

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**



**MARKET CONDUCT EXAMINATION**

**NUMBER 2016C-0098**

**May 17, 2016**

***TARGETED MARKET CONDUCT EXAMINATION REPORT***

***OF***

***METLIFE INSURANCE COMPANY USA***

***NEW YORK, NEW YORK***

***NAIC COMPANY CODE 87726***

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

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## I. EXECUTIVE SUMMARY

MetLife Insurance Company USA (the Company) is an authorized New York domiciled company. This targeted 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* (2014) (*Handbook*) and the Michigan Insurance Code, MCL 500.100 et seq. (the Code).

The examination covers the period January 1, 2014 to December 31, 2014 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.

This is a targeted examination of the Company’s individual fixed annuity line of business, conducted remotely, as a result of the analysis of the Company’s NAIC Market Conduct Annual Statement (MCAS) submission.

### **Findings:**

There are no findings at this time.

### **Recommendations:**

There are no recommendations at this time.

## II. 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.

The examination followed a pre-determined protocol of interrogatories developed by Market Conduct's subject matter expert (SME) for all fixed annuity companies identified through specific MCAS analysis. The interrogatories were designed to assess risk and evaluate compliance in the areas specifically related to the identified MCAS ratios, with an increased focus on suitability and suitability oversight programs and producer licensing. The questions and the Company's responses to those questions are reproduced below.

- 1) The MCAS data indicate that 71.4% of the Company's total individual fixed annuity replacement contracts are sold to annuitants over the age of 80. This is over five times the Michigan average. Please provide an explanation as to why the Company sells such a high percentage of its replacement contracts to annuitants over the age of 80?

**Company Response:**

The Company views the population to be very low – 14 fixed contracts where 10 involve replacement for clients 80 and older. We feel it is difficult to draw meaningful conclusions given the size of this population.

**DIFS' Comment on Company Response:**

DIFS agrees that the population may be too low to provide sufficient statistical validity to the ratio, but the issue remains of concern. We will follow up with a review of this ratio on the 2016 MCAS filing. DIFS has no recommendations with regards to this question at this time.

- 2) The MCAS data also indicate that 83.8% of the Company's total surrendered individual fixed annuity contracts are surrendered after less than ten years in force. Please provide an explanation as to why the Company has so many surrendered contracts less than 10 years in force? What plans, if any, do you have in place to bring this number down?

**Company Response:**

During the time period from October 2008 to February 2009, the Company's sales of fixed annuities were relatively higher due to the crediting rates exceeding those of the competition, as well as due to volatility in the overall equity markets. When the fixed annuities were up for renewal in 2014, these policies would have received a renewal crediting rate equal to or slightly above their Minimum Guaranteed Interest Rate (MGIR). The Company's assumption is that the reduction in crediting rates when compared to the initial purchase date, as well as lower or more normal volatility in the equity markets, may have led these policy owners to not renew their fixed annuities. Customers purchasing annuities in this period were typically purchasing with a three, five, seven or ten year initial guarantee period. After that period has elapsed, the customer can either renew or surrender the contract and move without penalty within 30 days. As a result, the Company believes that the overall surrender activity for contracts in durations of less than or equal to 10 years is reasonable. For the specific Michigan policies that surrendered in 2014, there were 222 policies out of 301 that were issued in the time period from October 2008 to February 2009.

**DIFS' Comment on Company Response:**

DIFS has no recommendations with regards to this question at this time.

- 3) Please give a brief description of the product development process currently in place in the Company. 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:**

Many areas of the Company are involved in the development of new annuity products or modifications to existing annuities, including, but not limited to, Product, Operations, IT, Compliance, Legal, Marketing, Distribution, Accounting, Valuation, Finance, Asset Liability Management and Investments. Product specifications are designed and approved during this process. As part of the process, suitability guidelines are established for the MetLife affiliated Broker Dealer/Sales channel (MetLife Premier Client Group) and approved and implemented by them. For unaffiliated sales channels (Third Party Distribution), the Company utilizes a distribution model whereby, after performing appropriate due diligence, it enters into selling arrangements with Distributors. In addition, the Company delegates the suitability responsibility to the Distributor under the Selling Agreement, as provided for under the Suitability in Annuity

Transactions Model Regulations, including the related Michigan Annuity Recommendation to Consumers statute.

**DIFS' Comment on Company Response:**

DIFS has no recommendations with regards to this question at this time.

- 4) What specific factors does the Company consider when determining if an annuity is suitable for a specific applicant?

**Company Response:**

The Company contracts with selling firms via the selling agreements for them to complete fixed annuity suitability reviews, as permitted under the statute. The statute requires producers to collect the following information, including:

- (i) Age; (ii) Annual income; (iii) Financial situation and needs, including the financial resources used for the funding of the annuity; (iv) Financial experience; (v) Financial objectives; (vi) Intended use of the annuity; (vii) Financial time horizon; (viii) Existing assets, including investment and life insurance holdings; (ix) Liquidity needs; (x) Liquid net worth; (xi) Risk tolerance and (xii) Tax status.

The Due Diligence process described in response 3 is designed to reasonably evaluate whether the policies and procedures, and the suitability review process for MetLife Premier Client Group (MPCG) and Third Party Distribution (TPD) includes the requirements of the statute. As noted in response 3, for unaffiliated sales channels, this responsibility is delegated and the Company spot checks firms for compliance with the statute requirements and our selling agreement requirements. We review any new selling agreement to validate the distributor's procedures meet these requirements. Furthermore, there is a spot check process to reasonably evaluate whether distributors meet these requirements on an ongoing basis.

**DIFS' Comment on Company Response:**

While the Company may have contractual relationships with entities that perform suitability review, it still maintains the final responsibility to ensure that those entities perform those duties adequately. After reviewing the Company's Report to Senior Management, within which is detailed the oversight procedures and an overview of the effectiveness of those procedures, DIFS is satisfied that the Company has sufficient oversight. DIFS has no findings or recommendations with regards to this question at this time.

- 5) Does the Company allow the sale of an annuity if the applicant refuses to provide the necessary suitability information on the application? Please attach the Suitability form that the Company uses for Individual Fixed Annuity sales in Michigan.

**Company Response:**

For MPCG, an applicant may not refuse to provide the necessary suitability information on the application. Most fixed annuities sold by MPCG in Michigan are products manufactured by Metropolitan Life Insurance Company (MLIC). MPCG does sell the Company's MetLife Guaranteed Income Builder (GIB).

For TPD, any recommended sale requires the collection of suitability information subject to the provisions of the statute. The selling firm uses their suitability form(s) to conduct their review. When the Company reviews selling firms procedures during the suitability spot check process cases are reviewed to determine whether the information is collected when required.

**DIFS' Comment on Company Response:**

The Michigan Insurance 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. After reviewing the Company's Report to Senior Management, within which is detailed the oversight procedures and an overview of the effectiveness of those procedures, DIFS is satisfied that the Company has sufficient oversight. DIFS has no findings or recommendations with regards to this question at this time.

- 6) Does the Company utilize a computer system with built-in suitability "red flags" to screen applications or is every application manually screened for suitability? Under what circumstances would the Company automatically reject an application or hold it for further review?

**Company Response:**

Examiner's Note: The Company's response to Question 6 has been omitted from this report, due to the proprietary nature of the information contained therein.

**DIFS' Comment on Company Response:**

The Company's efforts to reduce unsuitable annuity sales appear to be well within best practice guidelines. DIFS has no recommendations with regards to application screening at this time.

- 7) Does the Company currently create a Report to Senior Management with regards to the internal annuity suitability supervision system in Michigan? If so, please attach a copy of the most recent report. If not, please attach a copy of the most recent internal audit report relevant to this line of business in Michigan. In this case, please detail why the Company does not currently produce a Report to Senior Management for Michigan. Does the Company have plans to generate this report in the future?

**Company Response:**

Each February, the Company issues a report to senior management with regard to the internal annuity suitability supervision process for all SAT states. A copy for 2015 is attached.

Examiners Note: The requested information has not been reproduced in this Examination Report. The reference to “SAT” is to states which have adopted the NAIC Suitability in Annuity Transactions Model Regulation.

**DIFS’ Comment on Company Response:**

The Company report as provided appears to meet the requirements of MCL 500.4158(f). There are no findings or recommendations with regards to the Company’s Report to Senior Management.

9) How does the Company provide product-specific training to producers in Michigan?

**Company Response:**

Examiner’s Note: The Company’s response to Question 9 has been omitted from this report, due to the proprietary nature of the information contained therein.

**DIFS’ Comment on Company Response:**

By providing training in the manner described in their response, it appears that the Company complies with the product-specific training requirement as noted in MCL 500.4158(c). DIFS has no recommendations or findings with regards to this question at this time.

10) Does the Company require continuing education with regard to the products offered? Please 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:**

Training overview was provided in response number 9. The product training taken by the advisor is designed to assist them in adequately understanding the terms and conditions of the annuity before submitting the application.

**DIFS’ Comment on Company Response:**

Under MCL 500.4158(c), the Company must explain all material features of its products to its sales force. By providing continuing education when those products change, the Company appears to meet its responsibilities under the Michigan Insurance Code with regards to keeping producers up to date with the products they are expected to sell. DIFS has no recommendations or findings with regards to this question at this time.

11) Does the Company monitor its producers in terms of the suitability of 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?

**Company Response:**

MPCG and/or TPD are required to review for suitability and would be responsible to review applications and withdraw or reject unsuitable cases – the Company does not perform that function. MPCG and/or TPD would reject cases for suitability or other issues prior to forwarding applications to the Company.

**DIFS' Comment on Company Response:**

DIFS has no recommendation with regards to this question at this time.

12) Please describe the commission structure used to pay producers who sell Individual Fixed Annuities for the Company. Does the commission 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:**

Copies of commission schedules in effect in 2014 are attached.

Examiners Note: The requested information has not been reproduced in this Examination Report.

**DIFS' Comment on Company Response:**

DIFS has no recommendations or findings with regards to this question at this time.

**B. UNDERWRITING AND RATING**

*Standard 5:* All forms, including contracts, riders, endorsements, and forms are filed with the insurance department, if applicable. NAIC *Handbook*, Chapter 16.

The examiners requested a description of all individual fixed annuity products available for purchase in Michigan during the exam period. This listing was used to verify that all products had been properly filed for use with DIFS.

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

8) For rejected applications, please describe the process the Company utilizes to verify the information provided. Does the Company ever directly contact the applicant or does the Company rely on the producer to verify? If no contact is made with the applicant, how does the Company ensure that they do not have diminished capacity which may prevent them from fully understanding the terms of the contract?

**Company Response:**

MetLife Premier Client Group:

The Company does not typically directly contact the applicant to resolve items that are not in good order. Rejected applications are returned to the customer via mail and the advisor is notified. The Company provides guidance in the written supervisory procedures and through training to agents and their managers on issues surrounding diminished capacity and other at risk populations. We rely on the agent and their manager to adhere to that guidance.

Third Party Distribution:

The distributor is responsible for suitability review and may not submit applications to the carrier if their guidelines are not met or they reject applications. If the carrier rejects applications due to not meeting carrier requirements for the case to be in good order to issue a contract, the application gets returned.

**DIFS' Comment on Company Response:**

After reviewing the Company's Report to Senior Management, within which is detailed the oversight procedures and an overview of the effectiveness of those procedures, DIFS is satisfied that the Company has sufficient oversight. DIFS has no findings or recommendations with regards to this question at this time.

**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.

MCL 500.1208a(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 the 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.

The examiners requested a listing of all Michigan producers from whom the Company accepted applications during the exam period.

<b>File Data</b>	<b>Population Size</b>	<b>Maximum Number of Failures Permitted in Sample</b>	<b>Stage 1 Sample Size</b>	<b>Date Sample Pulled</b>	<b>Errors Found</b>
Michigan producers from whom the Company accepted business during the examination period	53	n/a	n/a	n/a	0

The examiner 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. After this initial review, if required, the team requested a list of every contract submitted by producers who appeared to be either unlicensed or unappointed at the date of business provided to determine the extent of the unappointed activity. The examiner’s findings, if any, are listed below.

**DIFS’ Comment on Company Response:**

DIFS has no recommendations or findings with regards to this question at this time.

**III. ACKNOWLEDGEMENT**

This targeted examination report of MetLife 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.

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