

**STATE OF MICHIGAN**

**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**



**MARKET CONDUCT EXAMINATION**

**NUMBER 2016C-0099**

**April 7, 2016**

***TARGETED MARKET CONDUCT EXAMINATION REPORT***

***OF***

***TRANSAMERICA PREMIER LIFE INSURANCE COMPANY***

***CEDAR RAPIDS, IOWA***

***NAIC COMPANY CODE 66281***

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

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## I. EXECUTIVE SUMMARY

Transamerica Premier Life Insurance Company (the Company) is an authorized Iowa 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 variable 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 variable 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) After reviewing the 2014 Market Conduct Annual Statement (MCAS) data, it appears that approximately 65.1% of all contracts issued were replacement contracts. Please explain the circumstances under which the Company allows a replacement contract to be sold.

**Company Response:**

Please note, because of the differences in distribution models for the products being discussed, the responses have been formatted as follows: responses labeled "A)" are specific to contracts issued through a direct response distribution model, including The Vanguard Group and responses labeled "B)" are specific to the contracts issued through a traditional distribution model, including ARIA Retirement Solutions.

There were 56 replacements out of a total of 86 contracts issued in 2014.

A) Fifty of the contracts replaced were issued through The Vanguard Group, a direct response distribution channel. Potential clients learn about the Company's annuity product through various mass media sources and then can learn more about the annuity by visiting the Vanguard internet website. The majority of Vanguard's new clients are sophisticated investors who own older and more expensive annuities. The product is a low cost variable annuity and does not have surrender charges. There are no individual agents soliciting customers or making recommendations. The customer may request and is provided information about the product and makes the determination to exchange their existing annuity for one that offers lower fees and expense charges. This product lends itself to a high percentage of replacements as consumers are searching for lower cost products.

B) The other six replacements were issued through ARIA Retirement Solutions, a traditional distribution channel. ARIA utilizes licensed agents who make recommendations to customers.

**DIFS' Comment on Company Response:**

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

- 2) 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:**

Transamerica has a Product Champion Working Group with representatives from all major functional areas including product management, actuarial, finance, operations, technology, legal, and compliance. This Working Group reviews the product and determines how it fits with the Company's strategy, and how best to implement the product design through the project phase. As part of the Working Group process, each new product is required by Transamerica's pricing policy to review the product's target market and assess whether the product meets the target market, the product is reasonably simple and understandable, fees are reasonable and competitive, and to assess whether the product can be supported administratively and from a technology perspective for the life of the contract.

**DIFS' Comment on Company Response:**

This process, as described, appears to be consistent with best practices. DIFS has no recommendations with regards to this question at this time.

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

**Company Response:**

A) As defined by the NAIC Suitability in Annuity Transactions Model Regulation (MI Chapter 41A – Annuity Recommendations to Customers), the regulation does not apply to transactions involving direct response solicitations where there is no recommendation based on information collected from the consumer. For contracts sold through The Vanguard Group, no recommendation is made, and as such, the annuities are not subject to the suitability requirements. Consumers are responsible for determining their needs and objectives when making their own purchasing decisions.

B) As permitted by the NAIC Suitability in Annuity Transactions Model Regulation, Transamerica may contract with third parties to establish and maintain a system of supervision. This is most often done when establishing selling agreements with broker dealers, general agencies or other third parties who distribute our annuity products.

When the responsibility for suitability supervision has been delegated to a third party, selling agreements or other written agreements outline the third party's responsibilities. These responsibilities generally include functions such as:

- a. Establishing procedures which ensure a complete review of the customer's financial situation and needs.
- b. Based on information reviewed, make suitable recommendations as required by applicable state or federal law.
- c. Maintain documentation of reviews completed and recommendations made.
- d. Perform supervision of all annuity transactions.
- e. Submit reports to Transamerica as may reasonably be requested.
- f. Abide by and enforce the Code of Conduct

**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.

- 4) 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 Variable Annuity sales in Michigan.

**Company Response:**

A) Not applicable in the direct response distribution channel. Please see the above response regarding policies sold through Vanguard.

B) As previously noted, Transamerica delegates this responsibility to broker dealers, general agencies and other third parties. The Company, however, expects that those third parties will reject the application if suitability information is not provided. The distributors are allowed to design and use their own suitability forms, provided they comply with applicable FINRA and state regulations.

**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.

5) 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:**

A) Not applicable in the direct response distribution channel. Please see the above response regarding policies sold through Vanguard.

B) As previously noted, Transamerica delegates this responsibility to third party distributors, specifically to ARIA Retirement Solutions and Protected Investors of America (Member FINRA) in regards to the replacements in question. Based upon representation from ARIA Retirement Solutions, there is systematic routing and process management, but the review and sign-off is conducted by a supervising principal.

**DIFS' Comment on Company Response:**

A computer system can speed up processing and help reduce human errors, and many companies use them for that reason. A multi-stage review of an application is also extremely effective with regards to ensuring the suitability of an annuity at the time of sale.

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

6) 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:**

A) A report to senior management is prepared but it is not applicable to consumer purchases for which there is not a recommendation.

B) Yes, please see the attached “2015 Suitability Annual Report.”

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

**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.

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

**Company Response:**

A) While not subject to suitability regulations because no recommendation is made, The Vanguard Group call center staff does receive product training.

B) Transamerica provides product specific training to its third party distributors through a variety of delivery options, including but not limited to:

- Distribution of product specific materials
- Telephone access to professionally trained staff
- Periodic visits from product experts
- Coaching forums
- Web based product training courses available through online training vendors (i.e. RegEd, Kaplan, Quest CE)
- Face-to-face meetings

**DIFS’ Comment on Company Response:**

By providing training in this manner, 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.

9) 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:**

A) As noted above, sales through direct response are not subject to suitability regulations because a recommendation is not made.

B) As noted above, the suitability review is delegated to the Company's third party distributors. As product features change or new products are introduced, Transamerica proactively communicates and, as appropriate, provides training.

**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.

10) 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:**

A) As noted above, sales through direct response are not subject to suitability regulations because a recommendation is not made.

B) The Company monitors the sales practices of producers who sell annuity products. This includes monitoring of replacements, complaints, and regulatory actions. In addition to providing monitoring reports to the third party distributors, the Company looks for patterns or trends, engages partners for additional information when needed, and requests sample files to ensure that the required information is collected and appropriate suitability oversight was conducted.

**DIFS' Comment on Company Response:**

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

11) Please describe the commission structure used to pay producers who sell Individual Variable 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:**

A) All compensation is paid by Transamerica to The Vanguard Group.

B) Pursuant to the agreement between Transamerica Premier and ARIA Retirement Solutions, Transamerica Premier does not pay compensation to individual producers. ARIA (or more specifically, the broker-dealer Protected Investors of America) receives a service fee that is a percentage of the assets under management. In general, the manner in which a variable annuity contract is funded does not impact the amount of fees paid.

**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 variable 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.

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

- 7) 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:**

A) Although direct response transactions are not subject to suitability review, applications could be rejected for insufficient information. Vanguard provides assistance through their website and call center for customers who have questions regarding the product or application process.

B) Transamerica does not have knowledge of transactions that were not approved by the third party distributors because it does not receive the applications for issuance.

Diminished capacity is not a factor which the Company can assess or consider in its application review and issuance process because Transamerica does not have direct contact with the consumer. Please see the Company's response to item #3 above and the referenced "Guide to Professional Conduct."

Examiner’s Note: The requested information has not been reproduced in this Examination Report.

**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	2	n/a	n/a	3/16/15	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 Transamerica Premier 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.

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