

MARKET CONDUCT EXAMINATION REPORT

GLOBE LIFE AND ACCIDENT INSURANCE COMPANY

NAIC #91472
Nebraska Domiciled Company
204 North Robinson Avenue
Oklahoma City, OK 73102

NAIC Group #290

ETS #KS023-M37

As of

June 30, 2010



KANSAS INSURANCE DEPARTMENT

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The Honorable Sandy Praeger
Insurance Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612

Dear Commissioner Praeger:

In accordance with your respective authorization, and pursuant to K.S.A. 40-222, a market conduct examination has been conducted on the business affairs of:

Globe Life and Accident Insurance Company
204 North Robinson Avenue
Oklahoma City, OK 73102
NAIC #91472

Hereafter referred to as “Globe” or the “Company” the following report of such examination is respectfully submitted,

Mary Lou Maritt, MCM
Market Conduct Examiner
Examiner-in-Charge

PURPOSE AND SCOPE OF REVIEW

A targeted market conduct examination of Globe Life and Accident Insurance Company (Globe) was conducted pursuant to, but not limited to, K.S.A. 40-222. The Kansas Insurance Department (KID) reviewed operations/management, complaints, marketing and sales, underwriting and rating and claims to determine compliance with applicable statutes, regulations and bulletins of the State of Kansas. The examination focused on life insurance, though the Company does write some accident and health business as well.

This review was conducted according to the guidelines and procedures recommended in the NAIC Market Regulation Handbook 2010 (MRH). The exam team utilized the standards and tests recommended in the MRH which allows error tolerances of 7% for claim procedures and 10% for all other categories. The examination report is written by test rather than by exception which means all standards used are described and the results indicated. Due to the scope of this exam, not all standards listed in the MRH were necessary. Therefore, the reader will notice gaps in the numbering of these standards throughout the report. Applicable statutes and regulations cited throughout the report are found in Appendix A.

The period for review under this examination was January 1, 2008 through June 30, 2010. The examination included reviewing all of the Company's complaint files, including direct complaints to the company and policyholder complaints to KID, as well as samples of paid and denied claim files for the period under review. Additionally, the Company's replacement procedures were evaluated using a sample of applications from the period under review.

Interrogatories were submitted to the Company prior to the on-site segment of the examination and the Company provided written responses.

The examination included, but was not limited to the following:

OPERATIONS/MANAGEMENT

History and Profile
Marketing and Sales
Prior Market Conduct Exam Reports
Fines and/or Penalties

MARKETING AND SALES

Replacements

UNDERWRITING AND RATING

Form Filings

COMPLAINT HANDLING

Record Keeping
Timely Response

CLAIMS

Claim Processing
Timeliness and Accuracy of Payments

EXECUTIVE SUMMARY

A targeted market conduct examination of Globe Life and Accident Insurance Company (Globe) was conducted pursuant to, but not limited to, K.S.A. 40-222. The examination period was January 1, 2008 through June 30, 2010.

The examiners reviewed the Company's operations/management, complaints, marketing and sales, underwriting and claims while onsite in their administrative office in Oklahoma City, Oklahoma, and electronically from the KID headquarters in Topeka, Kansas. The examination focused on life insurance, though the Company does write some accident and health business as well. Management agreements between Globe and third party vendors who provide call center and agency services were evaluated for security of confidential information, service responsibilities and audit reviews.

Some responses to procedural inquiries and violations involved delays by the Company and outside counsel, extensions, and responses with incomplete or incorrect information which extended the time necessary to complete the examination.

Regarding complaint handling, no individual errors were observed. However, it was noted that the date stamps used by the Company on incoming mail did not include the year, only the month and day, so a recommendation is being made to update that procedure.

Replacement notices were not sent to all companies and proposed insureds with policies being replaced as required by K.A.R. 40-2-12. Additionally, the dates replacement notices were sent could not be verified in the processing system. The Company has acknowledged this violation and has submitted a revised process which KID will monitor through a follow-up market conduct examination.

While reviewing the claim files, applications and marketing materials, the exam team discovered life policies labeled "Group" and "Individual" but the group policy was not filed in Kansas as required by K.S.A. 40-433(5) and K.S.A. 40-216(a)(2)(A). Further investigation revealed that these policies should have been written as individual policies.

The Company failed one of the ten claim standards by not sending a delay letter when more time was needed to process a claim. Other issues found included failure to pay interest as applicable and failure to follow the company's procedures for sending delay letters every 30 days if a claim is contestable. Finally, a general recommendation was made to reword a suspension letter used in the claim process.

Recommendations

OPERATIONS/MANAGEMENT

1. The Company must respond completely and timely to all future KID communications including monitoring outside sources for timely responses and requests during follow-up examinations.

COMPLAINT HANDLING

1. The Company should revise its incoming mail procedures to include the year on the date stamp in addition to the month and day.

MARKETING AND SALES

1. The Company must either comply with the notice requirements as indicated in K.A.R. 40-2-12(b)(4) for exemption OR comply with the other requirements of K.A.R. 40-2-12. The Company must also be able to provide evidence that they are in compliance with the regulation. Updated procedures must be put into place within 60 days of the Final Order adopting this examination report.
[Note: The Company has submitted a revised replacement process which KID is reviewing and will approve prior to implementation. A follow-up examination will be conducted to assure compliance with this regulation.]

UNDERWRITING AND RATING

1. Within 60 days of the Final Order adopting this examination report, the Company must coordinate with the Life Division of the Kansas Insurance Department to correctly file the current group policies as required in K.S.A. 40-333(5) and K.S.A. 40-216(a)(2)(A) and devise an appropriate procedure to notify current policyholders of the changes resulting from the Kansas filing.
[Note: The Company has agreed to no longer market the policies designated as a “discretionary group” under the Globe Family Services Trust and to file all necessary forms and policies in Kansas.]

CLAIMS

1. Delay letters must be sent every 45 days after an initial notification when a claim is not accepted or denied within the first 15 working days after receipt of the proofs of loss.
2. The Company should adhere to its 30-day notification policy and document any reasons for the delay.
3. The Company must ensure that steps are in place to apply the correct Kansas interest rate to all claims as applicable.
4. The exam team recommended that the Company reword its “Notice of Suspension” letter and other similar letters to include an explanation to differentiate between closing, denying and suspending.
[Note: The Company responded by submitting a new paragraph and received approval from the exam team during the onsite portion of the examination.]

The examiners are of the opinion that these recommended actions are critical for the Company to implement as tools to guarantee all Kansas certificate and policyholders are treated with uniformity and fairness.

DESK EXAMINATION/ON-SITE EXAMINATION

OPERATIONS/MANAGEMENT

I. History and Profile

Globe Life And Accident Insurance Company was founded in Oklahoma City in 1951 as a legal reserve stock company. Globe was acquired in July 1980 by Torchmark Corporation's predecessor, Liberty National Insurance Holding Company. At the time of its acquisition, Globe was re-domesticated to the state of Delaware. In December of 2007, Globe was re-domesticated to the State of Nebraska, its current domicile state.

Globe is a licensed life and health insurer in the District of Columbia, and all states except New York and is a wholly-owned subsidiary of Torchmark Corporation. Globe markets individual life and supplemental health insurance, including juvenile and senior life coverage, Medicare Supplement and Medicare Part D, and Accidental Death Benefit insurance to middle-income Americans nationwide using direct response, mail, television, and magazines.

II. Marketing & Sales

Distribution Methods

The Company's marketing program in Kansas is primarily direct response through the mail, call-centers, internet, or television. However, the Company does have a small number of agents who sell job-site life and accidental death insurance via agents.

1. Mail - The Company generates leads through their insert media program, the internet, and television. The insert media program involves advertising pieces that include a business-reply card.
2. Call-Centers - The Company also has contracts with several 3rd Party Vendors who employ agents to sell Globe products via direct response telephone call-centers. These 3rd Party Vendors do the contracting with the agents directly, and are responsible for all sales commissions and other agent compensation.
3. Internet - The Company maintains their own website where applications are received and processed at the Globe Home Office in the same manner as hard copy applications received in response to direct response mail packets. Changes made to the Company website result from new or updated regulatory requirements, product changes, rate changes, updated company statistics, and other like modifications.
4. ESD Agents - The Company has a small number of Independent Producers, internally referred to as Employee Services Division (ESD) Agents. These agents are independent contractors, but are Torchmark affiliated.

5. Marketing Groups - The Company sells less than 5% of business through third-party vendors. Included in this 5% approximation are both agent sales and website sales affiliated with the third-party vendor. For 2010, the Company has sold just over 3% of business through third-party vendor sales.

Policies in Effect

As of December 31, 2009, there were 28,672 Kansas policies in effect categorized as shown below:

By Line of Business		By Type	
Term Life	7,843	Individual	17,898
Whole Life	20,829	Discretionary Group	10,774

III. Prior Market Conduct Examination Reports

The Company provided the examiners with three market examination reports by the states of Nevada, North Carolina and New Jersey which were conducted during this examination period. There were no recommendations beyond the scope of this examination that warranted additional scrutiny.

IV. Fines and/or Penalties

The NAIC I-Site database was reviewed. There was nothing noted that warranted follow-up by this exam team beyond the issues already identified in KID complaint analysis and feedback from other KID Divisions.

V. Tests for Operations/Management

Standard 1

The regulated entity has an up-to-date, valid internal or external audit program.

Globe provided one internal audit for the twelve month period of June 2007 through May 2008 on life claims which tested various attributes of the claim process. Tests included verification of valid claims with sufficient proof of loss, proper approvals, timely payments, accuracy in payments and documentation in the general ledger. Claims processing was deemed accurate and in compliance with applicable regulations and management responses were noted as acceptable.

Result: Pass

Recommendation: None

Standard 5

Contracts between the regulated entity and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to, MGA's, GA's, TPA's and management agreements must comply with applicable licensing requirements, statutes, rules and regulations.

The exam team reviewed four marketing and administrative service agreements between Globe and their third party vendors who operate call centers for applicants from internet and direct response advertising and found them to be in order.

Result: Pass

Recommendation: None

Standard 6

The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.

Globe monitors their various contracted vendors by auditing the records of the call center and agency employees to determine hours worked and the reason for administrative costs. The Company has the right to examine and audit these records at all reasonable times and does monitor the "quality" of the business all third-party vendors submit by looking at issue rates and persistency.

Result: Pass

Recommendation: None

Standard 7

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

The Company maintained adequate records as required for a Market Conduct examination.

Result: Pass

Recommendation: None

Standard 8

The regulated entity is licensed for the lines of business that are being written.

The Kansas Certificates of Authority were reviewed and found to be in order for the transaction of life and accident and health business.

Result: Pass

Recommendation: None

Standard 9

The regulated entity cooperates on a timely basis with examiners performing the examinations.

While the exam team did receive most of the individual complaint and claim file write-up responses in a timely manner, other responses to procedural inquiries and violations involved delays by both the Company and outside counsel, extensions and responses with incomplete or incorrect information. These actions extended the time necessary to complete the examination.

Result: Pass

Recommendation: The Company must respond completely and timely to all future KID communications including monitoring outside sources for timely responses and responding to requests during follow-up examinations.

COMPLAINT HANDLING

I. Company Procedures

The Company considers a complaint to be any written communication which primarily expresses a grievance. These include all “grievances” submitted to the Company via direct communication from the consumer, the Department of Insurance, the Better Business Bureau, and an attorney representing the complainant.

Upon receipt of a complaint, it is date stamped with the date received by the mail room. The correspondence is then reviewed to determine the nature of the complaint, and entered into the computerized complaint log. The complaint is researched to obtain information for a response, and the initial written response is filed with the Insurance Department and/or the complainant. The company follows up with written responses and/or documentation as required, i.e., written agent response or claim records clarifying the Company’s final disposition, within the allowable time frame for response.

The Company tailors each response to the facts of the individual complaint and does not use standard form letters. Complaint procedures are maintained electronically and a supervisor trains each examiner one-on-one to process complaints within company guidelines.

II. Tests for Complaint Handling

The examiners reviewed all seven direct complaints received by the Company and all 32 complaints filed with KID from January 1, 2008 through June 30, 2010. Listed below are the number of files reviewed, errors found and percent of compliance with Kansas laws. The “Number of Errors” included in the table below is defined as the total number of complaints in the sample which contained errors. A standard is considered failed if any one of the samples did not meet the compliance threshold of 90%.

Standard 1

All complaints are recorded in the required format on the company complaint register.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Direct Complaints	7	0	100%
KID Complaints	32	0	100%

The company provided the exam team with a complaint log that met the required format specified by Kansas statute.

Result: Pass

Recommendation: None

Standard 2

The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Direct Complaints	7	0	100%
KID Complaints	32	0	100%

While no specific violations were noted, the review of correspondence in the individual files revealed that the initial date stamp included only the month and day the complaint was received, but not the year.

Result: Pass

Recommendation: The Company should revise its incoming mail procedures to include the year on the date stamp in addition to the month and day.

Standard 3

The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Direct Complaints	7	0	100%
KID Complaints	32	0	100%

Result: Pass

Recommendation: None

Standard 4

The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Direct Complaints	7	0	100%
KID Complaints	32	0	100%

Result: Pass

Recommendation: None

MARKETING AND SALES**I. Replacements**

The examiners reviewed 76 applications from policies that were listed on the Company’s replacement register as well as 65 applications from policies that were not listed on the Company’s replacement register. The “Number of Errors” included in the table is defined as the total number of policies in the sample which contained errors. A standard is considered failed if any one of the samples did not meet the compliance threshold of 90%.

II. Tests for Marketing and Sales**Standard 3**

The insurer’s rules pertaining to insurer requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Replacement Policies	76	76	0%
Non-replacement Policies	65	3	95%

A Kansas regulation imposes stipulations on an insurer who replaces an existing life insurance policy with a new life insurance policy. It also allows for an exemption of certain direct mail business if replacement notice requirements are met. As Globe does not send notices to the company being replaced or the proposed insured as required, they do not meet the criteria for exemption as indicated in and therefore are in violation of K.A.R. 40-2-12.

K.A.R. 40-2-12(b)(4) indicates a replacement notice be sent to the existing company as well as the proposed applicant within three business days.

The Company’s stated procedure is to send a notice to the existing company, if specified on the application, within three business days. However, because of the limitations of the Company’s computer system during the examination period, the examiners could not verify when or if these notices were sent. Also, if no company name is specified on the

application, there is not a reasonable attempt being made to determine who the insurer being replaced is so that the notice can be sent.

The Company's procedure is to send the notice to the proposed insured along with the policy. However, the policies issued beyond three days, and the policies that are not ultimately issued do not have replacement notices sent as required. Again, because of the limitations of the Company's computer system, the examiners could not verify when the applications were received or when the policies and replacement notices were sent.

Result: Fail

Recommendation: The Company must either comply with the notice requirements as indicated in K.A.R. 40-2-12 (b)(4) for exemption OR comply with the other requirements of K.A.R. 40-2-12. The Company also must be able to provide evidence that they are in compliance with the regulation. Updated procedures must be put into place within 60 days of the Final Order adopting this examination report.

UNDERWRITING AND RATING

I. Filing of Policy Forms

While reviewing the claim files, applications and marketing materials, the exam team discovered life policies described as part of a "discretionary group" had not been filed in Kansas. Further investigation revealed that these policies should have been written as individual policies.

II. Tests for Underwriting and Rating

Standard 5

All forms, including contracts, riders, endorsement forms and certificates are filed with the insurance department, if applicable.

Globe markets through direct sales a group life product that was not filed with the Kansas Insurance Department. The product was filed with the state of Delaware as a discretionary group through Globe Family Services Trust which was organized solely for the purpose of providing group insurance on a favorable basis. The Company stated this is the only service or benefit provided by the Trust and the only requirement for membership into the Trust is to be approved for life insurance. This is a violation of K.S.A. 40-433(5), which states that associations must be organized and maintained for purposes other than obtaining insurance.

Additionally, K.S.A. 40-216(a)(2)(A) requires contracts of insurance or indemnity to be filed in Kansas unless it meets the exceptions in K.S.A. 40-216(a)(2)(B). A "discretionary group" does not meet the criteria for any of these exceptions.

Result: Fail

Recommendation: Within 60 days of the Final Order adopting this examination report, the Company must coordinate with the Life Division of the Kansas Insurance Department to correctly file the current group policies as individual policies as required in K.S.A. 40-333(5) and K.S.A. 40-216(a)(2)(A) and devise an appropriate procedure to notify current policyholders of the changes resulting from the Kansas filing.

CLAIMS

I. Claim Processing

Life claims are initiated by the claimant via mail or phone. The CSR determines whether a claim has been previously set-up, and then completes the notice of death (NDTH) screen. Claim documentation is date-stamped upon receipt which becomes the date the claim is considered reported. A claims clerk verifies the policy number is contained in the documentation, and the claim documentation is scanned.

For existing claims, the new documentation is designated “supplemental”, and automatically attaches to the existing claim.

When new claims are scanned into Onbase, they get sent to a holding queue to be worked by Data Entry. Once the claims have been forwarded to the Claims Examiners (for incontestable claims) and Analysts (for contestable claims) for processing, they are responsible for verifying only valid claims are paid. Claims examiners have authorization to pay claims based on the face amount of the claims but a release process is performed by supervisors.

Once the claim is determined to be contestable, a letter is generated informing the claimant of the claim’s progress. This communication is continued every 30 days until the claim is either denied or paid. The claimant is notified by a denial letter for claims that are denied.

Placing the claim in “pending” status prepares it for overnight processing at Globe Marketing Services (GMS), which is the facility where all of the Company’s checks are printed. The clerks receive a daily cumulative report of claims that have been pended and at 30 days, a follow-up letter is mailed to the beneficiary informing him/her of the pending claims and the reason(s) that it has not been paid. The letter also advises the beneficiary that at 60 days, if no response has been received, the claim will be closed and no further action will be taken on the claim.

II. Tests for Claims

KID reviewed “Paid Claims” and “Denied Claims” samples from January 1, 2008 through June 30, 2010. Listed below are the number of files reviewed, errors found and percentage of compliance with Kansas statutes and regulations. The “Number of Errors” included in the table below is defined as the total number of claims in the sample which contained errors. A standard is considered failed if any one of the samples did not meet the compliance threshold of 93%.

Standard 1

The initial contact by the regulated entity with the claimant is within the required time frame.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	0	100%
Denied Claims	41	0	100%

Result: Pass

Recommendation: None

Standard 2

Timely investigations are conducted.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	0	100%
Denied Claims	41	0	100%

Result: Pass

Recommendation: None

Standard 3

Claims are resolved in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	1	99%
Denied Claims	41	8	80%

Paid Claims: One claim did not send a delay letter after 45 days as required by K.A.R. 40-1-34, Section 8(c).

Denied Claims: Eight claims did not send delay letters after 45 days as required by K.A.R. 40-1-34, Section 8(c).

Result: Fail

Recommendation: Additional delay letters must be sent every 45 days after initial notification when a claim is not accepted or denied within the first 15 working days after receipt of the proofs of loss.

Also, while reviewing the denied claims sample, the examiners noticed that the Company failed to meet its own claim handling standard in eight separate claim files by notifying the claimant anywhere from 31-67 days that a delay in processing the claim had occurred.

The Globe claims handling procedure states, “Once the claim is determined to be contestable, a letter is generated informing the claimant of the claim’s progress. This communication is continued every 30 days until the claim is either denied or paid.” This

wide variance represents an inconsistent pattern in following the company's claims handling procedures thereby not treating each policyholder in the same manner.

Recommendation: The Company should adhere to its 30-day notification policy and document any reasons for the delay.

Standard 4

The regulated entity responds to claim correspondence in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	0	100%
Denied Claims	41	0	100%

Result: Pass

Recommendation: None

Standard 5

Claim files are adequately documented.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	0	100%
Denied Claims	41	0	100%

Result: Pass

Recommendation: None

Standard 6

Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	2	98%
Denied Claims	41	0	100%

Paid Claims: One claim did not pay interest when required, and one claim did not pay the correct amount of interest as required by K.S.A. 40-447(a).

Result: Pass

Recommendation: The Company must ensure that steps are in place to apply the correct Kansas interest rate to all claims as applicable.

Standard 7

Regulated entity claim forms are appropriate for the type of product.

Result: Pass

Recommendation: None

Standard 9

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Denied Claims	41	0	100%

Result: Pass

Recommendation: None

Standard 11

Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Paid Claims	83	0	100%
Denied Claims	41	0	100%

While some beneficiaries were represented by estate attorneys, there were no litigation issues with the reviewed files.

Result: Pass

Recommendation: None

General Claims Recommendation

The exam team recommended that the Company reword its “Notice of Suspension” letter and other similar letters to include an explanation to differentiate between closing, denying and suspending.

SUMMARIZATION

This examination was conducted to review the operations/management policies, marketing and sales practices, complaint handling, underwriting and claim files of Globe Life and Accident Insurance Company. The tests and standards were applied to create uniformity in the reporting of passes and failures. The following items are stated in the specific standards above as violations and/or recommendations.

Recommendations

OPERATIONS/MANAGEMENT

1. The Company must respond completely and timely to all future KID communications including monitoring outside sources for timely responses and requests during follow-up examinations.

COMPLAINT HANDLING

1. The Company should revise its incoming mail procedures to include the year on the date stamp in addition to the month and day.

MARKETING AND SALES

1. The Company must either comply with the notice requirements as indicated in K.A.R. 40-2-12(b)(4) for exemption OR comply with the other requirements of K.A.R. 40-2-12. The Company must also be able to provide evidence that they are in compliance with the regulation. Updated procedures must be put into place within 60 days of the Final Order adopting this examination report.
[Note: The Company has submitted a revised replacement process which KID is reviewing and will approve prior to implementation. A follow-up examination will be conducted to assure compliance with this regulation.]

UNDERWRITING AND RATING

1. Within 60 days of the Final Order adopting this examination report, the Company must coordinate with the Life Division of the Kansas Insurance Department to correctly file the current group policies as required in K.S.A. 40-333(5) and K.S.A. 40-216(a)(2)(A) and devise an appropriate procedure to notify current policyholders of the changes resulting from the Kansas filing.
[Note: The Company has agreed to no longer market the policies designated as a "discretionary group" under the Globe Family Services Trust and to file all necessary forms and policies in Kansas.]

CLAIMS

1. Delay letters must be sent every 45 days after an initial notification when a claim is not accepted or denied within the first 15 working days after receipt of the proofs of loss.
2. The Company should adhere to its 30-day notification policy and document any reasons for the delay.

3. The Company must ensure that steps are in place to apply the correct Kansas interest rate to all claims as applicable.
4. The exam team recommended that the Company reword its “Notice of Suspension” letter and other similar letters to include an explanation to differentiate between closing, denying and suspending.
[Note: The Company responded by submitting a new paragraph and received approval from the exam team during the onsite portion of the examination.]

The examiners are of the opinion that these recommended actions are critical for the Company to implement as tools to guarantee all Kansas certificate and policyholders are treated with uniformity and fairness.

CONCLUSION

I would like to acknowledge the cooperation and courtesy extended to the examination team by Joel Scarborough, General Counsel; Kelly Masters-Newton, Assistant General Counsel and the staff at Globe Life and Accident Insurance Company office in Oklahoma City.

The following examiners from the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

Market Conduct Division

Mary Lou Maritt
Market Conduct Examiner

Amber Whitlock
Market Conduct Examiner

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Lou Maritt". The signature is written in dark ink on a light-colored background.

Mary Lou Maritt, MCM
Examiner-in-Charge

APPENDIX A

Related Kansas Insurance Statutes and Administrative Regulations

K.S.A. 40-222. Examinations

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

...

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

K.S.A. 40-216. Business prohibited until certain filings made; contracts effective on filing; filing of contracts on behalf of insurer by rating organization or another insurer; contracts written in foreign language; suspension or modification of filing requirements by commissioner; hearing, order.

(a)(1) No insurance company shall hereafter transact business in this state until certified copies of its charter and amendments thereto shall have been filed with and approved by the commissioner of insurance. A copy of the bylaws and amendments thereto of insurance companies organized under the laws of this state shall also be filed with and approved by the commissioner of insurance. The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state.

(2)(A) Except as provided in subparagraph (B), each contract of insurance or indemnity issued or delivered in this state shall be effective on filing, or any subsequent date selected by the insurer, unless the commissioner disapproves such contract of insurance or indemnity within 30 days after filing because the contract of insurance or indemnity does not comply with Kansas law.

(B) The following contracts of insurance or indemnity shall not be subject to the provisions of subsection (A):

(i) Contracts pertaining to large risks as defined in subsection (i) of K.S.A. 40-955, and amendments thereto, which are exempt from the filing requirements of this section;

(ii) personal lines contracts filed in accordance with paragraph (3) of this section;

(iii) any form filing for the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto; and

(iv) form filing for workers compensation.

No form filing listed in clauses (iii) and (iv) of this subparagraph shall be used in this state by any insurer until such form filing has been approved by the commissioner.

...

K.S.A. 40-433. Group life insurance; group eligibility

No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

...

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

...

K.S.A. 40-447. Interest on proceeds

(a) Notwithstanding any other provision of law, each insurer admitted to transact life insurance in the state of Kansas which fails or refuses to pay the proceeds of, or payments under, any policy of life insurance issued by it within 10 days after the date of receipt of due proof of death in the manner and form requested by the policy, shall pay interest on any moneys payable and unpaid after the expiration of such 10-day period at an annual rate of not less than the current rate of interest on death proceeds left on deposit with the insurer plus 1% computed from the date of said receipt.

...

K.A.R. 40-1-34. Unfair Claims Practices Act

...

Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers

...

(c) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

...

40-2-12. Replacement of life insurance and annuities.

(a) Definitions.

(1) "Agent" means each agent, broker, or other person representing an insurer in the sale of any type of policy.

(2) "Company" or "insurer" means each company, society, association or other financial institution which issues a policy subject to the supervision of the Kansas insurance department.

(3) "Life insurance" means each life insurance policy, annuity, or variable annuity contract, unless specifically exempted in subsection (b).

(4) "Substantial cash values" means each transaction in which an amount exceeding 50 percent of the tabular cash value may be released on one or more of the existing policies.

(5) "Substantial borrowings" means each transaction in which an amount exceeding 50 percent of the tabular cash value may be borrowed on one or more existing policies.

(6) "Securities," as used in this regulation, shall not include any insurance or endowment policy, or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or for some other specified period.

(7) "Replacement" means each transaction in which new life insurance may be purchased from an agent who knows, or reasonably should know that, as a part of the transaction or in consequence of it, a previously existing life insurance has been or is likely to be:

(A) Lapsed or surrendered;

(B) converted into paid-up insurance, continued as extended term insurance or another form of non-forfeiture benefit;

(C) converted to effect a reduction either in the amount of the existing life insurance, or in the period of time the existing life insurance will continue in force;

(D) reissued with a reduction in amount so that substantial cash values are released; or

(E) assigned as collateral for a loan or subjected to substantial borrowing of loan values in single or multiple transactions.

(8) "Sales proposal" means individualized, written sales aids. Sales aids of a general nature, which are maintained in the insurer's advertising compliance file, shall not be considered a sales proposal.

(b) This regulation shall not apply when:

(1) The application for the new life insurance is made to the same insurer that issued the existing life insurance, and a contractual policy change or conversion privilege is being exercised;

(2) the new life insurance is provided under:

(A) A group life insurance policy; or

(B) policies covering employees of an employer, debtors of a creditor, or members of an association, which are distributed on a mass merchandising basis and administered by group-type methods;

(3) the existing life insurance is a non-convertible term policy with five years or less to expire and which cannot be renewed;

(4) the solicitation is made by direct mail and:

(A) All sales material is standard and printed;

(B) the insurance company notifies the existing insurance company within three business days that the proposed insured has answered "yes" to the replacement question in the application; and

(C) concurrent with the notice to the existing company, the insurance company mails to the applicant a copy of the "notice to applicant regarding replacement of life insurance" described in subsection (h); or

(5) the policy is issued in connection with a pension, profit sharing, an individual retirement account or other benefit plan qualifying for an income tax deduction of premiums.

(c) Each life insurance agent shall:

(1) Obtain a statement signed by the applicant as a part of each life insurance application as to whether the new insurance will replace existing life insurance; and

(2) submit to the insurer in connection with each life insurance application a statement as to whether, to the best of the agent's knowledge, a life insurance replacement is involved in the transaction.

(d) When a replacement is involved, each life insurance agent shall:

(1) Include as part of each application a list of all existing life insurance policies to be replaced and the name of each insurer which issued the insurance being replaced;

(2) present to the applicant, when the application is submitted, a copy of each sales proposal used, and a "notice to applicants regarding replacement of life insurance" described in section (h) in a form acceptable to the commissioner. The agent shall leave the forms with the applicant after explaining their content;

(3) submit with the application a copy of each sales proposal used; and

(4) have the applicant acknowledge receipt of the "notice to applicant regarding replacement of life insurance."

(e) Each insurer shall:

(1) Inform its field representatives of the requirements of this regulation;

(2) require with each application a statement signed by the applicant as to whether the insurance will replace existing life insurance; and

(3) require in connection with each application for life insurance a statement signed by the agent as to whether, to the best of the agent's knowledge, a life insurance replacement is involved in the transaction.

(f) When a replacement is involved, the replacing insurer shall:

(1) Require with each application a list prepared by the agent of all existing life insurance policies to be replaced;

(2) obtain a copy of any sales proposal used, proof of the receipt by the applicant of the "notice to applicant regarding replacement of life insurance," and the name of each insurer whose insurance is being replaced;

(3) within three working days, notify each insurer whose insurance is being replaced by another insurer;

(4) delay, if it is not the existing insurer, policy issuance for 20 days after sending the notification required by subparagraph (3). The replacing insurer may issue its policy immediately when:

(A) The policy or a separate written notice states that, except as provided in K.A.R. 40-2-15 with respect to adjustments necessary to reflect investment risk on variable annuity contracts and variable life insurance policies, the applicant has a right to an unconditional refund of all premiums paid, within 20 days after delivery of the policy; and

(B) notice to the existing insurer is sent within three working days of the date its policy is issued;

(5) maintain copies of each sales proposal used, proof of receipt by the applicant of the "notice to applicant regarding replacement," and the applicant's signed statement with respect to replacement, in its home office for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later. Each insurer receiving notice that its existing insurance may be replaced shall maintain a copy of the notice, indexed by insurer, for three years after receipt or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later; and

(6) either by inclusion in the replacement policy or by a rider attached thereto, provide that the new life insurance issued by the replacing insurer will not be contestable by the replacing insurer, in the event of the insured's death, to any greater extent than the replaced life insurance would have been contestable by the insurer providing the replaced coverage had a replacement not occurred. Subsection (f) (6) shall not apply to any amount of insurance provided by the replacement policy which exceeds the amount of insurance provided by the replaced policy.

(g) With the exception of the reference to a comparative information form, the forms set forth in exhibits A, B, and C of the national association of insurance commissioners' model life insurance replacement regulation, December 1978 edition, are hereby adopted by reference. Equivalent forms may be adopted with the prior approval of the insurance commissioner. If the forms adopted by reference require modification for replacements involving annuity contracts or

contracts sold by direct mail methods, each company shall modify the form and submit the modified form to the insurance commissioner for approval. A copy of the modified forms shall be filed with the insurance commissioner.

(h) If an agent, who holds both a life insurance license and a securities license, proposes to sell securities to a policyholder which will result in situations set forth in paragraph (7) of subsection (a), the agent shall give written notice to the policyholder before consummating the proposal. Each written notice shall:

- (1) Be dated and signed by the licensed agent, and state the agent's address;
- (2) state the name and address of the policyholder;
- (3) describe the insurance which has been or is to be affected, including the policy number, amount of insurance, plan of insurance, issue age, effective date, and the total premium;
- (4) state how the insurance will be affected, the amount of cash value affected and the facts which support replacement; and
- (5) list the company or companies involved.

(i) Each agent, who holds both a life insurance license and a securities license, shall keep a file containing a copy of each written notice. The agent shall keep a copy of each notice for three years. The file shall be subject to inspection and review by the insurance department, upon written request.

(j) When any licensed agent solicits life insurance in connection with the sale of securities not prohibited by K.S.A. 40-232, this agent shall, in addition to complying with the requirements of subsections (c) and (d), submit a copy of the notice required by subsection (i) to the insurer. Each notice shall be attached to and become a part of exhibit A referenced in section (g) of this regulation.

(k) Any violation of this rule shall be presumed to constitute a misleading representation for the purpose of inducing or tending to induce an insured to lapse, forfeit or surrender the insured's existing insurance.