

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS



MARKET CONDUCT EXAMINATION

NUMBER 2012C-0026

November 15, 2012

TARGETED MARKET CONDUCT EXAMINATION REPORT

OF

BROOKE LIFE INSURANCE COMPANY

LANSING, MICHIGAN

NAIC COMPANY CODE 78620

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

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I. EXECUTIVE SUMMARY

Brooke Life Insurance Company is an authorized Michigan domiciled company. This examination was conducted by the Michigan Office of Financial and Insurance Regulation (OFIR) 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 (the Code). The scope of this 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, 2010.

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, Company responses, and Office of Financial and Insurance Regulation (OFIR) recommendations.

OFIR considers a substantive issue one in which a "finding" or violation of Michigan Insurance 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 the Company to be in compliance with the Code. The Company has provided appropriate proof of suitability at time of purchase for all transactions in the sample. All marketing materials appeared to be in compliance with the relevant section of the Code. No Company response was provided.

Summary of Company Response:

No response was provided.

II. PURPOSE, SCOPE AND METHODOLOGY

This report is based on a targeted market conduct examination of Brooke Life Insurance Company (the Company). The examination was conducted off-site, at the OFIR Main Office, 611 W. Ottawa Street, Lansing, Michigan 48909. OFIR conducted this examination in accordance with statutory authority of the Code, MCL 500.222 et seq. All Michigan laws, regulations and bulletins cited in this report may be viewed on OFIR's website at www.michigan.gov/ofir.

The examination covers the period January 1, 2010 through December 31, 2010. 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. EIC Dillinger performed the analysis individually, and was assisted with the sampling process by Examiner Sherry Barrett.

The examiners evaluated the Company's market conduct procedures and treatment of policyholders in the State of Michigan. This examination focused on the specific areas of Annuity Suitability, Marketing and Sales and Complaint Handling for the Individual Annuities line of business.

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

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 as follows:

1. Generic Review: A standard test was applied using analysis of general information provided as a response to examiner questions;
2. 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. For statistical purposes, an error tolerance of 2.3% was used when reviewing Annuity Suitability samples. The sampling techniques used are based on a 95% confidence level, meaning there is 95% 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 OFIR's actual tolerance for deliberate or systematic error.
3. 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.

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 Standard, Code citation, and NAIC *Handbook* source; 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 OFIR.

III. COMPANY OPERATIONS AND PROFILE

Brooke Life Insurance Company began operations on August 26, 1987, as a Michigan-domiciled company. The Company, through its subsidiaries, provides life insurance products and services. The Company also provides medical insurance coverage. Its products include term, cancer, children, disaster, premium deposit, accident, corporate welfare, consumer group, and corporate

saving policies. The Company is based in Lansing, Michigan. Brooke Life Insurance Company operates as a subsidiary of Brooke Holdings LLC.

IV. EXAMINATION FINDINGS AND RECOMMENDATIONS

A. Complaint Handling

Standard 1: 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.

Findings:

The examiners requested and reviewed the Company complaint register for OFIR and in-house complaints. These complaints consisted of 12 complaints for the year 2010.

After a census review of all 12 complaint files, examiners found all complaints were reflected on the complaint register, as required by MCL 500.2026(2). Further, examiners reviewed all OFIR complaints for the examination period and found that all were reflected on the complaint register.

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.

Summary of Company Response:

No response was provided.

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

Findings:

Complaint response letters were generated in all files. The producer responsible for servicing the contract and relevant manager were notified and provided an opportunity to respond to the complaint. The average file open time, from receipt of complaint to closing the complaint, is 14.4 days. This is in compliance with all guidelines and requirements.

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.

Summary of Company Response:

No response was provided.

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 12 received complaints, there was no indication that the Company failed to adequately respond to the Consumer. In one file, the Company was unable to directly discuss the issue with the Complainant because the Complainant did not have the appropriate power of attorney to discuss the issue.

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.

Summary of Company Response:

No response was provided.

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 14.4 days. In two complaint files, the 30 day guideline for closing the file was not met, but each of those files 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. There are no findings.

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.

Summary of Company Response:

No response was provided.

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.

Summary of Company Response:

No response was provided.

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

MCL 500.4155:

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.

(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).

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(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	58	2	0
Replaced Annuity (1035)	70	2	0

Findings:

A review of 58 Surrendered Annuity contracts from the exam period was reviewed. 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. In only three cases did an annuity owner pay a surrender fee as a result of the surrender; in all cases the surrender appeared to be unrelated to the suitability of the initial sale. Average time a contract was held is 6.3 years. There are no findings.

A review of 70 Replaced Annuity contracts from the exam period was also reviewed. There were no findings that indicate a pattern of unsuitable replacement annuity sales. There are no findings.

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.

Summary of Company Response:

No response was provided.

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 128

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.

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.

Summary of Company Response:

No response was provided.

V. ACKNOWLEDGEMENT

This examination report of Brooke Life Insurance Company is respectfully submitted to the Commissioner of the Office of Financial and Insurance Regulation, State of Michigan.

The courtesy and cooperation of the officers and employees of Brooke Life Insurance Company during the course of this examination is hereby acknowledged.

In addition to the undersigned Examiner-in-Charge, Sherry Barrett, Examiner, also participated in the examination and preparation of this report.

Zachary Dillinger
Examiner-in-Charge
Office of Financial and Insurance Regulation
Market Conduct Section
November 15, 2012