

STATE OF ARIZONA
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DEPT. OF INSURANCE

**REPORT OF TARGETED EXAMINATION
OF
MIDLAND NATIONAL LIFE INSURANCE COMPANY**

NAIC# 66044

AS OF

MARCH 31, 2005

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CHRISTINA URIAS
Director of Insurance

Honorable Christina Urias
Director of Insurance
State of Arizona
2910 North 44th Street, Suite 210
Phoenix, Arizona 85108-7269

Dear Director Urias:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a targeted examination has been made of the market affairs of:

MIDLAND NATIONAL LIFE INSURANCE COMPANY


NAIC # 66044

The above examination was conducted by James R. Dargavel, FLMI, CIE, Examiner-in-Charge, Jerry Paugh, AIE, Senior Market Examiner, and Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor.

The examination covered the period of October 1, 2004 through March 31, 2005.

As a result of that examination, the following Report of Examination is respectfully submitted.


Sincerely yours,


Paul J. Hogan, JD, FLMI, ALHC, CIE
Market Oversight Administrator
Market Oversight Division

AFFIDAVIT

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, James R. Dargavel, FLMI, CIE, being first duly sworn state that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Jerry Paugh, AIE, Senior Market Examiner, and Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, the Examination of Midland National Life Insurance Company, hereinafter referred to as the "Company." was performed at the offices of the Arizona Department of Insurance. A teleconference meeting with appropriate Company officials was held to discuss this Report, but a copy was not provided to management, as the Examination was not finalized. The information contained in this Report, consisting of the following pages, is true and correct to the best of my knowledge and belief and that any conclusions and recommendations contained in and made a part of this Report are such as may be reasonably warranted from the facts disclosed in the Examination Report.


James R. Dargavel, FLMI, CIE
Market Examinations Examiner-in-Charge

Subscribed and sworn to before me this 3rd day of November, 2006.


Notary Public

My Commission Expires Jan. 17, 2009



FORWARD

This targeted market examination of Midland National Life Insurance Company (“Company” or “MNL”), was prepared by employees of the Arizona Department of Insurance (“Department”) as well as independent examiners contracting with the Department. A targeted market examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158, and 20-159. The findings in this report, including all work products developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following components of the Company’s annuity business:

1. Provide a proper “free look period” for annuity contracts.
2. Communicate all of the required disclosures relative to annuity contracts.
3. Use of proper replacement practices.

SCOPE AND METHODOLOGY

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The targeted market examination of the Company covered the period from October 1, 2004 through March 31, 2005 for the business reviewed. The purpose of the examination was to determine: (1) if the Company uses annuity applications and contracts that contain the appropriate notice regarding Free Look and premium refund requirements; (2) if the Company utilizes annuity replacement procedures and practices, and provides training to its producers that complies with the applicable statutes; (3) if the Company uses compliant procedures for processing annuity refunds requested during the Free Look and 30 day option period; and (4) if the Company provides the required disclosure documents, buyer’s guide and annual reports on all annuity applications in compliance with the applicable statutes. This examination targeted the top 75% of the Arizona individual life and annuity insurance market.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examination by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of life and annuity new business files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company's Representative, Meg Taylor, Vice President and Chief Compliance Officer. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met". The standard in the areas of procedures, forms and policy forms use will not be met if any exception is identified.

EXECUTIVE SUMMARY

This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page seven.

The Company failed Standard No. 1 because:

1. It utilized one annuity application form and 15 annuity contract forms that failed to contain a Free Look Notice prominently printed on or attached to the first page of the application or contract that stated that, on written request, an insurer is required to provide within a reasonable time reasonable factual information regarding the benefits and provisions of the annuity contract to the contract holder and that contract holders who were 65 years of age or older on the date of the application for the annuity contract have 30 days after delivery in which to return the annuity contract and receive a full refund of all monies paid.

The Company failed Standard No. 3 because:

1. It utilized nine policy summaries during the examination period which failed to contain information relative to the current death benefit.

2. It utilized five policy summaries during the examination period which failed to contain information relative to the current cash surrender value.
3. It failed to have procedures in place to notify the applicant, within 10 days of the issuance of the contract, that the producer made a representation that only approved sales materials were used and that the producer had provided copies to the applicant.
4. It failed on 17 new business annuity replacement files to notify the applicant that the producer made a representation that only approved sales materials were used and that the producer had provided copies to the applicant.
5. It failed, upon receiving a replacement notice from another insurer, to send its contract owners, within five business days of receiving the replacement notice, a letter advising the owner of the right to receive information about the existing policy or contract values, including, if available, an in-force illustration or a policy summary if an in-force illustration cannot be produced.

The Company passed Standards Nos. 2, 4 and 5.

STANDARD 1

The following Annuity Replacement and Disclosure Standard Failed:

#	STANDARD	Regulatory Authority
1	Company annuity application and policy forms contain compliant notices concerning the policyholder's right to request benefit and contract provision information and the right to return the contract for a refund of premium.	A.R.S. § 20-1233(A), (B) & (C)

The Examiners reviewed MNL's annuity application and policy forms to determine if those forms contained notices that state the policyholder's right to request information regarding benefit and contract provisions, and the right to return the contract for a refund of premium.

Procedures Performed:

During the Phase I Examination, the Examiners reviewed six annuity application forms, 15 annuity contact forms and a random sample of 39 of 1,043 MNL annuity new business application files.

Finding:

The Examiners issued a preliminary finding on 15 annuity contract forms that failed Standard 1. These forms failed to contain a Free Look Notice prominently printed on or attached to the first page of the application or contract that included:

1. A statement to the effect that contract holders age 65 or older have 30 days to return the annuity contract for a full refund of all monies paid, or
2. A statement notifying contract holders that, upon written request, the insurer is required to provide within reasonable time reasonable factual information regarding the benefits and provisions of the annuity contract to the contract holder.

During their review of 39 annuity files the Examiners identified one annuity application form that failed to contain the required notices.

Form Number	Form Number
AC095A	AC079A
AC085A	AS075A02
AC102A	AC094A
AC087A	AC081A
AC088A	AC090A
AC086A	AC092A
AC090A	AC093A
AC103A	8034Y 07/02

ANNUITY CONTRACTS AND APPLICATION FORMS

Number of Exceptions	Population Reviewed	Percentage	Applicable Statute
16	Form Review	N/A	A.R.S. §20-1233(A)

Recommendation No. 1

Within 90 days of the filed date of this report, provide documentation that procedures and controls are in place to ensure that the Company uses annuity application forms and annuity contract forms that contain a compliant Free Look notice.

STANDARD 3

The following Annuity Replacement and Disclosure Standards Failed:

#	STANDARD	Regulatory Authority
3	Company rules pertaining to producer and company replacement requirements are in compliance with applicable statutes, rules and regulations.	A.R.S. § 20-1241.02; 20-1241.04, 20-1241.05, 20-1241.06, and 1241.07.

The Examiners reviewed MNL's procedures pertaining to producer and Company requirements in connection with replacement of annuity contracts.

Procedures Performed:

During the Phase I Examination, the Examiners reviewed the information provided by the Company in response to the Coordinator's Handbook Attachments A and B, Interrogatories, and follow-up requests.

The Examiners reviewed a random sample of 29 of 1,028 MNL annuity new business application files selected from the issued new business, external replacement new business and internal replacement new business populations.

Finding:

Nine of 14 (64.3%) policy summaries utilized by the Company during the examination period failed Standard 3 because the policy summaries failed to contain information relative to the current death benefit.

Form Number	Form Number
ACO79A	AC085A
ACO81A	AC090A
AC067A02	AC086A
AC064A02	AC088A
AC061A02	

Five of 14 (35.7%) policy summaries utilized by the Company during the examination period failed Standard 3 because the policy summaries failed to contain information relative to the current cash surrender value.

Form Number	Form Number
AC102A	AC093A
AC103A	AC094A
AC092A	

During the Phase I portion of the examination, in response to the Department's inquiry, the Company failed to have procedures in place to notify the applicant, within 10 days of the issuance of the contract:

a) That the producer made a representation that only approved sales materials were used during the sales presentation and that copies were left with the applicant.

b) To provide the applicant with a toll free number to contact insurer personnel responsible for regulatory compliance if the insurance producer did not leave sales materials.

c) To advise the applicant that it is important to retain copies of the sales material for future reference.

Ten (100.0%) of 10 annuity external replacement files and seven (100.0%) of seven annuity internal replacement files failed Standard 3 because the Company failed to notify the applicant within ten days of the issuance of the contract:

a) That the producer made a representation that only approved sales materials were used during the sales presentation and that copies were left with the applicant.

b) To provide the applicant with a toll free number to contact insurer personnel responsible for regulatory compliance if the insurance producer did not leave sales materials.

c) To advise the applicant that it is important to retain copies of the sales material for future reference.

During the Phase I portion of the examination, in response to the Department's inquiry, the Company failed to have procedures in place, upon receiving a replacement notice from another insurer, to send its contract owners, within five business days of receiving the replacement notice, a letter advising the owner of the right to receive information about the existing policy or contract values, including, if available, an in-force illustration or a policy summary if an in-force illustration cannot be produced.

COMPANY AND PRODUCER REQUIREMENTS REGARDING REPLACEMENT

Number of Exceptions	Population Reviewed	Percentage	Applicable Statute
9	Forms	N/A	A.R.S. § 20-1241.02(B)(1)
5	Forms	N/A	A.R.S. § 20-1241.02(B)(3)
1	Company Procedures	N/A	A.R.S. § 20-1241/05(G)(2)
17	17	100.0%	A.R.S. § 20-1241/05(G)(2)
1	Company Procedures	N/A	A.R.S. §20-1241.06(A)(2)

An error ratio greater than 5% does not meet standards; therefore recommendations are warranted.

Recommendation No. 2

Within 90 days of the filed date of this report, provide documentation that procedures and controls are in place to ensure that the Company: a) utilizes policy summaries which include the current death benefit and the current cash surrender value; b) notifies applicants, within ten days of the issuance of the contract, that the producer made a representation, that only approved sales materials were used and that the producer had provided copies of those sales materials to the applicant; and c) sends contract owners, within five business days of receiving a replacement notice, a letter advising the owner of the right to receive information about the existing contract values including, if available, an in-force illustration or a policy summary if an in-force illustration cannot be produced.

SUMMARY OF STANDARDS

#	STANDARD	PASS	FAIL
1	Company annuity application and policy forms contain compliant notices concerning the policyholder's right to request benefit and contract provision information and the right to return the contract for a refund of premium.		X
2	Company producer training procedures and materials regarding replacement of existing coverage are in compliance with applicable statutes, rules and regulations.	X	
3	Company rules pertaining to producer and company replacement requirements are in compliance with applicable statutes, rules and regulations.		X
4	Company procedures for processing refunds under the "Free Look" option, or the 30 day option, if the application involved replacement of existing coverage, are in compliance with applicable statutes, rules and regulations.	X	
5	Company procedures that require disclosure documents, buyer's guides and annual reports be provided to contract owners are in compliance with applicable statutes, rules and regulations.	X	