

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES



MARKET CONDUCT EXAMINATION

NUMBER 2013C-0032

July 5, 2013

TARGETED MARKET CONDUCT EXAMINATION REPORT

OF

LINCOLN BENEFIT LIFE COMPANY

LINCOLN, NEBRASKA

NAIC COMPANY CODE 65595

For the Period January 1, 2010 through December 31, 2011

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I. EXECUTIVE SUMMARY

Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (Director).

Lincoln Benefit Life Company (Company) is an authorized Nebraska domiciled company. 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* (2012) (*Handbook*) and the Michigan Insurance Code, MCL 500.100 et seq (Code). The scope of the Market Conduct Examination has been limited to the Company's activities related to the handling of Complaints, Marketing and Sales, and Suitability of Annuity Sales for the Individual Annuity line of business. The examination covers the period January 1, 2010 to December 31, 2011.

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, findings, DIFS recommendations, and Company responses.

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 and Recommendations:

No findings and no recommendations are offered with regard to the exam. The review of the complaint files showed Lincoln Benefit Life Company to be in compliance with the Michigan Insurance Code. The Company has provided appropriate proof of suitability at time of purchase for all 100 sampled transactions. All training materials provided appear to be in compliance with the relevant section of the Code and appear to provide the producer field force with all information necessary to make sure a sale is suitable.

Company Response:

No Company response was made.

II. OBJECTIVES, SCOPE AND METHODOLOGY

This report is based on a targeted Market Conduct Examination of Lincoln Benefit Life Company. The examination was conducted off-site, at the DIFS main office, 611 W. Ottawa Street, Lansing, Michigan 48909. 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.

The purpose of the exam is to evaluate the compliance of the Company with applicable Michigan statutes, NAIC Guidelines and DIFS regulations.

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This examination was conducted under the supervision of Regan Johnson, Director of the Market Conduct Section, and Sherry J. Bass-Pohl, Manager of the Market Conduct Unit. The Examiner-in-Charge for this examination was Zachary J. Dillinger.

This examination includes reviews of, but is not limited to, the areas of Complaint Handling, Marketing and Sales, and Annuity Suitability for the individual annuities line of business. The examination covers the period of January 1, 2010 through December 31, 2011.

The examination was called due to information that Lincoln Benefit Life Company reported to DIFS on the NAIC Market Conduct Annual Statement (MCAS) and by the absence of a prior Market Conduct Examination.

The examination team sampled company records in the areas of: (1) Complaint Handling; (2) Marketing and Sales of Annuities; and (3) Suitability. The analysis and examination of these areas were conducted and measured according to the standards and practices in the NAIC *Handbook*, the applicable statutes in the Code, and the Company's internal guidelines and procedures.

Three types of review were utilized for the above standards. Certain standards were examined with a single review, and others were examined using one or more type of review. This statistical sample applies to the Company as follows:

- A. Generic Review: A standard test was applied using analysis of all files written by agents at the specific branch office for the time frame of the examination. The Company provided the general file information as a response to examiner questions.
- B. Sample Review: A "sample" review indicates that a standard was tested through direct review of a random sample of files using sampling methodology described in the NAIC *Handbook*, Chapter 14. The samples included all files within a specific subgroup. For statistical purposes, an error tolerance of 2.3 percent was used when reviewing annuity suitability samples. The sampling techniques used are based on a 95 percent confidence level, meaning there is 95 percent confidence that the error percentages shown in the various standards so tested are representative of the entire set of records from which it was drawn. An error rate in excess of the tolerance level in these sections of the report is indicative of a general business practice of engaging in that type of conduct. Note that the statistical error tolerance is not indicative of the actual tolerance of DIFS for deliberate or systematic error.
- C. Census Review: Marketing and sales, as well as complaint files, were not subject to the sampling procedure, as the number of relevant files did not warrant taking a sample. Therefore, every relevant marketing piece and complaint file for the examination period was reviewed by the examination team for compliance with applicable statutes, regulations and internal company guidelines.

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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 that were discovered during the course of the exam, the Company response proposing methods for correcting the deficiencies, and recommendation for any further action by DIFS.

III. COMPANY PROFILE

Lincoln Benefit Life Company began operations in 1938 and became a subsidiary of Allstate in 1984. The company is currently licensed to market its products in 49 states (all except New York), Guam and the District of Columbia. The Company markets and sells its products through both independent and captive producers. The Company offers four different indexed annuities as well as a United States Department of Treasury-linked annuity. Its size category is XV (\$2 billion or greater) with more than \$321.4 in surplus at the end of 2012. The Company is rated A+ by the AM Best Company. Its long-term outlook is Stable.

IV. FINDINGS AND RECOMMENDATIONS

A. Complaint Handling

Standard I: All complaints are recorded in the required format on the regulated entity's complaint register. NAIC *Handbook* Chapter 16.

MCL 500.2026(2):

(2) The failure of a person to maintain a complete record of all the complaints of its insureds which it has received since the date of the last examination is an unfair method of competition and unfair or deceptive act or practice in the business of insurance. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition thereof, and the time it took to process each complaint. For purposes of this subsection, "complaint" means a written communication primarily expressing an allegation of acts which would constitute violation of this chapter. If a complaint relating to an insurer is received by an agent of the insurer, the agent shall promptly forward the complaint to the insurer unless the agent resolves the complaint to the satisfaction of the insured within a reasonable time. An insurer shall not be deemed to have engaged in an unfair method of competition or an unfair or deceptive act or practice in the business of insurance in violation of this chapter because of the failure of an agent who is not also an employee to forward a written complaint as required by this subsection.

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Findings:

The examiners requested and reviewed the Company complaint register for DIFS and in-house complaints. These complaints consisted of 55 complaints for the exam period.

After a census review of all 55 complaint files, examiners found all complaints were reflected on the complaint register, as required by MCL 500.2026(2). Further, examiners reviewed all DIFS complaints for the examination period and found that all were reflected on the complaint register.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

Company Response:

No Company response was made.

Standard 2: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders. NAIC *Handbook*, Chapter 16.

Findings:

The producer responsible for servicing the contract and relevant manager were notified and provided an opportunity to respond to the complaint. Complaint response letters were generated in all files. The average file open time, each from receipt of complaint to closing the complaint, is 7.4 days. This is in compliance with all guidelines and requirements.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

Company Response:

No Company response was made.

Standard 3: The Company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language. NAIC *Handbook*, Chapter 16.

Findings:

All complaints received by the Company were handled in an appropriate manner. In all of the 55 received complaints, there was no indication that the Company failed to adequately respond to the consumer's concerns.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

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Company Response:

No Company response was made.

Standard 4: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 16.

Findings:

The Company has a response average of 7.4 days. In one complaint file, the 30 day guideline for closing the file was not met, but that file demonstrated that the delay was caused by the account owner failing to submit a required document or response, not by the Company's failure to act timely. There are no findings.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

Company Response:

No Company response was made.

B. Marketing and Sales of Annuity Products

Standard 1: Regulated entity internal producer training materials are in compliance with applicable statutes, rules and regulations. NAIC *Handbook* Chapter 19.

Findings:

The examiners requested and reviewed the Company's annuity sales training materials in use during the exam period.

After a review of all materials provided by the Company, examiners found no materials which violated the Michigan Insurance Code. All reviewed pieces appear to adequately present suitability requirements for Company producers.

Recommendation:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

Company Response:

No Company response was made.

C. Suitability of Annuity Sales

Standard 2: 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.

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MCL 500.4155:

- (1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.
- (2) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain all of the following information:
 - (a) The consumer's financial status.
 - (b) The consumer's tax status.
 - (c) The consumer's investment objectives.
 - (d) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.
- (3) Except as provided under subsection (4), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer under subsection (1) related to any recommendation if a consumer does any of the following:
 - (a) Refuses to provide relevant information requested by the insurer or insurance producer.
 - (b) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer.
 - (c) Fails to provide complete or accurate information.
- (4) An insurer or insurance producer's recommendation subject to subsection (1) shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

MCL 500.4157:

- (1) An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this chapter is established and maintained by complying with subsections (3) to (5), or shall establish and maintain such a system, including, but not limited to, maintaining written procedures and conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this chapter.
- (2) An insurance producer either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this chapter, or shall establish and maintain such a system, including, but not limited to, maintaining written procedures and conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this chapter.

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- (3) An insurer may contract with a third party, including an insurance producer, to establish and maintain a system of supervision as required under subsection (1) of insurance producers under contract with or employed by the third party.
- (4) An insurer shall make reasonable inquiry to assure that the third party contracting under subsection (3) is performing the functions required under subsection (1) and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:
- (a) By annually obtaining a certification from a third party senior manager that the third party contracting under subsection (3) is performing the required functions. Only a person who is a senior manager with responsibility for the delegated functions and who has a reasonable basis for making the certification shall provide a certification under this subdivision.
- (b) By periodically selecting, based on reasonable selection criteria, third parties contracting under subsection (3) for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.
- (5) An insurer that contracts with a third party pursuant to subsection (3) and that complies with the requirements to supervise under subsection (4) will be considered to have met its responsibilities under subsection (1).
- (6) An insurer or insurance producer is not required under subsection (1) or (2) to do any of the following:
- (a) Review, or provide for review of, all insurance producer solicited transactions.
- (b) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer or insurance producer.
- (7) An insurance producer contracting with an insurer pursuant to subsection (3) shall promptly, when requested by the insurer pursuant to subsection (4), give a certification as described in subsection (4) or give a clear statement that it is unable to meet the certification criteria.

Type	Sample Size	Max failures	Failures
Surrendered Annuity	50	2	0
Replaced Annuity (1035)	50	2	0

Findings:

A review of 50 Surrendered Annuity contracts from the exam period was conducted. Each file was reviewed for compliance with Company guidelines and the Annuity Recommendation to Consumers Section, Chapter 41A, of the Michigan Insurance Code. All surrendered annuity files appear to be in compliance with Company guidelines and the Code. The average time a contract was held is 5.9 years. There are no findings.

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A review of 50 Replaced Annuity contracts from the exam period was also conducted. There were no findings that indicate a pattern of unsuitable replacement annuity sales.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area. The examiner wishes to highlight the Company's Annuity Suitability review practices as being an effective measure to prevent suitability issues. The process of forwarding all applications to an internal Center of Expertise is key to the Company's success in avoiding suitability issues.

Company Response:

No Company response was made.

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

MCL 500.4155 et seq (see above)

Findings:

In connection with the review for suitability of annuity sales, examiners also reviewed the Company's annuity underwriting and approval standards for annuity sales. In each of the 100 files sampled, the file exhibited the proper signoffs from the relevant manager as required by Company guidelines. Documents were maintained according to Code requirements. Proof of suitability at time of sale was provided as required and exhibited proof that the consumer was aware of the terms and conditions of the annuity purchased. Required signatures from both the contract owner and selling producer were present in all sampled files. There are no findings.

Recommendations:

No further action is required at this time. The Company appears to be in compliance with all statutes, rules, regulations and internal guidelines relevant to this area.

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V. ACKNOWLEDGEMENT

This examination report of Lincoln Benefit Life 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.

Zachary J. Dillinger, MCM
Examiner-in-Charge
Department of Insurance and Financial Services
Market Conduct Section
July 5, 2013