>Population Tested</b> | <b>Errors Found</b> |
|--|------------------------|---|----------------------------|--------------------------|---------------------|
| Michigan producers from whom the Company accepted applications during the examination period | 50                     | N/A   | N/A                        | 100%                     | 0                   |

The examination team conducted a census review of all Michigan producers from whom the Company accepted business during the examination period by comparing Company-provided data against the DIFS internal producer licensing database. There were no errors found.

**DIFS Comment on Company Response to Question 1:**

Data was tested; no comment to the Company’s response to this question.

**Findings:**

There are no substantive issues or findings from this section.

**Recommendations:**

There are no recommendations for the Company related to this section.

**V. ACKNOWLEDGEMENT**

This examination report of Lafayette Life Insurance Company is respectfully submitted to the Director of the Department of Insurance and Financial Services, State of Michigan.

The courteous cooperation and assistance of the officers and employees of the Company extended to the examiners during the course of the examination is hereby acknowledged.

In addition to the undersigned, Zachary Dillinger, Market Conduct Examiner, participated in the examination.

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Michael Draminski, MCM  
Examiner-in-Charge  
Department of Insurance and Financial Services  
Market Conduct Section