

**MARKET CONDUCT EXAMINATION REPORT**

of

**THE ALLIANZ LIFE INSURANCE COMPANY OF NORTH  
AMERICA**

of

**MINNEAPOLIS, MINNESOTA**

As of

**December 31, 2005**

By

**VERMONT DEPARTMENT OF BANKING,  
INSURANCE, SECURITIES AND HEALTH CARE  
ADMINISTRATION**



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May 1, 2009

The Honorable Paulette Thabault  
Commissioner  
Vermont Department of Banking, Insurance,  
Securities and Health Care Administration  
89 Main Street, Drawer 20  
Montpelier, Vermont 05620

Dear Commissioner Thabault:

Pursuant to your instructions and in compliance with the provisions of 8 V.S.A. § 3565 et seq. and procedures promulgated by the National Association of Insurance Commissioners, an examination of the market conduct activities has been conducted of:

The Allianz Life Insurance Company of North America, NAIC # 90611

Mail Address:  
P. O. Box 1344  
Minneapolis, MN 55440-1344

Statutory Home Office:  
5701 Golden Hills Drive  
Minneapolis, MN 55416-1297

Main Administrative Office:  
5701 Golden Hills Drive  
Minneapolis, MN 55416-1297

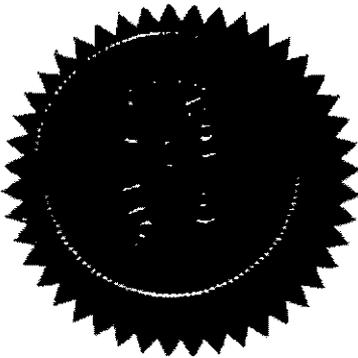
The report thereon, as of December 31, 2005, is respectfully submitted.

Charles Piasecki, CIE, MCM, CPCU  
Administrative Insurance Examiner  
Vermont Department of Banking, Insurance, Securities and Health Care Administration

## CERTIFICATION

Charles Piasecki, CIE, MCM, CPCU, James R. Montgomery III, AIE, FLMI, MAAA, Robbie L. Kriplean, CIE, AIRC and Jennifer E. Greenway, AIRC participated in this examination.

I, Charles Piasecki, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of The Allianz Life Insurance Company of North American is true and correct to the best of my knowledge and belief.



Charles Piasecki  
Charles Piasecki, CIE, MCM, CPCU

Subscribed and sworn to before me this 1<sup>st</sup> day of May, 2009.

Louisa B. Newell  
NOTARY PUBLIC

exp. 2-10-11

## FOREWORD

This target market conduct examination report is written generally by exception and references to additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were observed. The lack of comment on specific products, procedures, or files does not constitute approval thereof by the Vermont Department of Insurance.

The Allianz Life Insurance Company of North America is referred to throughout this report as the *Company* or *Allianz*, unless specifically mentioned by name. The Vermont Department of Banking, Insurance, Securities and Health Care Administration is referred to as the *Department* or the *Vermont Department*.

In order to gain a clear perception of the examination one should review the Commissioner's Order and the Company's response in connection with the examination report, all of which will be made available on the Department's website.

The examiners wish to acknowledge the exceptional cooperation of the Company's Senior Compliance Analyst, Michele Thomforde and Compliance Manager, Karyl Betsinger, in facilitating the examination process.

## SUBSEQUENT ACTIONS

The examination of Allianz was suspended, pursuant to 8 V.S.A. § 3573 (c), in December 2007 in order to pursue other actions. The Department subsequently decided to re-activate the examination and the suspension was terminated in March 2009. Allianz was notified of the Department's decision to re-activate the examination and was given an opportunity to comment on factual issues with respect to the 2007 draft report. The Company responded on April 14, 2009, by addressing those portions of the examination draft report that it felt contained factual errors and/or deficiencies. Upon review by the Department, appropriate revisions were made to the draft report and the examination was deemed completed as of May 1, 2009.

## **SCOPE OF EXAMINATION**

### **EXAMINATION AUTHORITY**

The examination of Allianz was conducted pursuant to the authority contained in 8 V.S.A. §§ 11, 12, 13, 4726 and 4804.

### **TIME FRAME**

The examination generally covers the period from January 1, 2002 through December 31, 2005.

### **SAMPLING METHODOLOGY**

The examiners used random sampling techniques, utilizing ACL software.

### **EXAMINATION SITUS**

The Company's statutory home office is located at 5701 Golden Hills Drive, Minneapolis, Minnesota, however, this examination was conducted entirely off-site. Information, documents and other materials were provided directly to the examiners in hard copy and/or on computer diskettes and by electronic mail.

### **MATTERS EXAMINED**

- Replacement Procedures
- Complaints
- Trade Practices
- Filing Requirements Re: Bulletin 110
- Claims Administration

## **PREVIOUS EXAMINATIONS**

### **PRIOR REPORT SUMMARY AND CONCLUSIONS**

The Vermont Department did not conduct an examination of the Company during the last five years.

## **EXECUTIVE SUMMARY**

### **(I) SALES AND MARKETING**

#### **MISLEADING ADVERTISING**

Many of the annuities offered by the Company include a premium “bonus” feature whereby an additional percentage such as 5% or 10% of the premiums paid is credited to the contract value. Some of the Company’s advertising pieces mischaracterize the bonus as providing an “immediate” gain when, in fact, it is not available to the policyholder unless the annuity is held in deferral for a minimum of five years and then only if taken in the form of periodic payments over a minimum span of ten (10) years.

Another advertising piece designed for agent use in promoting sales to CD owners contains misleading inferences regarding income tax benefits. The advantages claimed are those which would apply to a tax exempt investment rather than a tax deferred product such as the Company’s deferred annuities.

Still another advertising piece makes the claim that annual gains are locked in and that the annuitant is assured of the highest value in the future. This claim is not true under some circumstances as explained in the body of this report.

The misrepresentations summarized above constitute violations of 8 V.S.A. § 4724 (13).

#### **LITIGATION**

The examiners routinely review pending litigation pertaining to a Company’s sales practices. On March 23, 2006, inquiry was made as to whether there were any lawsuits against the Company regarding their sales practices, which were open at anytime during the current examination period. The Company stated that there were none. The fact is that there were actually three (3) class action lawsuits open on the date of the Company’s reply. When asked to explain the reason for their misstatement to the examiners, the Company attributed it to a misunderstanding between their Legal Department and their Senior Compliance Analyst.

### **(II) TRADE PRACTICES**

#### **SUITABILITY**

The examiners found Allianz to be in violation of 8 V.S.A. § 4724 (16) regarding annuity contracts issued prior to July 2005. There was no evidence that Allianz had sufficient information in their files to determine whether or not annuity contracts issued prior to July 2005, were in fact suitable for the persons for whom they were written.

Vermont 's statute, 8 V.S.A. § 4726 (16) is clear that it is the responsibility of all persons who solicit, sell or issue a policy or contract to determine whether or not a policy or contract is suitable for their circumstances. The producer who solicits and/or sells the policy or contract has an obligation; however, that obligation also extends to the person issuing the policy or contract. Allianz failed to collect enough information to determine if the contracts were suitable. The Company asked its producers to sell only suitable contracts but failed to require documentation that the producer made a proper determination. Prior to July 2005, Allianz did not meet their obligation under 8 V.S.A. § 4724 (16) as a person who issued an insurance contract in Vermont.

There was evidence that Allianz should have known that unsuitable contracts were being issued as discussed in detail in this report.

A total of two thousand forty-two (2,042) equity-indexed annuities were sold to Vermont policyholders during the examination period. More than one-third of these (34.5%) were sold to annuitants age 65 and older. Although annuities are suitable for some individuals over the age of 65, many of the advantages of annuities are realized only after a long period of time thus, annuities are less likely to be suitable products for much of the elderly population. In addition, equity-indexed annuities are much more complex than other fixed annuities to understand and can easily be misunderstood by the public. Because of the higher probability of unsuitability, more care needs to be used to determine suitability when selling annuities to the elderly.

In summary, it was not until July of 2005, that Allianz implemented procedures to assess whether or not the annuity contracts they were issuing were in fact suitable for the policyholders and thus meet its obligation imposed by 8 V.S.A. § 4724 (16).

### **(III) SUPERVISION AND CONTROL OF PRODUCERS**

Vermont statutes do not dictate what type of system of control and supervision the company must use with its producers, however, a company is responsible for the actions of its appointed agents. (Reference 8 V.S.A. § 4813 (c)). Allianz's current system of using FMO's as described below, has resulted in significant agent violations for which the Company is responsible.

The Company distributes its products solely through licensed independent agents and registered representatives. Prior to being appointed by the Company, agents are required to contract with a Field Marketing Organization (FMO) or, with respect to registered representatives, through a Broker Dealer. Of the many such organizations through which Allianz distributes its products, there are fourteen (14) FMO's of which Allianz holds from 40% to 100% ownership and one broker dealer which is a wholly owned subsidiary of the Company.

The Company does not maintain direct control over its agents and/or registered representatives as the contracts between the Company and its FMO's and Broker Dealers provide that supervision of its producers is the responsibility of the FMO or Broker

Dealer, none of which are located in Vermont. Since the FMO or Broker Dealer receives compensation in the form of an override (commission) based on the business written by the independent agent or registered representative with whom it is contracted, there is a perceived conflict of interest regarding objectivity in the determination of which contracts are unsuitable for sale to particular clients.

It appears that the supervision and training of the agency force is deficient as evidenced by the extraordinarily high number of violations observed during the examination. Refer to the section of this report entitled *Replacements*.

Additionally, this report contains an extensive discussion of Company investigations of its agents regarding serious allegations of malfeasance on the part of its agents and the Company's handling of these investigations.

Allianz did not monitor its producers' life and annuity replacements during the examination period. The only monitoring was in response to the examiners' request for a sample of ten (10) producers' records. The examiners' review revealed that three (3) of the producers in the sample had annuity contract replacement percentages vs. annual annuity sales that appeared to be unusually high. Ultimately, on 01/10/07, the Company implemented replacement monitoring procedures.

Further, the Company was found to be in violation of 8 V.S.A. § 4813 l. (d) in that there were five (5) applications which were dated more than fifteen (15) days prior to the date of the producers' appointments.

#### **(IV) REPLACEMENTS**

The examiners reviewed various samples, as detailed in the report under the section entitled: *Scope of Written Business and Sample Selection*, to determine compliance with Vermont's Life Insurance and Annuities Replacement Regulation 2001-3. Findings revealed over three hundred (300) violations of various sections of the regulation as discussed in detail under this section of the report. Following a discussion of the various violations is a listing of the examiners' recommendations regarding compliance with the Regulation.

#### **(V) BUYER'S GUIDE**

Vermont Bulletin 110 requires that insurers selling equity indexed annuities in Vermont provide a copy of a buyer's guide or informational material containing certain specified information. A copy signed by the insured or certificate holder indicating their receipt must be kept in the insurer's records.

The examiners observed that the Company failed to provide evidence that the policyholders received a copy of the buyer's guide in one hundred and eighty-two (182) instances.

Vermont Bulletin 121 contains a number of different disclosure requirements regarding the sale of indexed life insurance products. The examiners observed that the Company failed to comply with various requirements of Bulletin 121 in twenty-four (24) instances as discussed in detail in this section of the report.

## **(VI) CLAIMS PRACTICES AND PROCEDURES**

The Company failed to report the correct amount of death benefits paid on Vermont claims in the years 2002 and 2003 on the Vermont state pages of its annual financial statement for those two years. These incorrect entries constitute violations of 8 V.S.A. § 4724 (2).

Sixty-one (61) Vermont life insurance claims were paid during the examination period. Fifty-six (56) of these were found to be in violation of 8 V.S.A. § 3665 (c) (2) which requires that all claim payments on policies of life insurance include interest accrued from the date of death at a rate of interest equal to that paid on proceeds left on deposit, or six percent whichever is greater. In fifty-five (55) of the fifty-six (56) cases the Company failed to pay any interest on the claim. Additionally, the Company was found to be in violation of 8 V.S.A. § 3665 (d) with respect to two (2) cases where the claims were not paid in a timely manner (within 30 days from receipt of proof of loss). In such cases the law provides for a penalty rate of 12% which accrues from thirty (30) days after the beneficiary filed proof of loss to the date the claim is paid.

The examiners recommend that the Company go back as far as the Vermont Department deems appropriate and pay with interest those amounts due to the beneficiaries of the affected policies in addition to implementing procedures by which full compliance with 8 V.S.A. § 3665 (c) (2) and (d) would be assured.

The Company reported a total of fifty (50) annuity death claims during the examination period where the beneficiaries elected a lump sum payment and an additional twenty-three (23) cases where the beneficiaries elected a periodic payout option.

During the timeframe of the examination period, the Company's procedures did not include the requirement that the penalty claim interest of 12% be paid on those claims which were not paid within thirty (30) days from receipt of proof of death as required by 8 V.S.A. § 3665 (d), however, the Company reported that their procedures had been updated to include this requirement effective 01/01/06.

## **(VII) COMPLAINTS**

The number of Vermont complaints reported by the Company by year received was as follows:

<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
4	3	5	8

This section of the report contains a chart listing each complaint with a description of the reason for each as well as the resolution and the examiners' comments where applicable. The most frequent complaint involved alleged misleading statements or representations by the agent or other agent mishandling including suitability issues.

The examiners made recommendations for improving accuracy of information contained in the complaint register and the Company's complaint tracking system.

The Company failed to file an Annual Report of its complaints for 2002, 2003 and 2004 in violation of Regulation 99-1 4 A. (4) (c) and 76-1 § 5. After this was called to the Company's attention, they sent reports to the Department for the years 2002 through 2005 on March 22, 2006. The examiners' review of the reports revealed a discrepancy with respect to the total number of complaints appearing on the 2005 summary. A corrected report for the year 2005 was sent to the Department on May 3, 2006.

The examiners discovered nine (9) contracts from their sample of contracts returned under the "free look" option where the reason stated for the return "primarily expressed a grievance" [Reg. 76-1 § 2 (a)]. Inasmuch as these were not reported as complaints, each would represent a violation of 8 V.S.A. § 4724 (10). The Company agreed with the examiners' findings in four (4) out of the nine (9) cases but did not agree that the remaining five (5) requests for cancellation constituted complaints. Details are included in this section of the report.

#### **(VIII) REPORTS OF LEGAL ACTIONS INVOLVING OTHER DEPARTMENTS**

The Company failed to file annually with the Vermont Department a list of actions by the insurance departments of other states regarding any allegation of violation of law or regulation as required by Vermont Bulletin 30. The Company rectified its failure by submitting back reports and promised to complete filings required by Bulletin 30, in the proper format, by the due date. Details of these reports are included under this section of the body of the report.

When the examiners made inquiry regarding actions taken against the Company by other states their response stated that there were no reportable actions in 2003. The examiners' review of market conduct reports conducted by other states, however, revealed that the state of Illinois had fined the company an amount of fifty thousand dollars (\$50,000) pursuant to a Consent Order dated May 19, 2003. The Company explained that their failure to report this fine was due to an inadvertent oversight.

## **COMPANY PROFILE**

### **HISTORY**

The Company was incorporated in Minnesota on April 17, 1896 as the North American Life and Casualty Company (NALAC) and commenced business on May 8, 1896. In May 1968, NALAC acquired the assets and business of the Thomas Edison Life Insurance Company, Des Moines, Iowa, which was subsequently merged into NALAC.

From late 1971 to 1979, NALAC was controlled (over 98%) by the Mutual Life Insurance Company of New York. In November 1979, Mutual of New York completed the sale of its interest in NALAC to Allianz Minnesota Life Insurance Company, a subsidiary of the Allianz Insurance Group of West Germany. Through its subsidiary companies, Allianz Insurance Group maintains life/health and property/casualty insurance operations on a worldwide basis. On January 1, 1981, NALAC was merged into its parent, Allianz Minnesota Life, which concurrently adopted the name North American Life and Casualty Company.

On March 31, 1993, NALAC changed its name to Allianz Life Insurance Company of North America. Subsequently, as of May 31, 1993, Allianz acquired all the assets and liabilities of Fidelity Union Life Insurance Company of Dallas, Texas. Fidelity Union was under common ownership with Allianz. It was also owned by Allianz AG Holding of Munich, Germany.

On May 16, 1999, Allianz acquired LifeUSA Insurance Company. LifeUSA and Allianz merged on July 1, 2002.

The Company specializes in offering a wide variety of equity-indexed annuities and also writes a portfolio of individual fixed life insurance and annuity products, variable life insurance and annuities and long term care products. In addition, Allianz is also a provider of specialized healthcare products and services to Health Maintenance Organizations, businesses with self-insured employee benefit plans and Preferred Provider Organizations.

The Company is licensed in the District of Columbia, Puerto Rico and all of the states, however, the licensing in New York is for reinsurance only. The Company is also licensed in all of the provinces of Canada.

## STATUTORY HOME OFFICE

5701 Golden Hills Drive  
Minneapolis, MN 55416-1297

## MAIN ADMINISTRATIVE OFFICE

5701 Golden Hills Drive  
Minneapolis, MN 55416-1297

## VERMONT REPORTED PREMIUMS

Direct written premiums in Vermont for the years indicated are as follows:

	2002	2003	2004	2005
<b>Life Insurance</b>	221,681	298,486	318,988	224,230
<b>Individual Annuities</b>	22,474,580	20,257,169	32,231,354	25,239,437
<b>Accident &amp; Health</b>	372,460	438,627	354,529	449,763
<b>Totals</b>	23,068,721	20,994,282	32,904,871	25,913,430

It can be observed from the above chart that individual annuity premiums increased by more than 59% from 2003 to 2004, followed by a decrease of 21.7% from 2004 to 2005. The product that contributed the most to this surge in written premiums during 2004 was the MasterDex annuity, an equity-indexed annuity.

## SCOPE OF WRITTEN BUSINESS AND SAMPLE SELECTION

### PRODUCTS

Allianz marketed the following major lines of business to Vermont consumers during the examination period.

#### Annuities

##### **(Fixed Annuities)**

Fixed annuities include Equity Indexed Annuities (EIA's), Cash Bonus Annuities (CBA's) and Immediate Annuities.

##### **(Variable Annuities)**

Variable annuities are securities registered with the Securities and Exchange Commission (SEC).

#### Life Insurance

#### Long Term Care

### SAMPLE SELECTION

The examiners selected samples from the various listings of data representing the Company's business which was written during the examination period and paid death claims. The following table identifies each of the samples selected, their populations and sample size.

<b>FIXED ANNUITIES</b>	<b>POPULATION</b>	<b>SAMPLE SIZE</b>
Equity Indexed Annuities (EIA's). Includes new issues & replacements.	2042	75
EIA's written by VT agent # 10498	*345  *Included in the above figure of 2042	100

<b>OTHER FIXED ANNUITIES (Issued)</b>		
Cash Bonus Annuities & Immediate Annuities	350	50
<b>VARIABLE ANNUITIES (Issued)</b>	63	63
<b>LIFE INSURANCE (Issued)</b>	52	52
<b>FIXED ANNUITY REPLACEMENTS</b>	890 Note: Per Company 754 were EIA's.	100
<b>VARIABLE ANNUITY REPLACEMENTS</b>	67	67
<b>LIFE INSURANCE REPLACEMENTS</b>	5	5
<b>REPLACEMENT NOTICES RECEIVED FROM EXISTING INSURER</b>	64	64
<b>30 DAY "FREE LOOKS" (Policies returned under free look provision)</b>	39 Note: Population includes <u>all</u> returned under free look provision including replacements and new issues.	39
<b>PAID LIFE CLAIMS</b>	61	61
<b>PAID ANNUITY CLAIMS</b>	50 Note: Population includes only those annuity death claims paid out in a lump sum.	50
<b>SURRENDERED ANNUITIES</b>	115	75
<b>BUSINESS WRITTEN BY VT AGENT # 303099</b>	66	45
<b>ANNUITIZED CONTRACTS-INDEXED ANNUITIES (EIA's)</b>	160	10
<b>8-24-06 REQUEST FOR ADDITIONAL ANNUITY REPLACEMENT SAMPLE</b> Re: Reg. 2001-3 § 2 K.	890	10

## **(I) SALES AND MARKETING**

### **(A) DESCRIPTION OF EQUITY-INDEXED ANNUITIES**

Although Allianz offers the customary types of insurance and annuities offered by most life insurance companies, its primary offering is a class of "deferred" annuities referred to generically in the industry as "equity indexed" annuities. A "deferred" annuity is one where the premiums are accumulated at interest (a type of savings plan) until some selected future date (maturity date) at which time the company begins paying out the accumulated value in a series of periodic income payments (usually monthly) to the annuitant, frequently over the annuitant's entire lifetime. After the annuity is converted from the deferred (savings) stage to the stage where the savings are paid out as periodic income payments to the annuitant, the annuity is said to be "annuitized".

In the case of deferred "equity indexed" annuities, the premiums are credited during the deferred stage with interest based on changes in an external equity index. Allianz offers a choice of the S&P 500 Index and/or the Nasdaq-100 Index. The Company also offers an option for the annuitant to receive credits based on a rate of interest declared annually by the Company.

Equity indexed annuities (EIA's) are substantially different from variable annuities, in that the values of EIA's are not actually invested in stocks. Any gains in the indexes are credited to the value of EIA's directly from the general assets of the Company, which are predominantly invested in bonds. To hedge its equity index liability created by these products, the Company buys and sells put and call options on the S&P 500 and the Nasdaq-100 as needed.

Allianz offers a wide variety of equity indexed annuities, having different combinations of features. Each equity indexed plan is given a different trade name which includes the suffix "Dex", e.g., FlexDex, MasterDex, PowerDex, etc.

Allianz claims, through its advertising, that it is the number one overall seller of equity-indexed annuities.

## **(B) MISLEADING ADVERTISING**

### **(1) "Bonus" Plans**

Some of the plans of equity indexed annuities sold by the Company provide what the Company refers to as a premium "bonus". This "bonus" consists of an amount equal to a specified percentage of the premiums paid, such as 5%, 7%, 10% or 12%, to be credited to the annuitization value.

The Company advertises on its website that the "bonus" annuities are a great way to help:

- *Recover losses*
- *Overcome surrender charges*
- *Pay capital gains taxes*
- *Save for retirement*

The expectation of receiving a "bonus" would logically be of vital interest to a person who was considering canceling an existing deferred annuity with another company and purchasing a new one from Allianz to replace it. In many such cases persons are required to pay surrender charge to the existing company and would look to the premium "bonus" promised by Allianz to make up the loss. The same would be true of a person incurring a penalty for early withdrawal of a CD if the money was used to replace the CD with a "bonus" annuity from Allianz.

The examiners observed a promotional piece (850545-VT) regarding the PowerDex Elite annuity plans that contains a prominent subheading which reads: *Get an immediate gain with a 10% premium bonus.* Additionally, in relevant part, the referenced brochure includes a statement pertaining to the illustration, stating: *A. Your initial premium amount is \$100,000...B. It is immediately increased by the 10% bonus* (Emphasis added). It should be noted that some of the wording contained in the brochure is in very fine print.

The examiners criticized the Company for the use of the statements quoted above and various similar ones appearing throughout the Company's promotional brochures which are misleading in violation of 8 V.S.A. § 4724 (13). The examiners contend that the bonuses do not give the policyholders an immediate gain. The fact is that the cash value does not include any extra amount in recognition of the bonus and the annuitization value to which the "bonus" is credited is not available to the policyholder unless the annuity is held in deferral for a minimum of five (5) years and then only if it is taken in the form of annuity payments over a minimum of ten (10) years. This does not constitute an immediate gain.

The Company advised that in October 2005: *Allianz Life began updating its brochures. In the process of those revisions, Allianz Life removed all references to "immediate bonus." This is a change that is being implemented with our other bonus annuity consumer brochures on a going forward basis as they are up for re-printing.*

The Company, at the examiners' request, presented a spreadsheet indicating dates of the proposed revisions. The last revision is due to be implemented on June 15, 2007. Note, that these revisions include in addition to the equity indexed annuity products, the Company's cash bonus annuity products.

The examiners recommend that those brochures which still contain references to an *immediate bonus* be withdrawn from further use immediately. Advertising material which is misleading should not be distributed, even for a short time, under any circumstances.

## **(2) Brochures Entitled "Sales Strategies to Help You Capture the CD Market"**

This discussion pertains to the various versions of promotional brochures entitled, *Sales strategies to help you capture the CD market*. The particular version discussed below is form # WS124 (9/2001). Similar language was observed in all of the referenced brochures revisions.

Page 1 contains the following statement:

*Equity index annuities to help your conservative CD clients ease into the market and enjoy all the upside benefits of the market without any of the downside risk."*

This statement is incorrect in that a client is not easing "into the market" when they purchase an index annuity and they do not enjoy all the upside benefits of the market. Since the indexes are price appreciation indexes changes in the indexes do not include the dividends that investors would receive if they owned the underlying stock or mutual funds. Also, investors would not incur the same level of surrender charges should they decide to liquidate their holdings.

Page 3 contains the statement:

*"How fast do you want your money to grow? Show them how it can grow twice as fast in an Allianz tax-deferred annuity."*

The chart beneath this statement shows that \$100,000 will double in 12 years with tax deferral as opposed to 18 years with a taxable CD. This growth is not "twice as fast" as indicated. Also, the tax deferred gain would have an incurred tax liability of at least \$33,000 after 12 years. Thus, the figures in the chart fail to support the allegation that the client's money could grow twice as fast with an Allianz tax-deferred annuity.

Page 4 contains a chart which fails to illustrate that the tax-deferred growth would have an incurred tax liability of at least \$54,558 at the end of 20 years. Thus, the true tax-deferred value after taxes would be \$210,771. The statement that *no income taxes are due until the funds are withdrawn* is merely included in the text of the paragraph above

the chart. The amount is not quantified as are the figures in the chart nor is it displayed with equal prominence as the figures in the chart.

Page 5 contains a prominent statement that reads *when does 6.5% equal 9.7%? When you're in an Allianz tax-deferred annuity!* The fact is that 6.5% does not equal 9.7% when one is in a tax-deferred annuity. This would only be true if earnings from the annuity were tax-exempt rather than tax-deferred, which is not the case.

Page 15 contains a chart that compares the performance of a CD at 5% with a Split Annuity. The chart claims that the Dominator Annuity maintains the principal at \$200,000. This inference is misleading in that there would be an incurred tax liability of at least \$21,521 against the \$200,000.

For the reasons explained above, these promotional pieces are misleading in violation of 8 V.S.A. § 4724 (13).

The Company responded to the examiners' criticism as follows:

*We agree with the above. The cited brochure is no longer in use. However, the current version of the brochure contains similar language. We will revise the current version of the brochure to correct the deficiencies noted. We expect to complete those revisions by October 1, 2006. We will also identify additional materials, if any, that contain similar language and revise those pieces accordingly.*

The examiners recommend that those brochures (*Sales Strategies to Help You Capture the CD Market*) which still contain the misleading material be withdrawn from further use immediately.

### **(3) Promotional Pieces-PowerDex Elite Annuities**

Promotional pieces CB50270 (R-7/2005), (R-6/2005), (R-5/2005), (R-4/2005), (R-3/2005), (R-10/2004), (R-6/2004), (R-5/2004), (R-10/2003), (7/2003) contain the following language:

- *Lock in annual gains – assures you your highest value in the future.*

The examiners' review of the promotional pieces listed above (in conjunction with another promotional piece, e.g. AS1200 (R-7/2004) revealed that the Accumulation Value gained \$18,882 during policy year 6 by increasing from \$157,352 to \$176,234. During policy year 7, however, the Accumulation Value lost \$17,869 (down from \$176,234 to \$158,365) and in policy year 8 the Accumulation Value lost an additional \$20,655 as it dropped to \$137,710. Two consecutive losses during policy year 7 and 8 doubly wiped out the gain during policy year 6.

If the annuitant had died at the end of policy year 8 his or her beneficiary would not have benefited from the gain in policy year 6, i.e., it would not have been "locked in" as advertised. The death benefit in policy year 6 would have been reduced by the losses incurred during policy years 7 and 8. By the same token, had the annuitant lived and elected to annuitize his or her Accumulation Value any time between the end of the 6<sup>th</sup> policy year and the 8<sup>th</sup> policy year, the Accumulation Value would have lost some or even up to twice the gain in the 6<sup>th</sup> policy year. The 6<sup>th</sup> policy year gain was not "locked in" under those circumstances. As a matter of fact, the 6<sup>th</sup> policy year Accumulation Value would not have been restored until the end of the 11<sup>th</sup> policy year due to the five-year time lag between the High Water Mark Value and the corresponding Vested High Water Mark Value.

In view of the above, the claim regarding locking in annual gains to assure the highest value in the future is only partially true. Thus, the promotional pieces listed in the first paragraph are misleading and fail to adequately disclose to the public the true nature of the policies in violation of 8 V.S.A. § 4724 (13).

The Company disagreed with the examiners' findings and contended, in relevant part, that ... *The High Water Value is vested as the Vested High Water Value after five years. Once vested, the High Water Value is "locked in" for the contract holder. By providing an Accumulation Value calculated as noted above, the policy assures that the contract holder receives the higher of the two values.* The Company further stated that: *the advertisements in question are invitations to inquire. They are not intended to include full details of all policy provisions. Further information is noted as being available from the agent. Such information would include the product brochure and product Statement of Understanding which provide full disclosure as to the specifics of policy provisions such as the calculation of the Accumulation Value.*

The statement in the brochure, which reads: *Lock in annual gains – assures you your highest value in the future*, is not true under the circumstances described above and is, therefore, in violation of 8 V.S.A. § 4724 (13).

The examiners recommend that the brochures referenced in this section of the report or any other brochures containing similar misleading claims be withdrawn from use.

### **(C) LITIGATION**

In a letter dated March 23, 2006, the examiners requested a copy of the complaint involving a class action litigation settlement described in its Annual Statement. Additionally, it was requested that the Company furnish a summary of any other lawsuits involving Vermont policyholders, which were open at anytime during the current examination period. Allianz responded in a letter dated May 11, 2006, that: *During the examination time frame there were no other lawsuits involving Vermont policyholders other than the class action litigation referenced in #1 above.* (Emphasis added)

Subsequently, the examiners learned of a class action lawsuit filed on March 15, 2006, which was approximately two months prior to the Company's May 11, 2006 letter informing the examiners that, *there were no other lawsuits*.

As it is an essential part of the examination process to review all legal actions including class action lawsuits which may involve Vermont policyholders, the examiners felt it imperative, in light of the Company's initial denial of any other existing lawsuits and the observation that in fact that was not the case, to inquire further.

In responding to the second request, dated March 14, 2007, the Company stated, contrary to their response of May 11, 2006, that three (3) additional cases had been filed during the examination period. Note that these cases were filed prior to the Company's letter of May 11, 2006.

The Company explained their denial of any lawsuits involving Vermont policyholders as the result of a misunderstanding between the Company's Legal Department and their Senior Compliance Analyst. The examiners were informed that the Legal Department originally assumed that the examiners already knew about the pending class action cases.

## (II) TRADE PRACTICES

An area of major concern to the Department in conducting this examination focused on the Company's trade practices in the business of insurance and compliance with Vermont's Trade Practices Statute, 8 V.S.A. § 4724.

### SUITABILITY

The examiners reviewed the Company's practices with respect to suitability issues [reference 8 V.S.A. § 4724 (16)]. Of particular interest were the Company's procedures and guidelines regarding the sale of its equity indexed annuities (EIA's) to senior citizens as these products are available to persons up to the age of 85 and contain many complexities in their structures.

The Company incentivizes its producers to sell EIA's by offering higher up front commissions and bonuses for these products than for other products which are available to Vermont consumers. These products are sold primarily through producers who are not required to hold a securities license (Registered Representative). It is noted that: Company's marketing material entitled: *No Securities License Required to Sell EIA's* (Form # ZFX802) further encourages the sale of these products.

The examiners found Allianz to be in violation of 8 V.S.A. § 4724 (16) regarding annuity contracts issued prior to July 2005. There was no evidence that Allianz had sufficient information in their files to determine whether or not annuity contracts issued prior to July 2005, were in fact suitable for the persons for whom they were written.

Vermont's statute, 8 V.S.A. § 4726 (16) is clear that it is the responsibility of all persons who solicit, sell or issue a policy or contract to determine whether or not a policy or contract is suitable for their circumstances. The producer who solicits and/or sells the policy or contract has an obligation; however, that obligation also extends to the person issuing the policy or contract. Allianz failed to collect enough information to determine if the contracts were suitable. The Company asked its producers to sell only suitable contracts but failed to require documentation that the producer made a proper determination. Prior to July 2005, Allianz did not meet their obligation under 8 V.S.A. § 4724 (16) as a person who issued an insurance contract in Vermont.

There was additional evidence that Allianz should have known that unsuitable contracts were being issued. Reference the section of this report titled *(VII) Complaints* which contains a chart briefly describing allegations from policyholders relating to situations that involve suitability issues. Under the referenced section, subsection *(C) Failure to Include "Free Look" Grievances as Complaints* one can observe additional allegations concerning suitability issues.

Further, reference the section of this report titled *III Supervision and Control of Producers*, subsection (C) *Investigations* that describes reviews of agents' activities with respect to suitability issues.

A total of two thousand forty-two (2,042) equity-indexed annuities were sold to Vermont policyholders during the examination period. More than one-third of these (34.5%) were sold to annuitants age 65 and older. Although annuities are suitable for some individuals over the age of 65, many of the advantages of annuities are realized only after a long period of time thus, annuities are less likely to be suitable products for much of the elderly population. In addition, equity-indexed annuities are much more complex than other fixed annuities to understand and can easily be misunderstood by the public. Because of the higher probability of unsuitability, more care needs to be used to determine suitability when selling annuities to the elderly.

In summary, it was not until July of 2005, that Allianz implemented procedures to assess whether or not the annuity contracts they were issuing were in fact suitable for the policyholders and thus meet its obligation imposed by 8 V.S.A. § 4724 (16).

The examiners recommend that the Company submit to the Vermont Department for approval a plan of remediation for those consumers which may have been sold unsuitable policies prior to July 2005.

Further, the examiners recommend that the Company submit to the Vermont Department for approval a Corrective Action Plan (CAP) addressing the Department's concerns with respect to suitability issues, as discussed in this section of the report paying particular attention to those products sold to senior citizens.

### (III) SUPERVISION AND CONTROL OF PRODUCERS

Vermont statutes do not dictate what type of system of control and supervision the company must use with its producers, however, a company is responsible for the actions of its appointed agents. (Reference 8 V.S.A. § 4813 (c)). Allianz's current system of using FMO's as described below, has resulted in significant agent violations for which the Company is responsible.

#### (A) DISTRIBUTION OF PRODUCTS (FMO'S & BROKER DEALERS)

The Company has two distribution focused segments: U.S. Allianz Securities, a wholly owned broker dealer, and another segment consisting of strategic marketing alliances with fourteen (14) field marketing organizations (FMO's) in which the Company holds 40% to 100% ownership, according to the most recent A. M. Best report. In addition to the fourteen (14) reported FMO's with which Allianz is affiliated, there are many more such organizations (FMO's) throughout the country.

Allianz distributes its products solely through licensed independent agents and registered representatives. Prior to being appointed with the Company, agents are required to contract with a Field Marketing Organization (FMO) or, with respect to registered representatives, through a Broker Dealer (BD).

There are thirty-six (36) FMO's through which Vermont agents are contracted and one hundred and forty-four (144) Broker Dealers through which Vermont registered representatives are contracted. None of the FMO's through which Vermont producers are contracted are located in the state of Vermont. As a matter of fact four (4) are located in California and one (1) in the state of Washington. The Company holds ownership in thirteen (13) of the thirty-six (36) FMO's through which Vermont agents are contracted.

#### (B) PRODUCERS SUPERVISION AND TRAINING

The Company does not maintain direct control over its agent(s)/registered representative(s). The agent/registered representative relationship is controlled by a contractual agreement between the agent/registered representative and the FMO/BD. Among those duties and responsibilities described in the contract (between the BD and the Company) includes, in pertinent part: *General Agent shall have the sole responsibility for the training and supervision of all persons appointed as agents under this Agreement; the responsibility for compliance with all laws, rules and regulations applicable to the solicitation and sale of the Contracts by General Agent and by all persons associated with General Agent.* (Emphasis added) With respect to the FMO's contract, the following relevant rights and responsibilities were observed: *Supervision. You will supervise your employees and agents in your hierarchy who solicit and process applications for our insurance policies as provided in this Agreement, and you will cause them to comply with all rules, regulations, and obligations imposed on you.*

Additionally, the *Field Marketing Organization Addendum* contains the following language regarding the FMO's rights and responsibilities: *exercise proper supervision to assure the faithful performance by your agents of their agent agreements, provide training and support to your agents.....* (Emphasis added)

Further, the contract(s) provide compensation to the FMO/BD in the form of an override (commission) based on the business written by its independent agent/registered representative.

The examiners inquired as to whether the Company performed audits or reviews of the FMO's or Broker Dealer's business written by the independent agents or registered representatives. The Company responded in relevant part that: *Allianz Life does not require audits or reviews of the business written by the FMO's with respect to regulatory matters.* Further, with respect to Broker Dealers, the Company reported that in 2005, *a certification form relative to compliance with suitability requirements was implemented. Allianz Life is expanding the certification form for 2006 to include additional certification items as well as an audit sampling of Broker/Dealers.*

The examiners perceive that the FMO/BD relationship with the agent/registered representative may be a conflict of interest in that the FMO/BD's compensation is based on the business the individual agent/registered representative writes through the respective FMO/BD. Additionally, the fact that the FMO's, through which Vermont agents are contractually associated, are not located in the state of Vermont, raises questions as to the effectiveness of the supervisory and training duties of the FMO's.

It appears that the Company's practice with respect to supervision and training of its agency force is deficient as evidenced by the extraordinarily high number of violations observed during the examination. Refer to the section of this report entitled *Replacements*.

The examiners recommend that the Company submit to the Vermont Department for approval a Corrective Action Plan (CAP) addressing an adequate plan of supervision and training of its agency force.

## **(C) INVESTIGATIONS**

### **(1) Agents Terminated for Cause**

- VT License # 40393

Allianz was notified by another carrier of an inconsistency on the date of birth with respect to a replacement policy. The Company determined after further review that there was intentional misrepresentation of the date of birth in order to make the policyowner the appropriate age to qualify for the product.

- VT License # 66142

The Department notified the Company that the referenced agent's license was suspended primarily due to falsely impersonating another person to obtain an insurance license. The Company terminated the appointment upon receipt of the notification from the Department.

## **(2) Agents Investigated During the Period (01-01-02 – 05-01-06)**

The examiners requested a listing of agents' investigations that the Company conducted during the period referenced above. The examiners observed apparent irregularities with respect to the investigations described below.

- VT License # 92277

Agent # 92277 sold two annuities (Dominator Annuity) to an ineligible annuitant, as the age at the time the application was taken was 87 (the age limitation for the Dominator Annuity is 85). One of the two applications had the correct date of birth however, the "age" block was not completed; the other application was left entirely blank as to the age and date of birth information. The Company issued the annuities without questioning the agent as to the date of birth information discrepancies and without adhering to the age limitation requirement. As a matter of fact, Company personnel inserted the age of 44 on the contract summary for the application with the blank information (effective date was 06-28-04). The Company was first alerted to the problem in early 2005, by a letter from the policyholder stating that the age (44) was incorrect. The Company failed at that time to correct the situation. It wasn't until the policyholder's daughter filed a complaint in November 2005, that Allianz took action by initiating an investigation into the problematic case.

### **Facts relating to the sale of these annuities:**

The letter of complaint from the policyholder's daughter (Power of Attorney) in November 2005, stated in pertinent part, the following: *My mother purchased this policy based on a post card that came in the mail from a total stranger, (name of agent).* The examiners requested a copy of the "postcard" sent to the policyholder. The Company responded that they *do not have a copy of the post card allegedly sent to (Name of policyholder).*

The two annuities were funded by the sale of stocks owned by the policyholder. The total amount was \$140,000.00, to which agent # 92277 received 60% of the commission and the second writing agent (VT License # 10498) received 40%. Both agents are affiliated with the same agency and are contracted with the same FMO who happens to be located in California.

The Company did not investigate the second writing agent (VT License # 10498) due to the fact that, as stated by the Company: *the agent making the sales presentation be the one to sign the application as agent.* (Note the section below: *VT License # 10498* which discusses the review of this agent's book of business)

### **Disciplinary Action Taken & Resolution:**

The Company did not undertake disciplinary action. A settlement agreement was entered into February 2006, with the Company canceling the policies and refunding the premiums together with interest at the rate of 3%.

- **VT License # 10498**

At the Department's direction the examiners selected a sample of those issued equity indexed annuities (EIA's) written by agent # 10498 during the examination period. Samples of one hundred (100) files were reviewed. The following discussion details the findings.

As noted previously, agent # 10498 is affiliated with (Name of Agency) and is contracted through an FMO located in California. According to data presented by the Company, agent # 10498 wrote four hundred and forty-one (441) equity indexed annuities (EIA's) during the examination period. Over 57% of those EIA's were issued to persons age 65 and over. The total population of equity indexed annuities written by all agents was reported to be two thousand forty-two (2,042). Additionally, the Company reported that only eighteen (18) of the total number of annuities written by this agent were replacements.

The examiners observed that, out of the total number of sample files (actual count was ninety-eight (98) due to duplicates in the sample) there were thirteen (13) replacements. Note that two (2) of the initially reported eighteen (18) replacements were observed in the sample. Eleven (11) of the thirteen (13) were not reported on the Company's replacement register representing violations of Regulation 2001-3 § 4 B. (5). Additional violations of Vermont's Replacement Regulation with respect to this review were observed and are included in the section of this report entitled: *Replacements*.

Sixty-four (64) sample files did not contain evidence that the policyholders were provided a copy of the Buyer's Guide as required by Bulletin 110. These violations are included in the discussion in the section of this report entitled: *Buyer's Guide*.

Sixteen (16) of the samples reviewed, were submitted with cash while the remainder were rollovers, 1035 exchanges, transfers, etc.

- **VT License # 303099**

Agent # 303099's Vermont residents license was effective 07-18-03 and he was appointed by the Company on 08-06-03; prior to that he held a non-resident license from Vermont and residents license in the state of New Jersey. His FMO is (Name of FMO) located in Quincy, MA. The following discussion outlines the investigations, which the Company's Special Investigative Unit (SIU) conducted from 2002 through 2004.

- **Case opened 03-21-02**

Company records indicate the following notations from its *Agency Review Worksheet*: *received call from client's guardian indicating client's date of birth is incorrect. We have 10/4/22, which made client age 74 at policy issue. Actual birth date is 10/4/04, making client 94 at issue-and ineligible for policies. An additional notation stated: will contact agent to request statement regarding sale of policies and what information was used to determine client's birth date.* The last recorded data with respect to this case was entered on 05-8-02, indicating that the file was referred to SIU personnel.

- **Case opened 01-08-03**

A Company employee observed that a number of annuitization payments were made payable to and mailed to businesses owned by the agent and or his brother. At that time the Company requested a review of the agent's history regarding behavior, complaints etc. In a document received by the SIU on 1-10-03, the following notation was observed: *DESCRIPTION OF ISSUE/INCIDENT: Recycling & possible misappropriation of client funds. Policy #4144355 was annuitized for \$ total of \$17,438.45 check was sent to agent as payee (Name). Checks totaling \$16,743.85 were resent to open policy #6529594. Client is missing \$694.60. Per letter from p/o, he has never received funds from LifeUSA and believes the funds to have been re-invested with us.*

In continuing the investigation, the SIU reviewed all policies that had annuitizations and identified thirty-two (32) policies which reflected payments that were being sent to companies associated with or owned by agent # 303099 from as early as 1996 and through June 2000. The Company's SIU spoke with the agent on 02-04-03 in order to determine why the payments were going to his businesses' addresses. The agent responded that in 2000 he was advised by the home office that this practice was not appropriate and should stop, which he attempted to accomplish, however, the payments continued to be sent to these entities. The SIU's investigator reviewed those cases where the payments were still being sent to the agent's affiliates/companies and made corrections which would assure that the payments going forward would be sent to the respective policyholder/annuitant. The case was closed on 02-10-03, without disciplinary being action taken.

- **Case opened 10-02-03**

The Company received a call from a policyholder who was a resident of the state of New Jersey, requesting that the Company assign a different agent (agent # 303099 was the writing agent). The policyholder complained that the policy was not solicited in Pennsylvania (as indicated on the application) claiming that it was solicited and signed in New Jersey. The SIU stated that their investigation revealed that there was not conclusive evidence that the policy was sold in New Jersey. A new servicing agent was assigned to the policy per the request of the policyholder. Note: The two contracts which were sold to the policyholder were an Ideal Index 75 and an Accumulator Bonus Maxx, neither of which were approved for sale in the State of New Jersey at the time the applications were taken. The case was closed 12-10-03, without disciplinary action taken.

- **Case opened 08-09-04**

The Company received a complaint from a New York resident (policyholder) alleging that the state in which nine (9) annuity applications were signed was neither Pennsylvania nor New Jersey as indicated on the applications, but in fact all, except one, were signed in the state of New York at the policyholder's apartment in New York City. The one exception, as alleged by the policyholder, was a forgery. Note: The annuity products which were sold to the complainant are not approved for sale in New York as Allianz is not licensed in the state of New York.

The complainant further stated in his letter dated 07-30-04, that: *Also I have been trying to find out from (agent's name) what happened to disbursements from #-----, and #-----, totaling \$87,603.86, in each of three years, 1999, 2000 and 2001. Instead of going directly to me, these pay-out checks, totaling \$262,811.58, went to (name of company) in Red Bank, New Jersey a firm connected with (name of agent).*

The Company responded to the complaint by forwarding an Affidavit of Forgery and the requested copies of the cashed checks. Additionally, the Company sought a written statement from the agent as to the allegations.

The complainant sent two follow up inquires and a request for information with respect to the annuitized payments which, as stated by the complainant in his letter dated 08-26-04, *these payments went from LifeUSA Allianz policy #----- to (name of company associated with the agent).*

Per SIU's file notes dated 09-10-04 the following notations were observed:

*Phone call to (agent name) -left message to follow-up my message to him on where his written statement is in response to the complaint filed with the Department of Insurance. I need to have this.*

*Rec'd fax from (agent name) with written response. No documentation submitted to reflect where funds were sent once they were received by his office. Phone call to (agent name) and spoke to (agent name) that additional information is needed concerning the payments. Need to know where the funds were disbursed once they received them.*

Per SIU's file notes dated 09-14-04, the following notations were observed:

*Sent fax to (agent name) requesting the documentation to support where the funds were sent to once they received them. Our records reflect \$414,026.96 was sent to his office.*

On 10-04-04, the Company received a letter from the agent's attorney stating that the complainant had withdrawn his complaint, at which time the Company closed the case. No disciplinary action was taken.

Subsequent to the review of the investigations with respect to agent # 303099, the examiners requested a sample of annuities written by this agent involving Vermont policyholders. The samples were selected from a spreadsheet of all Vermont indexed annuity policies written by agent # 303099 during the examination period, which contained a total of sixty-six (66). The sample size was forty-five (45). Six (6) of the sample files were canceled and rewritten thus reducing the total number of individual cases in the sample to thirty-nine (39). All thirty-nine (39) cases in the sample were written for residents of other states albeit the applications indicated that they were signed and solicited in the state of Vermont. It was observed that twenty-four (24) of the thirty-nine (39) cases represented instances where the respective annuity product was not approved for sale in the resident state at the time the applications were taken. Ten (10) of the twenty-four (24) cases were written for residents of the state of New York, where the Company is not licensed. Had the applications been signed and solicited in the applicants' state of residence they would have been rejected as the products were not approved for use in their respective states. These represented 62% of the cases in the sample.

The examiners inquired as to whether the applicants physically traveled into the state of Vermont in order to purchase these products, some from as far away as New Jersey. The Company responded that according to the agent all solicitations were initiated by the policyowner and took place at one of his three (3) offices in Vermont and that all policyholders traveled to one of his offices. The Company responded to the examiners' concerns that the selling of Vermont policies to residents of other states did not raise red flags within their investigative units and that only in the 10-02-03 investigation were there any allegations of improper cross border selling and that there was no conclusive evidence of impropriety.

The Company added that *Allianz Life monitors the sale of products to out of state residents in those states in which the overall product availability in the issue state is significantly diminished when compared to surrounding states. This monitoring began in early 2005.*

The examiners recommend that the Company submit to the Vermont Department for approval a plan of remediation for those consumers which may have been sold policies by those agents that were terminated for cause, investigated and/or for which complaints were received alleging agent misconduct and those agents where regulatory action was taken.

**See Appendix I**

#### **(D) MONITORING OF PRODUCERS' REPLACEMENT ACTIVITY**

Vermont's Replacement Regulation 2001-3 § 4 B. requires that insurers which use producers: *Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the Department of Banking, Insurance, Securities and Health Care Administration.* (Emphasis added)

The examiners requested those records, pursuant to the referenced regulation, with respect to ten (10) of its producers, in order to verify compliance with the specific requirements of the regulation (2001-3 § 4 B. (1) through (3)).

The review of the ten (10) producers' records revealed irregularities regarding three (3) of its producers in that the annuity contract replacement percentages vs. their annual annuity contract sales appeared to be extraordinarily high. The table below shows those pertinent figures.

<b>VT License #</b>	<b>Year</b>	<b>% of Contracts That Were Replacements</b>	<b>% of Premium</b>
71641	2003	33%	37%
71641	2004	43%	51%
71641	2005	75%	73%
40478 *	2003	50%	70%
40478	2005	77%	91%
63188	2002	68%	74%
63188	2003	86%	76%
63188	2004	71%	64%
63188	2005	88%	91%

**\*Note:** Agent # 40478 did not write any business in the year 2004, as the Company terminated the agent in April 2004, for non-payment of debt (\$ 756.87) which appears to represent a commission charge back. The agent was reinstated after repayment of his debt on January 25, 2005.

Allianz did not monitor any of its producers' life insurance and annuity replacements during the examination period. The only monitoring was conducted in response to the examiners' request for the ten (10) producers' records as discussed above. Additionally, the Company stated in a letter dated 09-08-06, that: *Allianz Life does not currently restrict producers from submitting replacements for any set ratio.* Further, the Company indicated that they were, as of 2006, developing a process which would monitor agent levels and the type of replacement business received.

In a letter dated 02-27-07, the Company presented its newly implemented (01-01-07) *Replacement Monitoring Procedure* guidelines for the examiners' review. The process

will involve quarterly reports that identify producers with excessive fixed annuity replacement sales, set at a 28% ratio, to be reviewed on an annual basis. The reviews will also include a monitoring of producers that show a high percentage of outgoing replacements.

The examiners recommend that the Company adhere to its *Replacement Monitoring Procedure* guidelines implemented 01-01-07 and monitor the effectiveness of the program going forward.

**(E) SURRENDERS (CASES WRITTEN BY VT AGENT # 40478)**

A total of one hundred and fifteen (115) indexed annuity contracts were surrendered during the examination period. Agent # 40478 wrote the most surrendered contracts, which was a total of thirty-one (31).

The examiners selected a sample of seventy-five (75) for review. Twenty (20) of the seventy-five (75) sample files written by agent # 40478 were the focus of an extended review; the findings of which are discussed below.

The extended review of the twenty (20) sample files, written by agent # 40478, revealed that all twenty (20) contracts were initially written as replacements from Franklin Life Ins. Co. to Allianz. It was further observed that of the twenty (20), nineteen (19) were later surrendered and replaced by AIG (American General). In 2005, seven (7) of the same policyowners were moved back to Allianz as a replacement from AIG.

The results of the review, as discussed above, combined with the monitoring of agents' replacement activity **(D) MONITORING OF PRODUCERS' REPLACEMENT ACTIVITY** leads one to question whether agent # 40478 was actively churning policies for the purpose of generating sales commissions. Note that the Company considers commissions fully earned after the annuity has been in force for one year. In months six (6) through twelve (12) the writing agent is charged back 50%.

To reiterate, the Company did not have procedures in place which would detect disproportionate annuity replacement activity or churning by its agency force until January 1, 2007.

**See Appendix II**

**(F) UNTIMELY PRODUCER APOINTMENTS**

The Company was found to be in violation of 8 V.S.A. § 4813 I. (d), which provides that, *in order to appoint a producer as its agent, the appointing insurer shall file, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted, whichever is sooner.* The appointment dates provided by the Company for the following producers are contracts:

<b>VT License #</b>	<b>Policy/Contract #</b>	<b>Date of Application</b>	<b>Date of Appointment</b>
40148	7899243	03/05/02	02/10/04
40148	70009219	08/07/03	02/10/04
40148	31219476	07/08/03	02/10/04
294547	30505287	01/14/03	04/09/03
294547	30505276	01/14/03	04/09/03

The examiners recommend that the Company amend its procedures so as to ensure that a notice of appointment will be filed on a producer within the timeframe required by 8 V.S.A. § 4813 I. (d).

## (IV) REPLACEMENTS

Reviews of the various samples, as detailed in the section of this report entitled: *Scope of Written Business & Sample Selection*, included tests for compliance with Vermont's Life Insurance and Annuities Replacement Regulation 2001-3, that became effective March 1, 2002, and Regulation 88-2, which was effective prior to that date.

The examiners observed over three hundred (300) violations of the referenced regulation, as discussed below.

### (A) 2001-3 § 3 B

The Company failed in twelve (12) cases to provide a statement: *signed by both the applicant and producer, attesting that the notice regarding replacements has been read aloud by the producer or that the applicant did not wish the notice to be read aloud.*

In two (2) cases, the applicant signed the notice regarding replacements after the date the application was taken; not in accordance with the requirement that the notice be presented at the time the application was completed.

### (B) 2001-3 § 3 E

The Company must either comply with Regulation 2001-3 § 3 E or Regulation 2001-3 § 5 C which mandate requirements for producers regarding the use of sales materials. The Company advised the examiners which they require their producers to comply with Regulation 2001-3 § 3 E, which stipulates that producers submit a signed statement to the insurer identifying any preprinted or electronically presented company approved sales materials used in the transaction.

The Company failed in twenty-eight (28) cases to provide the required signed statement(s) from the producer.

### (C) 2001-3 § 4 C

The Company failed in forty-eight (48) cases to provide the required statement, with or as part of the application and signed by both the applicant and the producer, as to whether the applicant had existing policies or contracts.

The Company disagreed that contract numbers 30594047, 30350576, 30174788, 7899243, 8311733 were in violation of the referenced regulation, stating the following:

*Section 4 of the Application for Annuity asks if the applicant has any existing life insurance policies or annuity contracts. The agent and applicant both sign the*

*application certifying that all statements and answers given are true and complete to their knowledge. The statement contained in Section 4 is applicable to both the applicant and the agent.*

The examiners maintain that these cases represent violations of the regulation as section 4 of the application asks: *Will life insurance or annuities be replaced if this annuity is issued?*. The application does not ask whether the applicant has any existing life insurance policies or annuity contracts.

The Company disagreed that contract number DAG17820 was in violation for the following reason:

*Section 4 of the application asks if the applicant has any existing life insurance or annuity contracts. The contract owner signs Section 10 of the application certifying that all statements and answers in the application are complete and true. The registered representative signs Section 11 of the application (as instructed in Section 4) certifying if the application does or does not involve replacement of existing life insurance or annuities.*

The examiners contend that with respect to this application, the producer did not answer the replacement question in Section 11 of the application. This file did not contain a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts, as required by Regulation 2001-3 § 4 C.

**(D) 2001-3 § 4 D**

The Company failed in eighteen (18) cases to require a notice regarding replacements in the form prescribed by the regulation (Reference 2001-3 – Appendix A), resulting in violations of Regulation 2001-3 § 4 D. In fourteen (14) cases, the required notice regarding replacements was incomplete.

**(E) 2001-3 § 4 G**

In forty-eight (48) cases, where there was a violation due to a failure to meet a requirement of the replacement regulation, the Company failed to notify the producer and the applicant of that outstanding requirement and fulfill the requirement(s) as mandated by regulation 2001-3 § 4 G.

**(F) 2001-3 § 5 A (1)**

The Company failed in forty-nine (49) cases, where a replacement was involved, to *verify that the required forms are received and are in compliance with this regulation in accordance with Regulation 2001-3 § 5 A. (1).*

**(G) 2001-3 § 5 A. (2)**

The Company failed in twenty-five (25) cases, where a replacement was involved, to notify the existing insurer of the proposed replacement within the required five (5) business days time limit, in violation of Regulation 2001-3 § 5 A. (2).

**(H) 2001-3 § 5 A. (4)**

The Company failed in fourteen (14) cases, where a replacement was involved, to *provide to the policy or contract owner notice of the right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract*, in violation of Regulation 2001-3 § 5 A. (4).

**(I) 2001-3 § 6 A**

In seven (7) cases, the Company failed to retain and produce replacement notices received, in violation of Regulation 2001-3 § 6 A.

**(J) 2001-3 § 6 B**

In twenty-nine (29) cases, the Company failed to *send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within five (5) business days, upon receiving notice(s) that an existing policy or contract was being replaced.*

The Company disagreed that policy/contract numbers 8316614, 30342372, 8373476, 8373567, 7860760, 8771423, and 30719710 were in violation of the referenced regulation furnishing the following explanation: *... letters were sent to each of the policyholders at the time of replacement. Those letters include either the statement "If you have any questions, please feel free to contact your agent or call us at 1-800-950-1962." or "... give us a call at 800/950-1962. We'll be happy to review your policy options with you." These written offers of assistance, by their nature, implicitly advise the policyholder of their ability/right to contact Allianz Life not only for "existing policy or contract values" but, more broadly, for any information regarding the policy being replaced. The ability to obtain information relative to existing policy or contract values falls within the scope of the offer being made in the letters.*

The examiners contend that the language in the letters, quoted above, does not advise the policy or contract owner of their right to receive information regarding the existing policy or contract values as required by the regulation. This language is generic in that it could

be found at the conclusion of any correspondence to a policy or contract owner for any purpose and does not specifically address the requirements of this regulation.

**(K) 88-2 § 6 B. (4)**

In one (1) case, where replacement was involved, a copy of the Replacement Notice was not submitted with the application, in violation of Regulation 88-2 § 6 B. (4).

**(L) 88-2 § 8 B. (2)**

The Company failed in two (2) cases, where a replacement was involved, to notify the existing insurer of the proposed replacement within the required five (5) business days time limit, in violation of Regulation 88-2 § 8 B. (2).

**(M) 88-2 § 8 C**

The Company failed, in one (1) case, to maintain evidence of the "Notice Regarding Replacement", in violation of Regulation 88-2 § 8 C.

• **Additional Violations of Regulation 2001-3**

**(N) 2001-3 § 4 B. (5)**

The examiners observed thirty-four (34) cases which were replacements and not reported as such on the Company's replacement register in violation of Regulation 2001-3 § 4 B. (5). The examiners concern, as expressed to the Company, is that many more unreported replacements may have occurred without proper monitoring of the Company's producers' replacement activity. The Company addressed this concern by stating in pertinent part: *prior to March 22, 2007, logging the replacement information was a manual process. As of March 22, 2007, a new processing system in which replacements are automatically logged for reference was implemented.*

Reference Section **(III) SUPERVISION & CONTROL OF PRODUCERS (D) & (E).**

**(O) "Appless Transmissions"**

Regulation 2001-3 § 3 A. requires that a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts, be submitted with or as part of the application. The Company's "appless transmission", which is used to initiate the issuance of an annuity contract, does not conform to the referenced regulation in that the required statement is not included in the transmitted report.

Additionally, Regulation 2001-3 § 3 B. requires that the producer present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements, in those cases where the applicant indicated that they have existing

coverage. The Company's Electronic Data Transmission Program does not conform to the requirements of the referenced regulation, in that the applicant/contract holder is not presented the required notice until after the contract has been issued.

The Company disagreed stating:

*The Company believes that it is compliant with Regulations 2001-3 § 3 A and 2001-3 § 3 B relative to our electronic data transmission program. An appless transmission, as might be surmised from its name, does not involve an actual paper application being filled out. It is merely a transmission of information from the registered representative to Allianz Life. From that transmission a Contract Profile is created by Allianz Life. At this juncture no request/application for insurance has been made. The Contract Profile is then provided to the prospective contract owner. It is at this time that the prospective contract owner makes the decision to request/accept the annuity contract. This is the equivalent "request for insurance" decision point traditionally occurring at the time of a traditional paper application.*

*If the prospective contract owner chooses to accept the annuity contract he/she does so by signing the Contract Profile. While completing and signing the Contract Profile the prospective owner must indicate if they have existing life insurance or annuity contracts. If so, he/she is instructed to complete and (sic) the Important Notice: Replacement of Life Insurance or Annuities form. The registered representative is also required to sign this form. Completion of that form, at that point in the sale process, establishes compliance with Regulations 2001-3 § 3 A and 2001-3 § 3 B. The contract owner still has the time to review the contract and free look it if they so choose.*

The examiners maintain that the "appless transmissions" are in violation of regulations 2001-3 § 3 A. and 3 B. in that the requirements of the regulations are not completed at the time the application is taken, but rather at the time the contract owner accepts the contract.

Although the Company disagreed with these violations, they informed the examiners that they have discontinued the availability of the electronic data transmission program to registered representatives in the State of Vermont due to the low volume of appless cases.

## **(P) SUMMARY & RECOMMENDATIONS**

The examiners observed over three hundred (300) violations involving replacement transactions of life insurance and annuities.

The Company was afforded an opportunity to offer an explanation as to the occurrence of the cited violation(s) and to initiate corrective actions in responding to the examiners' criticisms. The Company's typical response as to the reasons for the occurrence of the referenced violations was noted to be: *Due to human error*————.

The examiners recommend the following:

- That the Company appoint personnel within its underwriting department, to have the sole responsibility of reviewing applications which involve replacement transactions, in order to ensure full compliance with the specific requirements of Regulation 2001-3 and provide periodic reports, designed to identify problematic areas, to a supervisory unit. These reports should be made available upon request from the Vermont Department.
- The Company should strengthen its involvement with its agency force through more direct control with respect to supervision and training; offering training programs specifically designed to focus on compliance with the requirements of the regulation.
- The Company should take steps in order to ensure that the existing company is notified within the required five (5) business days in accordance with Regulation 2001-3 § 5 A.
- The Company should adhere to its newly implemented procedure, designed to automatically log replacements into the replacement register, and conduct periodic reviews in order to determine the effectiveness of the program.
- The Company should furnish notification and full disclosure, to each of the affected policyholders, of the Company's failure to inform them of their right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. Upon notifying the affected policy/contract holders, the Company should at that time provide the required thirty (30) days notice to receive an unconditional full refund of all premiums or considerations paid in an effort to make those policy/contract holders whole.

**See Appendix III**

## (V) BUYERS' GUIDE

### (A) BULLETIN 110

Bulletin 110 provides guidelines and specific requirements for the filing and approval of equity indexed annuity products sold in the state of Vermont. Relevant to this discussion is the requirement that: *The insurer must provide a copy of a buyer's guide or informational material which at a minimum provides a description of the index used and a description of how it is applied and that: A copy signed by the insured or certificate holder, indicating the receipt of a copy of the buyer's guide and an understanding of its disclosures, must be kept in the insurers records.* (Emphasis added)

The Company originally filed, with the Vermont Department, its *Allianz Life's Buyer's Guide* (form #NB4015) on 11-01-2000. This was used through March 2005 when, according to the Company it was discontinued due to copyright concerns.

Allianz further stated in response to the Preliminary Examination Data Request that: *Since March 2005 we have relied on our Statement of Understanding to provide the required elements.*

The Company avers that their interpretation of Bulletin 110 allows insurers to meet the specified requirements of the Bulletin via *other informational material* and that the *Department did not require the filing of this other informational material. Based on this interpretation, the Company relied on the Statement of Understanding (SOU) beginning in March 2005 and communicated it to the Department as part of the next product filing submission in July 2005.* (Emphasis added)

On November 17, 2005, the Company filed a new buyer's guide which was approved for use effective March 2006.

#### **Company's Failure to Provide Buyer's Guide**

As discussed above, Bulletin 110 requires that a signed copy by the policyholder, indicating receipt of the buyer's guide, be kept in the insurers' records. The Company's method of securing evidence that the policyholder received a copy of the buyer's guide pursuant to the Bulletin was explained to the examiners as follows:

*Providing a copy of the Buyer's Guide was an automated process when assembling the policy. A copy of the Automated Assembly Checklist for this policy showing the Buyer's Guide as part of the policy package is attached for review. The policyowner then received the policy package and signed that it has been delivered. This signature on the Policy Delivery Receipt is for the entire policy package of which the Buyer's Guide was a part of.*

The examiners observed that in one hundred and eighty-two (182) cases the Company failed to provide evidence that the policyholder(s) received a copy of the buyer's guide; contrary to the specific requirement that: *A copy signed by the insured or certificate holder, indicating the receipt of a copy of the buyer's guide and an understanding of its disclosures, must be kept in the insurers records.*

The Company should take steps in order to ensure that all policyholders are provided a copy of the Buyer's Guide and that the Company retains a copy of the signed receipt as evidence of compliance with the specified requirements of Bulletin 110.

## **(B) BULLETIN 121**

Bulletin 121 provides guidelines and specific requirements for the filing and approval of indexed life insurance products and for the sale of these products. The purpose of the requirements detailed in the Bulletin, is to ensure adequate disclosure and consumer understanding of these products. Bulletin 121 addresses these issues specifically in section **(D) Requirements for Indexed Life Insurance Buyer's Guide** and **(E) Indexed Life Product Requirements**.

The Company was non-compliant with respect to the following requirements as prescribed by Bulletin 121 (D) and (E).

### **1. Bulletin 121 (D) (1)**

The Company failed in three (3) cases to provide in the buyer's guide, the index values for at least the most recent five (5) years and change in the index per year expressed as a percentage.

### **2. Bulletin 121 (D) (2)**

Bulletin 121 (D) (2) requires that the buyer's guide caution the buyer that the illustrations do not imply future performances. The Company failed in three (3) cases to include the statement in the buyer's guide.

### **3. Bulletin 121 (D) (3)**

The Company failed in three (3) cases to provide a description of caps, participation ratios or any other feature used to limit the growth of policy values and a listing of the current caps, ratios, and/or other limiting feature(s) imposed by the Company.

### **4. Bulletin 121 (D) (4)**

In three (3) cases, the Company did not disclose in the buyer's guide how frequently the caps, ratios or other features which limit policy values will change.

### **5. Bulletin 121 (D) (6)**

Bulletin 121 (D) (6) requires the Company to caution the reader, in the buyer's guide, that the product illustrated in the buyer's guide is designed to be held for a long period of

time and holding the product for a short period of time is not in the best interests of the buyer or the insurance company. In two (2) cases the Company failed to do so.

**6. Bulletin 121 (D) (7)**

Bulletin 121 (D) (7) requires that the buyer's guide disclose if the death benefit is not subject to the index adjustment. Three (3) policies did not contain such a disclosure.

**7. Bulletin 121 (D) (8)**

The Company failed in three (3) cases to inform the buyer that the contract values will never go below the minimum nonforfeiture values.

**8. Bulletin 121 (E) (10)**

The Company failed to provide a copy of a document, signed by the client, indicating the receipt of a copy of the buyer's guide and an understanding of its contents in four (4) cases.

The Company disagreed that policy number 60004288 was non-compliant with the requirements of Bulletin 121 (D) (1), (2), (3), (4), (7) and (8); offering the following explanation:

*The Company provided the owner a buyer's guide containing these requirements...At the time this policy was issued, the Company provided the guide as part of the Company's automated policy assembly system to ensure that the owner received a copy of the guide. Because we automated the delivery of the guide, a signature was not obtained. The Company has since corrected this process and requires the owner to sign a document (SOU) indicating receipt of the guide and an understanding of its contents.*

The examiners maintain that the policy did contain a buyer's guide, but it was an outdated one that did not contain the language required by Bulletin 121 (1) –(4), (7) and (8).

The examiners recommend that the Company implement procedures that ensure full compliance with the requirements of Bulletin 121.

**See Appendix IV**

## (VI) CLAIMS PRACTICES AND PROCEDURES

### (A) DEATH BENEFITS PAID

Direct claims and benefits paid, as reported in the Company's VT Annual Statement State Pages for the years 2002 through 2005, are shown in the table below.

#### Direct Claims and Benefits Paid for the Year 2002

Death benefits	\$1,030,814 *
Annuity benefits	\$2,092,460

#### Direct Claims and Benefits Paid for the Year 2003

Death benefits	\$144,385 *
Annuity benefits	\$3,009,913

#### Direct Claims and Benefits Paid for the Year 2004

Death benefits	\$65,029
Annuity benefits	\$2,767,275

#### Direct Claims and Benefits Paid for the Year 2005

Death benefits	\$428,351
Annuity benefits	\$3,769,934

**Note:** Line #11 (Annuity benefits) on the VT Annual Statement State Pages include those annuity death claims where the beneficiary selected a payout option (annuitized the contract) in lieu of lump sum payments which are reported under line # 9 (Death benefits).

\* The examiners inquired as to the reason for the significant drop in death benefits paid from the year 2002 to the year 2003.

The Company responded to the examiners inquiry in relevant part, as follows:

*————we concluded that the information previously provided was not entirely accurate due to human error. We are unable to reconstruct how the original information was calculated. The table below represents the revised data:*

<i>Year</i>	<i>Number of Claims</i>	<i>Death Benefits</i>
<i>2002</i>	<i>18</i>	<i>\$625,450</i>
<i>2003</i>	<i>15</i>	<i>\$565,791</i>
<i>2004</i>	<i>15</i>	<i>\$60,521</i>

*Totals presented for years 2002 and 2003 each include one death claim in the amount of \$500,000 which significantly impacted the results. Absent these two large claims, death benefits for those years would have been consistent with 2004.*

*We have implemented additional checks and balances, second level reviews and control templates to ensure that the same situation does not occur in the future.*

The Company's erroneous entries with respect to the reporting of death benefits paid for the years 2002 and 2003 constitute violations of 8 V.S.A. § 4724 (2).

The examiners recommend that the Company file amended Annual Statements' State Pages for the years 2002 and 2003 with the Department and adhere to their proposal to implement additional checks and balances, second level reviews and control templates which would ensure that correct financial information is reported in the Company's financial statements.

## **(B) LIFE CLAIMS**

The Company reported that a total of sixty-one (61) life claims were paid during the examination period. All sixty-one (61) claim files were reviewed in order to determine compliance with 8 V.S.A. § 3665 and Regulation 79-2 (Fair Claims Practices).

The Company was found to be noncompliant with respect to Vermont's claim interest statute. Fifty-six (56) of the sixty-one (61) files reviewed were found to be in violation of 8 V.S.A. § 3665 (c) (2) which requires that: *All payments of claims under policies of life insurance shall include interest accrued from the date of death of the insured. The interest rate shall be the rate paid on proceeds left on deposit, or six percent whichever rate is greater.*

In fifty-five (55) cases the Company failed to pay any interest on the claim and one (1) claim was paid with an interest rate of 3.5%, rather than the required rate of 6%.

Additionally, the Company was found to be in violation of 8 V.S.A. § 3665 (d) with respect to two (2) cases, for which Allianz failed to pay the claims in a timely manner (within 30 days from receipt of proof of loss). 8 V.S.A. § 3665 (d) provides for a penalty rate (12%) which accrues from thirty (30) days after the beneficiary filed proof of loss to the date the claim is paid.

The Company responded to the examiners' criticism regarding the penalty rate of 12% in relevant part that: *it is our understanding that 8 V.S.A. § 3665 (d) applies to annuity claims.....(Emphasis added). 8 V.S.A. § 3665 (d) applies to all claims against a policy of insurance (Reference 8 V.S.A. § 3665 (a)).*

The two (2) cases referenced above are discussed below.

- Policy number 20901384  
Date of death: 12-16-02  
Date proof of loss received: 12-20-02  
Date claim paid: 2-5-03  
**Note:** Claim should have been paid by 1-20-03 (30 days after receipt of proof of loss)
- Policy number 8850612  
Date of death: 9-13-04  
Date proof of loss received: 3-31-05 \*\*  
Date claim paid: 6-8-05

\*\* It appears after careful review of the claim file that the Company's interpretation of what constitutes "proof of loss" is: *the receipt of all information that is needed to approve the claim for payment.* (Emphasis added) The Company's interpretation of what constitutes "proof of loss" is not in accordance with Vermont statutes in that "proof of loss" does not include reviews of medical records, completed investigations etc.

Reference 8 V.S.A. § 3731 (10) *Payment of Claims*, which provides: *settlement shall be made upon receipt of due proof of death.* (Emphasis added) Further, the Company's contracts' policy provision entitled *Payment of the Death Benefit, Proof of Death* states in pertinent part: *We will pay any benefit payable at death when we receive due proof of the Insured's death.* (Emphasis added)

The examiners recommend that the Company go back as far as the Vermont Department deems appropriate and pay with interest those amounts due to the beneficiaries of the affected insureds. Additionally, the examiners recommend that the Company implement procedures by which full compliance with 8 V.S.A. § 3665 (c) (2) and (d) would be assured.

**See Appendix V**

## **(C) ANNUITY CLAIMS**

The Company reported that a total of fifty (50) annuity death claims, where the beneficiary(s) elected a lump sum payment, were paid during the examination period. There were twenty-three (23) reported cases where the beneficiaries elected a periodic payout option.

### **(1) Death Benefit Options**

The Company's deferred indexed annuities are either two tier annuities or single tier annuities.

Two tier annuities have no surrender charges, but rather two distinct policyholder values (the annuitization value, which includes any bonuses, indexed credits, etc.) and the cash surrender value, which is calculated independently of the annuitization value and is equal to 87.5% of premiums paid, accumulated daily at an annual rate of 1.5% less any withdrawals. With respect to the two tier products, there are two (2) death benefit options available to the beneficiary. If the beneficiary selects the greater value (the annuitization value) they must receive the death benefit as an Annuity Option paid out over a minimum period of five (5) years. Note, that the majority of annuity contracts sold in Vermont are two tier contracts.

Single tier annuities impose surrender charges (one defining difference between the two tier products and the single tier products). Similarly, as with the two tier products, there are two (2) death benefit options; a lump sum payment (cash surrender value) or the greater value which is referred to as an "accumulation" value (same as the "annuitization" value in the two tier annuities). The Company elected as of August 1, 2006, to make the full accumulation value available to beneficiaries as a lump sum payment on any single tier annuity issued after that date, instead of its former requirement that in order to receive the full accumulation value an Annuity Option paid out over a minimum period of five (5) years must be selected.

The two tier products continue to require the five (5) year payout period in order for the beneficiary to receive the contract's full annuitization value.

### **(2) 8 V.S.A. § 3665 (d)**

During the timeframe of the examination period the Company's procedure guidelines with respect to annuity death claims did not include the requirement that the penalty claim interest (12%) be paid on those claims where the claim was not paid within thirty (30) days from receipt of proof of death as required by 8 V.S.A. § 3665 (d).

Effective 01-01-06, the Company reported that their *Individual Annuity Claim Interest Procedure Guidelines* were updated to state: *Interest is required on annuities if a lump sum is elected and the claim is not paid within 30 days after receipt of a properly*

*executed proof of loss. Interest is not required on periodic payments unless not paid within 30 days of the date the periodic payment is due.*

*Interest is payable from 30 days after receipt of a properly executed proof of loss at a rate of 12%.*

The examiners recommend that the Company adhere to its newly developed procedure whereby statutory interest is paid on lump sum amounts where the annuity claim was not paid within 30 days after receipt of a properly executed proof of loss.

## (VII) COMPLAINTS

### (A) RECORDED COMPLAINTS

Complaints which were received during the examination period and recorded on the Company's Complaint Record as required by 8 V.S.A. § 4724 (10), Regulation 76-1 and Regulation 99-1 § 4. A. (4), were reviewed in order to determine compliance with applicable statutes and regulations and to identify any patterns of adverse business practices.

#### Summary of Complaints Review

2002

Complaint #	Reason	Resolution	Examiners' Comments
<b>VT DOI Complaint?</b>			
02M573  No	Complainant alleged policyholder was sold an unsuitable product, as the policyholder was a 79 yr. old diabetic. The product was an indexed annuity (BonusDex) funded with cash from his bank.	The complainant requested that the complaint be closed.	None
02M620A  No	Policyholder complained that due to Company's delay in transferring funds into the annuity, the value of his money was decreased and should be added back into his account.	The Company refused to compensate the policyholder, stating that the annuity was issued in a timely manner.	Company records inaccurately indicate that the complaint was closed 9-19-02.
02M620B & C (Same policyholder as above)  Yes	Same as above. Note: policyholder submitted complaint to the VT Dept. Company recorded DOI complaint	Per Department's direction the Company reversed its decision and reimbursed the policyholder's	The Company's Complaint Register incorrectly recorded information as to the resolution, contrary to the requirements

	received 11-4-02	account with the funds which were lost due to the delay in the transfer process.	of Regulation 99-1 § 4 A. (4)(b) which states that an insurer shall maintain a <i>complaint activity log, including the outcome of each complaint.</i>
02M685 Yes	Group health claim	Company will process claim once they receive the itemized bills.	None

2003

Complaint # VT DOI Complaint?	Reason	Resolution	Examiners' Comments
03M0044 Yes	Alleged misleading statement or representation. Older policyholder thought he would receive a guaranteed return of 10% per year.	Annuity was surrendered and the funds were transferred to the policyholder's bank.	None
03M785 No	Alleged misleading statement or representation. Policyholder did not fully understand the product.	Policyholder decided to retain annuity.	None
03M826 No	Alleged misleading statement or representation. Complainant (beneficiary) stated that annuitized payments to beneficiaries not acceptable.	Company offered a resolution agreeing to pay out as a lump sum the current cash value.	None

2004

Complaint #  VT DOI Complaint?	Reason	Resolution	Examiners' Comments
04M1041  No	Alleged misleading statement or representation. Policyholder believed the annuity contract would earn 5% interest and would pay \$800 per month of interest income after the first year.	Company denied request to refund premium based on agent's statement and signed SOU.	The replacement and existing policies/contracts questions were not answered on the application for contract # 70058820 (the complainant's annuity), representing violations of 8 V.S.A. § 4724. Reg. 2001-3 § 8 A. (2) provides as an example: <i>Failure to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement.</i> The Company agreed with the criticism and added that this transaction was not a replacement.
04M180  Yes	Delays. Policyholder requested to annuitize his policy. The Company responded by submitting an <i>Annuity Option Agreement</i> offering installments for a Guaranteed Period which the PO accepted. The	At direction of the Department the Company reversed its decision and honored the original <i>Annuity Option Agreement</i> .	The Company's Complaint Register incorrectly recorded information as to the resolution, contrary to the requirements of Regulation 99-1 § 4 A. (4)(b) which states that an insurer shall maintain a <i>complaint activity log, including the outcome of each</i>

	Company subsequently revealed that an error had occurred and the offer as stated in the <i>Agreement</i> was not valid.		<i>complaint.</i>  Additionally, the Company failed to furnish a document as requested by the examiners representing a violation of Regulation 99-1 § 4 A. (4) (a) and 99-1 § 6 A. The Company responded to the criticism by stating: <i>Due to human error, the original letter from the Department was not imaged with the rest of the file.</i>
04M559  No	Misleading statement by agent. Complainant alleged the 3% guaranteed interest rate as promised was not received and was dissatisfied with policy performance.	Company sent a letter to the policyholder explaining surrender charges.	None
04M570  Yes	Alleged misleading statement or representation. Policyholder alleged agent did not adequately explain restrictive nature of the policy or offer a more suitable policy.	Company declined to refund surrender charges based on the belief that the policy provisions and penalties were fully disclosed to her in that she signed an SOU (Statement of Understanding) and had an opportunity to review the policy for 20 days.	None
04M1033A ** See 2005 chart for continuance of complaint (same PO	Note: Complaint received 12-8-04.  Alleged misleading	Request for refund denied 1-4-05 based on agent statement.	See 2005 Chart (04M1033B)

	that the policyholder was in a nursing home and needed the funds from the annuity without being subject to the surrender charges etc. Subsequently, the policyholder died (1-28-05)		information as to the resolution and date of resolution, contrary to the requirements of Regulation 99-1 § 4 A. (4)(b) which states that an insurer shall maintain a <i>complaint activity log, including the outcome of each complaint.</i>
05M0647 Yes	Agent handling. Complainant alleged that an annuity contract was never received, that he did not have the 30 day free look period and that he was misled as to the type of product he received.	The Company responded that they did not believe the policy was misrepresented to the policyholder, adding that a 2004 Annual Summary of Tax Information was sent to policyholder in December of 2004, concluding that: <i>It would be reasonable to believe PO would have been aware she had an annuity policy with Allianz Life.</i>	The examiners requested a copy of the policyholder's annuity policy for further review. The Company failed to furnish evidence that the policyholder received a copy of the required Buyer's Guide pursuant to Bulletin 110. Note that this finding is included in the number of incidents described in the section of this report entitled: <i>V Buyers' Guide (A) Bulletin 110.</i>
05M972 Yes	Agent Handling. Complainant alleged agent was negligent in writing up the contract by naming the complainant as annuitant in lieu of beneficiary or as co-owner. Complainant stated that she was not able to obtain funds from the annuity as	Company stated that there was no death benefit paid on the death of the owner (her father) only upon death of the annuitant. The funds were paid to the estate.	The examiners requested a copy of the policyholder's annuity policy for further review. The Company failed to furnish evidence that the policyholder received a copy of the required Buyer's Guide pursuant to Bulletin 110. Note that this finding is

	the owner (her father) had passed away.		included in the number of incidents described in the section of this report entitled: <i>V Buyers' Guide (A) Bulletin 110.</i>
05M1045 No	Delays, claim issue.	Company stated not a complaint but a beneficiary dispute.	None
05M738 Yes	Claim procedure. The complainant (beneficiary) alleged that the Company contested the life insurance claim and took nine months to investigate without paying statutory interest.	At the direction of the Department the Company agreed to pay interest on the death claim.	The Company failed to respond to the Department's letter of inquiry dated 7-7-05, within fifteen (15) working days as required by Regulation 79-2 § 5 C.  <b>Note:</b> Reference the section of this report entitled <i>VI Claims Practices &amp; Procedures</i> for a thorough discussion of this complaint, including claim violations.
05M0003 Yes	Agent handling. Complainant alleged misleading statement or representation. The policyholder stated that after signing the application and accompanying forms, she learned that: <i>the only way to receive the bonus was to annuitize the contract after a period of 5 yrs. For at least a period of</i>	The Company responded to the Department's complaint by stating that the features and benefits of the policy were disclosed to the policyholder through the SOU (Statement of Understanding) form, the policy, and her agent. The policyholder canceled the	None

	<i>10 yrs. Had this been adequately explained to me I would not have chosen to take a surrender penalty to move the money, because I had no intention of annuitizing the contract.</i>	contract, incurring surrender charges, and the funds were returned to Banker's Life and Casualty (The Company from which the annuity funds for the Allianz policy came).	
05M1048 Yes	Agent handling and replacement suitability. The Department conducted an investigation into the referenced complaint with respect to a replacement transaction. The Department questioned the suitability of the transaction in light of the policyholder's age and the fact that she would encounter dramatically higher surrender charges with this replacement transaction. It was subsequently revealed that the application contained an inaccurate date of birth. The MasterDex 5 index annuity (which was sold to the policyholder) limits	The annuity policy was canceled and the funds were transferred back into the policyholder's three (3) prior annuities.	The Company's Complaint Register incorrectly recorded information as to the resolution and date of resolution, contrary to the requirements of Regulation 99-1 § 4 A. (4)(b) which states that an insurer shall maintain a <i>complaint activity log, including the outcome of each complaint.</i>

	the issue age to age 85. The actual age at the time of application was 86.		
05M1222  No	The policyholder's daughter and Power of Attorney informed the Company that her mother's two (2) Dominator Annuities, which were issued to her, contained incorrect dates of birth. Her mother was 89 years old at the time of issue with respect to policy #31327295 & 31327284. The maximum issue age for the Dominator Annuity is 85 years, rendering the policyholder too old for the contract.	The contracts were in force for over a year and a half before the issue was resolved. The Company canceled the annuity policies refunding the initial premium plus an interest rate of 3% for the time the funds were at Allianz.	Reference the section of this report entitled <i>IV Supervision &amp; Control of Producers</i> for a complete discussion regarding this case.

**Recommendations:**

- The Company should take steps which would ensure that the Complaint Register contains accurate and updated information with respect to the resolution and dates of resolution pursuant to the requirements of Regulation 99-1 § 4 A. (4)(b).
- The Company should improve its procedures regarding the process of inputting dates into their complaint tracking system ensuring full compliance with the requirements of Regulation 79-2 § 5 C.

**(B) ANNUAL REPORT TO THE DEPARTMENT**

The Company failed to file the required summary sheet (Annual Report) of its complaint records in violation of Regulations 99-1 § 4 A. (4)(c) and 76-1 § 5. The Company stated in response to the Preliminary Examination Data Request that: *Allianz Life was unaware of Vermont Regulation 76-1, Section 5 until we received the preliminary data request. As such, no reports were produced for the years 2002, 2003 and 2004. Reports for 2002, 2003, 2004 and 2005 will be sent to the Vermont Department of Insurance by April 1, 2006. We have noted this requirement and in the future will provide timely reports to the Department.*

The Company sent these reports to the Department (for the years 2002 through 2005) on March 22, 2006. The examiners' review of the reports revealed a discrepancy with respect to the total number of complaints appearing on the 2005 summary. The corrected report for the year 2005 was sent to the Department on May 3, 2006.

The examiners recommend that going forward the Company adhere to its plan to submit timely annual reports to the Department.

**(C) FAILURE TO INCLUDE "FREE LOOK" GRIEVANCES AS COMPLAINTS**

The following contracts from the "free look" sample involved cancellation requests that included written statements *primarily expressing a grievance* [Reg. 76-1 § 2 (a)] as the basis for returning the contracts. The listing does not include any that only requested cancellation without providing any reason or mere inquiries. Inasmuch as these were not included among the reported complaints, each represents a violation of 8 V.S.A. § 4724 (10).

<u>Contract #</u>	<u>Reason Given for "Free Look" Cancellation</u>
7712428	Never recd. copy of policy, didn't understand product, agent wouldn't return calls, signed under duress.
8813935	Did not meet contract owner's expectations, confusion about guaranteed interest & withdrawals.
31182165	Contract owner was misinformed as to accessibility of funds and due to her age, health & income she needed funds for support.
70012302	Agent never delivered policy or returned calls.
70032214	Contract owner received statement before policy was delivered, owner is unclear that he has purchased an annuity.
70037251	Contract was not in the owner's best interest due to her age.
70084825	Contract was not what the owner thought it was & not what he wants.
70120497	It was not explained to the contract owner that the only way to receive the bonus was to annuitize the contract, which was not her intention.
70332680	Comparison given by agent with existing policy was incorrect concerning returns.

The Company agreed with the examiners findings with regard to the following contracts:

7712428  
31182165  
70120497  
70332680

The Company did not agree that the requests for cancellation of the remaining contracts constituted complaints, i.e., primarily expressed grievances.

## **(VIII) REPORTS OF LEGAL ACTIONS INVOLVING OTHER INSURANCE DEPARTMENTS**

### **(1) Bulletin 30**

Bulletin 30 requires that insurance companies maintain a list of actions by the insurance department of any other state against the insurance company or by the insurance company against the insurance department of any other state, involving any allegation of violation of law or regulation and file such notifications annually with the Vermont Department. The reports shall be in accordance with the format as specified in the Bulletin and if no reportable actions occurred in a given year, the reports shall so state.

The Company was noncompliant with the requirements of Bulletin 30 by failing to file the prescribed notifications with the Vermont Department during the examination period.

The Company rectified its failure to file the required reports by submitting reports for the years 2004 and 2005 and submitted copies of two Consent Orders entered into in the year 2004 to the Vermont Department on March 2, 2006.

The examiners' review of the filings revealed that the reports were not in the proper format as described by Bulletin 30 (Re: I-VII) and that reports for the remaining years (2002 and 2003) needed to be filed, albeit the Company's contention that there were no reportable actions in the years 2002 and 2003. (Reference the following sub-section: *Consent Orders/Penalties*)

The Company responded that they would resubmit the filings in the required format by September 15, 2006 and that going forward: *Allianz Life will complete the annual filings required by Bulletin 30, in the required format, by the due date of April 15<sup>th</sup>.*

## **(2) Consent Orders/Penalties**

The Company reported in response to the Preliminary Data Request that two (2) Consent Orders were entered into during 2004, resulting in fines and penalties as described in the follow table.

<b>State</b>	<b>Penalty Amount</b>	<b>Reason</b>
California	\$425,000.00	The Company marketed Long Term Care insurance without authorization or approval.
Utah	\$37,800.00	The Company marketed an annuity (FlexDex Bonus) product which had not been re-filed or approved for use.

- **Consent Order dated May 19, 2003**

The review of Market Conduct Reports conducted by states other than Vermont revealed that the state of Illinois penalized the Company fifty thousand dollars (\$50,000.00) as a result of the state's examination. Note that the Company previously reported that there were no reportable actions in 2003. (Reference the preceding sub-section: *Bulletin 30*)

The Company offered the following explanation as to the reason(s) for its failure to report this legal action by the state of Illinois:

*The Illinois forfeiture amount was inadvertently overlooked as the original response was put together. A revised response to Preliminary Examination Data Request # 16 is attached. (Letter dated 08-31-06)*

- **Consent Order dated February 3, 2006**

Subsequent to the examination period ending December 31, 2005, the Company entered into a Consent Order with the state of Florida (dated February 3, 2006). The Company was fined twelve thousand, five hundred dollars (\$12,500.00) for failing to submit its annual rate filings with respect to certain Long Term Care products marketed by Allianz.

The examiners recommend that the Company implement procedures which would ensure accuracy in reporting legal actions involving other insurance departments and take corrective actions which would bring the Company into full compliance with the requirements of Bulletin 30.

## SUMMARY OF RECOMMENDATIONS

1.

**Page 16**

The examiners recommend that those brochures which still contain references to *immediate bonus* be withdrawn from further use immediately. Advertising material which is misleading should not be distributed, even for a short time, under any circumstances.

2.

**Page 17**

The examiners recommend that those brochures (*Sales Strategies to Help You Capture the CD Market*) which still contain the misleading material be withdrawn from further use immediately.

3.

**Page 18**

The brochures referenced in the section of the report (*Promotional Pieces-PowerDex Elite Annuities*) or any other brochures containing similar misleading claims should be withdrawn from use.

4.

**Page 21**

The examiners recommend that the Company submit to the Vermont Department for approval a plan of remediation for those consumers which may have been sold unsuitable policies prior to July 2005.

Further, the examiners recommend that the Company submit to the Vermont Department for approval a Corrective Action Plan (CAP) addressing the Department's concerns with respect to suitability issues, as discussed in this section of the report paying particular attention to those products sold to senior citizens.

5.

**Page 23**

The examiners recommend that the Company submit to the Vermont Department for approval a Corrective Action Plan (CAP) addressing an adequate plan of supervision and training of its agency force.

6.

**Page 28**

The examiners recommend that the Company submit to the Vermont Department for approval a plan of remediation for those consumers which may have been sold policies by those agents that were terminated for cause, investigated and/or for which complaints

were received alleging agent misconduct and those agents where regulatory action was taken.

7.

**Page 30**

It is recommended that the Company adhere to its *Replacement Monitoring Procedure* guidelines implemented 01-01-07 and monitor the effectiveness of the program going forward.

8.

**Page 31**

The examiners recommend that the Company amend its procedures so as to ensure that a notice of appointment is filed on a producer within the timeframe required by 8 V.S.A. § 4813 I. (d).

9.

**Page 37**

**(Replacements)**

The examiners recommend the following:

- That the Company appoint personnel within its underwriting department, to have the sole responsibility of reviewing applications which involve replacement transactions, in order to ensure full compliance with the specific requirements of Regulation 2001-3 and provide periodic reports, designed to identify problematic areas, to a supervisory unit. These reports should be made available upon request from the Vermont Department.
- The Company should strengthen its involvement with its agency force through more direct control with respect to supervision and training; offering training programs specifically designed to focus on compliance with the requirements of the regulation.
- The Company should take steps in order to ensure that the existing company is notified within the required five (5) business days in accordance with Regulation 2001-3 § 5 A.
- The Company should adhere to its newly implemented procedure, designed to automatically log replacements into the replacement register, and conduct periodic reviews in order to determine the effectiveness of the program.
- The Company should furnish notification and full disclosure, to each of the affected policyholders, of the Company's failure to inform them of their right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid including any policy fees or charges or, in the case of a variable or market value

adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. Upon notifying the affected policy/contract holders, the Company should at that time provide the required thirty (30) days notice to receive an unconditional full refund of all premiums or considerations paid in an effort to make those policy/contract holders whole.

10.

**Page 39**

The Company should take steps in order to ensure that all policyholders are provided a copy of the Buyer's Guide and that the Company retains a copy of the signed receipt as evidence of compliance with the specified requirements of Bulletin 110.

11.

**Page 40**

The examiners recommend that the Company implement procedures that ensure full compliance with the requirements of Bulletin 121.

12.

**Page 42**

The examiners recommend that the Company file amended Annual Statements' State Pages for the years 2002 and 2003 with the Department and adhere to their proposal to implement additional checks and balances, second level reviews and control templates which would ensure that correct financial information is reported on the Company's financial statements.

13.

**Page 43**

The examiners recommend that the Company go back as far as the Vermont Department deems appropriate and pay with interest those amounts due to the beneficiaries of the affected insureds. Additionally, the examiners recommend that the Company implement procedures by which full compliance with 8 V.S.A. § 3665 (c) (2) and (d) is assured.

14.

**Page 45**

It is recommended that the Company adhere to its newly developed procedure whereby statutory interest is paid on lump sum amounts where the annuity claim was not paid within 30 days after receipt of a properly executed proof of loss.

15.

**Pages 54 - 55**

**(Complaints)**

- The Company should take steps which, would ensure that the Complaint Register contains accurate and updated information with respect to the resolution and dates of resolution pursuant to the requirements of Regulation 99-1 § 4 A. (4)(b).

- The Company should improve its procedures regarding the process of inputting dates into their complaint tracking system ensuring full compliance with the requirements of Regulation 79-2 § 5 C.
- The examiners recommend that going forward the Company adheres to its plan to submit timely annual reports to the Department.

**16.**

**Page 58**

The examiners recommend that the Company implement procedures which would ensure accuracy in reporting legal actions involving other insurance departments and take corrective actions which would bring the Company into full compliance with the requirements of Bulletin 30.

## APPENDIX I

### CASES WRITTEN BY AGENT # 303099

#### Review of Issued Index Annuities written by agent # 303099

<b>Contract #</b>	<b>Date of application</b>	<b>City &amp; state where signed, as indicated on the application</b>	<b>State of applicant's residence</b>	<b>Product type &amp; Date of approval in state of applicant's residence</b>
70045799	1-11-04	Vernon, VT	NY	BonusDex Elite *
70185520	10-13-04	Guilford, VT	NJ	MasterDex 10 Approved 12-15-04 **
70083851	5-5-04	Brattleboro, VT	MA	10% Bonus PowerDex Approved 1-15-04
70083848	5-4-04	Guilford, VT	MA	10% Bonus PowerDex Approved 1-15-04
70092822	5-27-04	Brattleboro, VT	MA	10% Bonus PowerDex Approved 1-15-04
70059297	3-3-04	Brattleboro, VT	MA	10% Bonus PowerDex Approved 1-15-04
70135501	6-24-04	Guilford, VT	MA	10% Bonus PowerDex Approved 1-15-04
70213101	9-2-04	Vernon, VT	NY	MasterDex 10 *

<b>Contract #</b>	<b>Date of application</b>	<b>City &amp; state where signed, as indicated on the application</b>	<b>State of applicant's residence</b>	<b>Product type &amp; Date of approval in state of applicant's residence</b>
70149971	8-23-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04
70206910	8-23-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04
70150018	8-23-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04
70206903	8-23-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04
70135673	6-1-04	Guilford, VT	MA	10% Bonus PowerDex Elite Approved 1-15-04
70121763	6-23-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70206906	8-23-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04
70135607	5-27-04	Brattleboro, VT	MA	10% Bonus PowerDex Elite Approved 4-26-04
70153165	8-21-04	Guilford, VT	MA	MasterDex 10 Approved 8-23-04 **

<b>Contract #</b>	<b>Date of application</b>	<b>City &amp; state where signed; as indicated on the application</b>	<b>State of applicant's residence</b>	<b>Product type &amp; Date of approval in state of applicant's residence</b>
70053546	2-9-04	Brattleboro, VT	MA	10% Bonus PowerDex Elite Approved 4-26-04 **
70047238	1-20-04	Guilford, VT	MA	BonusDex Elite Approved 5-13-03
70052100	2-5-04	Brattleboro, VT	NH	10% Bonus PowerDex Elite Approved 1-15-04
70054397	2-15-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70056598	2-15-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70185552	10-13-04	Guilford, VT	NJ	MasterDex 10 Approved 12-15-04 **
70379941	12-8-05	Brattleboro, VT	NJ	MasterDex 10 Approved 12-15-04
7007251	1-11-04	Vernon, VT	NY	BonusDex Elite *
70053572	2-15-04	Brattleboro, VT	NY	10% Bonus PowerDex Elite *

<b>Contract #</b>	<b>Date of application</b>	<b>City &amp; state where signed, as indicated on the application</b>	<b>State of applicant's residence</b>	<b>Product type &amp; Date of approval in state of applicant's residence</b>
70072177	3-31-04	Vernon, VT	NY	10% Bonus PowerDex Elite *
70175632	9-24-04	Vernon, VT	NY	MasterDex 10 *
70231019	1-21-05	Vernon, VT	NY	MasterDex 10 *
70320112	7-11-05	Brattleboro, VT	NY	10% Bonus PowerDex Elite *
70062313	3-11-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70067584	3-22-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70069528	3-27-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70069879	3-25-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70069896	3-25-04	Brattleboro, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **

<b>Contract #</b>	<b>Date of application</b>	<b>City &amp; state where signed, as indicated on the application</b>	<b>State of applicant's residence</b>	<b>Product type &amp; Date of approval in state of applicant's residence</b>
70092119	4-19-04	Guilford, VT	NJ	10% Bonus PowerDex Elite Approved 5-21-04 **
70164019	9-04 (date per file notes-no application)	Guilford, VT (per notes in file)	NJ	MasterDex 10 Approved 12-15-04 (Note: Policy Delivery receipt faxed from New Jersey) **
70352155	9-23-05	Brattleboro, VT	NY	MasterDex 10 *
70379918	11-28-05	Vernon, VT	NY	10% Bonus PowerDex Elite *

Those items with the single \* indicate that the product sold to the applicant is not approved for use in the state of New York. (The company is not licensed in NY) There were ten (10) cases so noted.

Those items with the double \*\* indicate that the product sold to the applicant was not approved for use in the respective state of residence at the time the application was taken. There were fourteen (14) cases so noted.

If the applications, referenced by either the \* or \*\* symbol above, had been signed in the applicants resident state, they would have been rejected as the products (identified in the chart) were not approved for use in the respective state.

## APPENDIX II

### **(E) SURRENDERS/CASES WRITTEN BY AGT. # 40478**

**Policy numbers:** 7714933, 7754236, 7754258, 7861384, 8165086, 8297532, 8316614, 8366364, 8425890, 8297532, 8316614, 8366364, 8425890, 21181175, 8641788, 21181038, 21199245, 21210363 and 30352328.

## APPENDIX III

### REPLACEMENTS

#### (A) 2001-3 § 3 B

No notice attesting that the replacement notice has been read aloud or that the applicant did not wish for it to be:

8948938	DAN05318
8923608	DA004350
8256918	
8534733	
7852508	
8042522	
8042544	
8226570	
31212651	
8795227	

Replacement notice signed after application date:

30350576  
70298431

#### (B) 2001-3 § 3 E

30594047	8923608	31212651
30350576	8256918	70184928
30174788	8534733	8385516
8311733	7852508	8435312
70285736	8042522	8571283
31193738	8042544	8795227
70260950	8226570	30546265
70260935	8229163	DAN05318
70061692	21184759	
8923585	30267894	

**(C) 2001-3 § 4 C**

30594047	8908267	8256747	DA919671	8467264
30350576	8908291	8256918	DAG17820	8474480
30174788	8908303	8623536	7987001	8595908
7899243	8578920	70103491	8238871	8795227
8311733	8791110	8266237	8294642	8836341
8908325	8842270	8683836	8309876	30276463
8925202	8850612	21184759	8339508	70034169
8927988	60011997	31212651	8342651	DAN05318
8864312	8094797	DA005553	8385516	
8864367	8256691	DA304517	8407523	

**(D) 2001-3 § 4 D**

No completed notice regarding replacements as contained in 2001-3 Appendix A - :

DA005553	DAN05318
DA023426	DA004350
DAG17820	8948938
8256918	8864367
70273413	8791110
7852508	60011998
8042522	60011999
8042544	60012000
8226570	
31212651	

Notice regarding replacements was incomplete:

DA015822	60010861
DA937376	60010863
DA937377	60010864
DA937378	60010859
31176681	
70102759	
70184928	
70319756	
70213766	
8229163	

**(E) 2001-3 § 4 G**

DA005553	60010863	70285736	DA004350	70273413
DA023426	60010864	31193738	21184759	7852508
DAG17820	60011998	70260950	30267894	8042522
8923585	60011999	70260935	31176681	8042544
8923608	60012000	70061692	31212651	8226570
8948938	8256918	8385516	70034595	8266237
8864367	30594047	8435312	70102759	8683836
8791110	30350576	8571283	70184928	70213766
60010859	30174788	8795227	70319756	
60010861	8311733	DAN05318	70103491	

**(F) 2001-3 § 5 A (1)**

DA005553	60011998	31193738	DA937376	70184928
DA023426	60011999	70260950	DA937377	70319756
DAG17820	60012000	70260935	DA937378	70103491
8923585	8256918	70061692	DA004350	70273413
8923608	30594047	8385516	21184759	7852508
8948938	30350576	8435312	30267894	8042522
60010859	30174788	8571283	31176681	8042544
60010861	70239607	8795227	31212651	8226570
60010863	8311733	DA015822	70034595	8229163
60010864	70285736	DAN05318	70102759	

**(G) 2001-3 § 5 A. (2)**

DA939465	30761530	DAN05318
DAD10830	70063741	31204877
8923585	70061692	70304808
8923608	70093584	8226570
60012769	70285529	8229163
60003555	8385516	
30365186	8435312	
8256918	8571283	
8534733	8795227	
30637026	8812067	

**(H) 2001-3 § 5 A. (4)**

DA013989	7852508
DA939465	8042522
DAD04251	8042544
DAD10830	8226570
DAD25685	
DAD27292	
DAN06656	
8256918	
31212651	
70273413	

**(I) 2001-3 § 6 A.**

6377820  
8165086  
8297532  
8560666  
21240553  
21272299  
21098276

**(J) 2001-3 § 6 B**

21240553	30050174	8225374
21272299	7991462	8316614
21284443	8673548	7892393
21209496	7948457	30342372
7731535	7852508	8373476
7776780	8720820	8373567
8201160	30352328	7860760
8201114	8366364	8771423
7690161	7714933	30719710
8596795	8425890	

**(K) 88-2 § 6 B. (4)**

7779670

**(L) 88-2 § 8 B. (2)**

7829624  
7779670

**(M) 88-2 § 8 C**

7779670

**ADDITIONAL VIOLATIONS:  
(N) 2001-3 § 4 B (5)**

7748001  
7852508  
8042522  
8042544  
8226570  
8229163  
30365186  
30761530  
30987076  
70063741  
8256918  
8534733  
30637026  
7650801  
70011390  
30824240  
777967  
70213766  
7860760  
8385516  
8435312  
8571283  
8795227  
8812067  
30546265  
31254754  
DA013989  
DA018175  
DA939465  
DAD04251  
DAD10830  
DAD25685  
DAD27292  
DAN06656

## APPENDIX IV

### BUYERS GUIDE

#### (A) Bulletin 110:

30365186	30490268	30631326
30761530	30960438	70015402
31053682	31053773	70244523
70120264	70120508	70248890
70248862	702000508	8094797
70016880	7706090	8256918
8256691	8256747	30183632
8534733	8623536	30506084
30389037	30505904	30663768
30506142	30637026	31058153
30770291	31058118	70085509
31199028	70058082	70151351
70085511	70120381	70248734
70165876	70169341	7820965
7650801	7779670	8266248
7821011	8213701	8499753
8290545	8488214	30230296
30054442	30184757	30332610
30234850	30332563	30953361
30337615	30732682	70015245
30962544	70012319	70292736
70140419	70140429	30651888
7748001	8407523	21250407
7792938	8435312	21290758
7819187	8467264	21292487
7823662	8474480	21293876
7860760	8562214	30159687
7987001	8571283	30160361
8102535	8631811	30246978
8128376	8795227	30276463
8238871	8802395	30546265
8294642	8812067	31088308
8309876	8819761	31184715
8339508	8836341	31254754
8342651	21154809	70240287
8385516	21157209	70195875
21154786	30025958	7861340

7942770  
21159452  
70160792  
70176018  
8750724  
70043943  
7760644  
8708527  
8267978  
8329552  
7812588  
30350576  
70071410  
30594047  
30174788  
70188420  
70025864  
70160723  
21184759  
70231331  
30069358  
70054417  
30267894  
05M0647

8427447  
8242205  
21181038  
30746792  
7801780  
8229163  
30492011  
30514871  
70174029  
7852508  
70025581  
21253343  
30024183  
30686937  
70239613  
70203991  
70185527  
7899243  
8485803  
8485905  
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8311733  
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70109126  
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70105242  
8638421

**(B) Bulletin 121:**

**Bulletin 121 (D) (1):**

60004288  
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**Bulletin 121 (D) (2):**

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**Bulletin 121 (D) (3):**

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**Bulletin 121 (D) (4):**

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**Bulletin 121 (D) (6):**

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**Bulletin 121 (D) (7):**

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**Bulletin 121 (D) (8):**

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**Bulletin 121 (E) (10):**

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## APPENDIX V

### CLAIMS

<b>Policy Number</b>	<b>Examiners' Comments</b>
NA0007245	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0008017	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0008883	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0009852	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0010633	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0010801	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0011123	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0011124	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0011617	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0015687	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0017119	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0017515	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0017944	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0018058	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0019438	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0019471	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0020495	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0020496	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0021953	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).

NA0024734	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0024736	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0025787	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0025860	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0026260	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0026432	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0027628	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0028082	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0028533	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0029910	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0029924	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0030524	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0031040	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0031096	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0031654	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0032044	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0032229	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0032641	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0033296	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0033721	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0036686	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0036744	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0037036	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).

NA0037412	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0037553	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
1001447152	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
2944827	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
3628074	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20900683	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20900892	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20901279	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20901308	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20901309	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
20901406	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2).
NA0021954	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2) and failure to provide a copy of the application representing a violation of Reg. 99-1 § 4 A. (1) (b) and § 6 A. & C.
NA0033062	No interest paid on the death claim in violation of 8 V.S.A. § 3665 (c) (2) and failure to provide a copy of the application representing a violation of Reg. 99-1 § 4 A. (1) (b) and § 6 A. & C.
00385651	Failed to pay 6% interest on the death claim in violation of 8 V.S.A. § 3665 (c) (2). Paid 3.5% interest.
20901384	Failed to pay 12% as claim was not paid within 30 days of receipt of proof of loss in violation of 8 V.S.A. § 3665 (d).
8850612	Failed to pay 12% as claim was not paid within 30 days of receipt of proof of loss in violation of 8 V.S.A. § 3665 (d).