

**DELAWARE DEPARTMENT OF INSURANCE**  
**MARKET CONDUCT EXAMINATION REPORT**

**Delaware Life Insurance Company**  
**NAIC #79065**

1601 Trapelo Road, Suite 30  
Waltham, MA 02451

**As of**

**December 31, 2019**

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

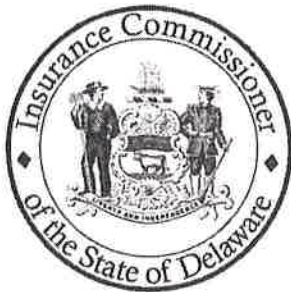
I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2019 on

**DELAWARE LIFE INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.

Attest By:

*Robert K. David*



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 9<sup>th</sup> day of March, 2021.

*Trinidad Navarro*  
\_\_\_\_\_  
Trinidad Navarro  
Insurance Commissioner

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
**DE LIFE INSURANCE COMPANY**  
AS OF  
December 31, 2019

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



In Witness Whereof, I have hereunto set my hand  
and affixed the official seal of this Department at the  
City of Dover, this 9<sup>th</sup> day of March, 2021.

  
Trinidad Navarro  
Insurance Commissioner

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Honorable Trinidad Navarro  
Insurance Commissioner  
State of Delaware  
1351 West North Street  
Suite 101  
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Examination Authority Number 79065-20-703 and pursuant to statutory provisions including 18 *Del. C.* § 318-322, a market conduct examination has been conducted of the affairs and practices thereof:

**Delaware Life Insurance Company**  
**NAIC #79065**

The examination was performed as of December 31, 2019.

The examination consisted of an off-site phase, which was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the Department or DDOI, or other suitable locations.

The report of examination herein is respectfully submitted.

## **EXECUTIVE SUMMARY**

The Company, formerly known as Sun Life Assurance Company of Canada (U.S.), is a stock life insurance company incorporated under the laws of Delaware. It was incorporated on January 12, 1970 and commenced business on January 1, 1973. The Company's administrative offices are located in Waltham, Massachusetts.

The examination was announced to review the Company's practices in the annuity marketplace in Delaware. The examination focused on the Company's annuity business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Service, Underwriting and Rating, and Claims.

All the exceptions noted were in the areas of Underwriting and Rating, and Claims.

The following exceptions were noted:

- **2 Exceptions**

- **18 Del. C. §2712. Filing, approval of forms.**

- *(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner.*

- The Company used a form that was not filed and/or approved by the Department.

- **4 Exceptions**

- **18 Del. Admin. C. § 1214-5.2 Insurance Producer Training**

- *5.2 An insurance producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the Department of Insurance and provided by the Department of Insurance approved education provider.*

- The Company failed to show the proof of evidence of producer completion of the required annuity product four (4) credits training.

- **3 Exceptions**

- **18 Del. Admin. C. § 1204-5.2.1 Duties of Agents and Brokers**

- *Where replacement is involved, the agent or broker shall:*

- *5.2.1 Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" (Delaware Insurance Form R, attached as Exhibit A), or other substantially similar form approved by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and a copy left with the applicant.*

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The Company accepted one application without the required replacement notice, one application with a notice replacement date after the application date, and one application without the producer signing the replacement notice.

- **9 Exceptions**

**18 Del. Admin. C. § 1204-7.1.2.2 Duties of Insurers That Use Agents or Brokers**

*7.1 Each insurer that uses an agent or broker in a life insurance or annuity sale shall:*

*7.1.2 Where a replacement is involved:*

*7.1.2.2 Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity contract is issued, whichever is sooner.*

The Company failed to provide the written communication advising of the replacement to the existing insurer within seven working days.

- **1 Exception**

**18 Del. C. § 1715. Appointments.**

*(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.*

*(b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of appointment 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 a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. The group appointment provision of this section is only applicable upon implementation by this Department of an electronic appointment process.*

*(c) Upon receipt of the notice of appointment, the Insurance Commissioner shall verify within a reasonable time not to exceed 30 days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the Insurance Commissioner shall notify the insurer within 5 days of its determination.*

*(d) An insurer shall pay an appointment fee, in the amount and method of payment set forth in Chapter 7 of this title, for each insurance producer appointed by the insurer.*

The Company accepted an application from a producer who was not appointed by the Company.

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- **5 Exceptions**  
**18 Del. Admin. C. § 902-1.2.1.2 Prohibited Unfair Claim Settlement Practices**  
*Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.*

The Company failed to acknowledge the claims within 15 working days.

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. § 318-322 and covered the experience period of January 1, 2018 through December 31, 2019, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware complaints handling, claims handling, agent appointment and termination, annuity suitability, replacement and surrender laws and regulations related to the sales and marketing of individual fixed annuities.

The examination was a targeted market conduct examination of the Company's annuity business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Service, Underwriting and Rating, and Claims.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on the errors found in individual files, the examiners also focus on general business practices of the Company.

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted.

However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.



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Delaware Life Insurance Company**

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and review written summaries provided on the exceptions found.

## **COMPANY HISTORY AND PROFILE**

The Company, formerly known as Sun Life Assurance Company of Canada (U.S.), is a stock life insurance company incorporated under the laws of Delaware. It was incorporated on January 12, 1970 and commenced business on January 1, 1973. Effective July 21, 2014, following the receipt of all required board of directors, shareholder and regulatory approvals, the Company's name changed from Sun Life Assurance Company of Canada (U.S.) to Delaware Life Insurance Company. The Company is a direct, wholly owned subsidiary of Group One Thousand One, LLC (the "Parent"); a Delaware limited liability company.

Prior to August 2, 2013, the Company was a member of the Sun Life Financial Group. On December 17, 2012, Sun Life Financial Inc. announced the execution of a definitive agreement to sell its domestic U.S. annuity business and certain life insurance businesses to the Parent, including all of the issued and outstanding shares of the Company and its subsidiaries, including Sun Life Insurance and Annuity Company of New York (now known as Delaware Life Insurance Company of New York ("DLNY") (the "Sale Transaction"). After receiving all required regulatory approvals, the Sale Transaction closed on August 2, 2013 with an effective date of August 1, 2013.

The Company is authorized to transact business in 49 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. While the Company is not authorized to transact business in the State of New York, its wholly owned subsidiary, DLNY, is authorized to transact business in New York. The business of the Company and its subsidiaries includes the issuance, administration, and servicing of a variety of wealth accumulation products, protection products and institutional investment contracts. According to the State of Delaware Certificate of Authority, the Company is authorized to transact the business of Life, including Annuities, Variable Life, Variable Annuities and Health Insurance.

As of its 2018 Annual Statement for the State of Delaware, Delaware Life Insurance Company reported life insurance premiums in the amount of \$660,437, and annuity considerations in the amount of \$9,325,379. As of its 2019 Annual Statement for the State of Delaware, Delaware Life Insurance Company reported life insurance premiums in the amount of \$720,790, and annuity considerations in the amount of \$19,045,227.

## **COMPANY OPERATIONS AND MANAGEMENT**

The Company provided the requested information documenting its management and operational procedures in areas for which they conduct business for the State of Delaware, including:

- The Company Overview and History and Profile.
- A description of the Company's management structure as well as the Organization Charts.
- A list of 26 audits conducted during 2017, 2018 and 2019, from which a sample of eight audit reports was selected and reviewed.
- The Company's Fraud Prevention and Detection Procedures Manuals.
- Copies of the third-party entity agreements.
- Documentation that the Company is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the Company and the pertinent reports.
- The Company's Records Management Operating Guidelines.
- A description of fines, penalties and recommendations from five States: California, Connecticut, Delaware, Massachusetts, and Texas. **California** - In June 2016, the Company was instructed to update specific consumer communications, forms, training confirmation deadlines, marketing materials, and policy forms. In September 2016, the Company confirmed it had addressed all areas of noncompliance the Department identified. **Connecticut** - In 2018, the Company was fined \$6,000 as a penalty for failure to update the appointment records of four (4) producers. **Delaware** - The Company was fined \$169,500 as an administrative penalty for failure to comply with the following: timeliness of complaint responses; marketing material review; timing of producer licensing; notification of producer termination; maintenance of consumer communications; phrasing of replacement questions; and notification of replacements. **Massachusetts** - In 2018, the Company agreed to pay \$215,907.23 to individuals who experienced delays in payments or failed to receive forms required to complete tax returns on time. The Company also made a payment to the Commonwealth of Massachusetts in the amount of \$30,000. **Texas** - In 2018, the Company was fined \$50,000 as an administrative penalty for failure to comply, in specific instances, with the following: semiannual review of third-party administrators; agent appointment; contract issuance and incomplete forms; contract issuance and privacy notice requirements; and timing of claims review, acknowledgment, and communications.
- The Company's Annual Reports for 2017, 2018 and 2019.

The documentation was reviewed for compliance with the State of Delaware Laws and Regulations. No exceptions were noted.

## **COMPLAINTS HANDLING**

### **A. Consumer Complaints**

The Company identified a universe of two consumer complaints received during the examination period. The two complaint files were requested, received and reviewed. The complaint files were reviewed for compliance with the State of Delaware Laws and Regulations, including but not limited to, 18 *Del. C.* § 2304(17) Failure to maintain complaint handling procedures. This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. No exceptions were noted.

## **MARKETING AND SALES**

### **A. Advertising and Sales Materials**

The Company provided a list of 1,645 pieces of advertising utilized during the examination period. The advertising consisted of: Newsletters, Bulletins, Websites, Presentations, Radio and Television Scripts, Online Ads, Banner Ads, Flyers, Newspaper Ads, Emails, Power Points, Post Cards, and Training Materials. A sample of 113 pieces of advertising materials was requested, received and reviewed. The 113 advertising materials and the Company's web site, <https://delawarelife.com>, were reviewed to ascertain compliance with the State of Delaware Laws and Regulations. No exceptions were noted.

## **PRODUCER LICENSING**

### **A. Producer Licensing and Appointments**

The Company provided a list of 56 active producers. The list was compared to departmental records of producers to ensure compliance with the State of Delaware Laws and Regulations. In addition, a comparison was made of the producers identified on applications reviewed in the policy issued sections of the examination. For this examination purposes, producer licensing exceptions found in the other sections of the examination were addressed in their respective summaries. No exceptions were noted.

### **B. Producer Terminations**

The Company provided a list of 20 terminated producers. The list was compared to departmental records of producers to ensure compliance with the State of Delaware Laws and Regulations. No exceptions were noted.

## **POLICYHOLDER SERVICE**

### **A. Individual Fixed Annuity Contracts Surrendered**

The Company provided a universe of 197 individual fixed annuities surrendered during the examination period. A random sample of 79 contract files was requested, received and reviewed. The files were reviewed to ensure compliance with the State of Delaware Laws and Regulations. No exceptions were noted.

### **B. Individual Variable Annuity Contracts Surrendered**

The Company provided a universe of 86 individual variable annuity contracts surrendered during the examination period. The entire universe of 86 contract files was requested, received, and reviewed. The files were reviewed to ensure compliance with the State of Delaware Laws and Regulations. No exceptions were noted.

## **UNDERWRITING AND RATING**

### **A. Forms**

The Company was requested to provide a list of all forms in use in Delaware during the examination period. The Company provided a list of 55 forms approved for use. All 55 forms were requested, received and reviewed. The forms provided and forms reviewed in various underwriting sections of the examination were reviewed to ensure compliance with 18 *Del. C. § 2712*, Filing, approval of forms. For this examination purposes, form exceptions found in the other sections of the examination were addressed in their respective summaries. No exceptions were noted.

### **B. Individual Fixed Annuity Contracts Issued**

The Company provided a universe of 196 individual fixed annuity contracts issued during the examination period of January 1, 2018 through December 31, 2019. A random sample of 79 contracts was requested, received, and reviewed. The contract files were reviewed to determine compliance with the State of Delaware Laws and Regulations. The following exceptions were noted:

#### **2 Exceptions - 18 *Del. C. § 2712*. Filing, approval of forms.**

The Company used a form that was not filed for use in Delaware.

*Recommendation:* It is recommended that the Company ensure all forms used are filed as required by 18 *Del. C. § 2712*.

## **2 Exceptions - 18 Del. Admin. C. § 1214-5.2 Insurance Producer Training**

The proof of the required annuity product four (4) credits training was not provided for two producers.

*Recommendation:* It is recommended that the Company ensure the producers complete the annuity product required four (4) credits training as required by 18 Del. Admin. C. § 1214-5.2.

### **C. Individual Fixed Annuity Contracts Issued as Replacements**

The Company provided a universe of 87 individual fixed annuity contracts issued as replacements during the examination period. All 87 contracts files were requested, received and reviewed. It was determined that of the 87 contracts, nine were outside of Delaware's jurisdiction. The remaining 78 contract files were reviewed to determine compliance with the State of Delaware Laws and Regulations.

The following exceptions were noted:

## **3 Exceptions - 18 Del. Admin. C. § 1204-5.2.1 Duties of Agents and Brokers**

The replacement notice in one file was not available, one was dated after the application date, and in one file the agent did not sign the form.

*Recommendation:* It is recommended that the Company ensure the notice regarding replacement is presented to the applicant not later than at the time of taking the application and that the agent signs the notice as required by 18 Del. Admin. C. § 1204-5.2.1. (Underwriting and Rating)

## **9 Exceptions - 18 Del. Admin. C. § 1204-7.1.2.2 Duties of Agents That Use Agents or Brokers**

The written communication advising of the replacement to the existing insurer was beyond 7 working days.

*Recommendation:* It is recommended that the Company ensure the written communication advising of the replacement or proposed replacement of the annuity contract is made within seven working days as required by with 18 Del. Admin. C. § 1204-7.1.2.2.

## **2 Exceptions - 18 Del. Admin. C. § 1214-5.2 Insurance Producer Training**

The proof of the required annuity product four (4) credits training was not provided for two producers.

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Delaware Life Insurance Company**

*Recommendation:* It is recommended that the Company ensure the producers engaged in the sale of annuity products complete a one-time four (4) credits training course as required by 18 *Del. Admin. C.* § 1214-5.2.

**1 Exception - 18 *Del. C.* § 1715. Appointments.**

The individual was listed as the producer on the application. However, Department records did not identify the individual as being appointed by the Company.

*Recommendation:* It is recommended that the Company ensure the producers are duly appointed as required by 18 *Del. C.* § 1715.

**CLAIMS**

**A. Annuity Paid Claims**

The Company provided a universe of 82 annuity claims received during the examination period. All 82 claim files were requested, received and reviewed. The files were reviewed to determine compliance with the State of Delaware Laws and Regulations. The following exceptions were noted:

**5 Exceptions - 18 *Del. Admin. C.* § 902-1.2.1.2 Prohibited Unfair Claim Settlement Practices**

The Company failed to acknowledge the claims within 15 working days.

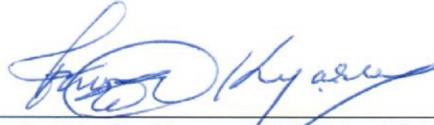
*Recommendation:* It is recommended that the Company review its procedures to ensure the claims are acknowledged within 15 working days as required by 18 *Del. Admin. C.* § 902-1.2.1.2.

## **CONCLUSION**

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended that the Company ensure all forms used are filed as required by 18 *Del. C. § 2712*. (Underwriting and Rating)
2. It is recommended that the Company ensure the producers complete the annuity product four (4) credits training as required by 18 *Del. Admin. C. § 1214-5.2*. (Underwriting and Rating)
3. It is recommended that the Company ensure the notice regarding replacement is presented to the applicant not later than at the time of taking the application and that the agent signs the notice as required by 18 *Del. Admin. C. § 1204-5.2.1*. (Underwriting and Rating)
4. It is recommended that the Company ensure the written communication advising of the replacement or proposed replacement of the annuity contract is made within seven working days as required by 18 *Del. Admin. C. § 1204-7.1.2.2*. (Underwriting and Rating)
5. It is recommended that the Company ensure the producers are duly appointed as required by 18 *Del. C. § 1715*. (Underwriting and Rating)
6. It is recommended that the Company review its procedures to ensure all claims are acknowledged within 15 working days as required 18 *Del. Admin. C. § 902-1.2.1.2*. (Claims)

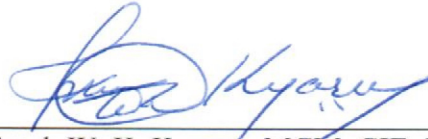
The examination conducted by Joseph Krug, Christina Hughart, Stephen Misenheimer and Frank Kyazze is respectfully submitted.



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Frank W. K. Kyazze, MCM, CIE, FLMI, ALHC  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance

I, Frank W.K. Kyazze, hereby verify and attest, under oath, that the above is a true and correct copy of the examination report and findings of the market conduct examination submitted to the Delaware Department of Insurance pursuant to examination authority #79065-20-703.



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Frank W. K. Kyazze, MCM, CIE, FLMI, ALHC