

MARKET CONDUCT EXAMINATION REPORT

of

THE UNION CENTRAL LIFE INSURANCE COMPANY

of

CINCINNATI, OHIO

As of

December 31, 2003

By

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



CERTIFICATION

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

I, Robbie L. Kriplean, CIE, AIRC, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the Union Central Life Insurance Company is true and correct to the best of my knowledge and belief.

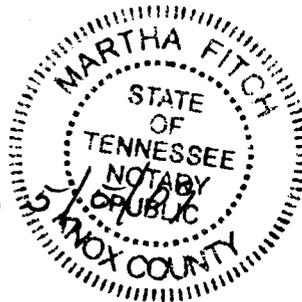

Robbie L. Kriplean, CIE, AIRC

Notary Seal

Subscribed and sworn to before me this 4th day of October, 2005.


NOTARY PUBLIC

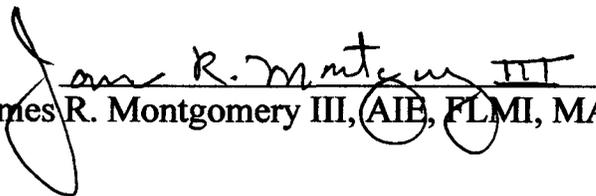
My commission expires 5/1/06



CERTIFICATION

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

I, James R. Montgomery III, AIE, FLMI, MAAA, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the Union Central Life Insurance Company is true and correct to the best of my knowledge and belief.


James R. Montgomery III, AIE, FLMI, MAAA

Notary Seal

Subscribed and sworn to before me this 13 day of October, 2005.

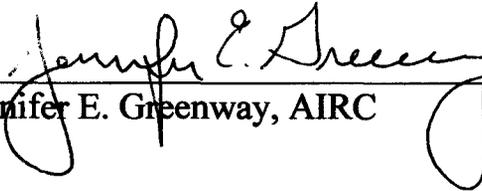

NOTARY PUBLIC

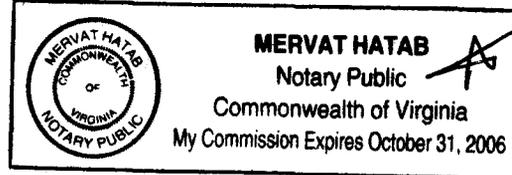
 **Jamie White**
Commission # DD475111
Expires September 22, 2009
Bonded Troy Fair - Insurance, Inc. 800-365-7019

CERTIFICATION

JAMES R. MONTGOMERY III, AIC, FLMIA, MAAA, ROBBIE E. RYAN, CIL, AIRC and Jennifer E. Greenway, AIRC participated in this examination.

I, Jennifer E. Greenway, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the Union Central Life Insurance Company is true and correct to the best of my knowledge and belief.


Jennifer E. Greenway, AIRC



Notary Seal

Subscribed and sworn to before me this the 12th day of October, 2005.


NOTARY PUBLIC

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October 6, 2005

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

Dear Commissioner Crowley:

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 Union Central Life Insurance Company, NAIC # 80837

**Mail Address:
Post Office Box 40888
Cincinnati, Ohio 45240**

**Statutory Home Office:
1876 Waycross Road
Cincinnati, Ohio 45240**

The report thereon, as of December 31, 2003, is respectfully submitted.

FOREWORD

This target market conduct examination report is written generally by exception and additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were observed.

The Union Central Life Insurance Company is referred to throughout this report as the “Company”, 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”.

The Company’s responses, with respect to the findings of this examination, will be made available upon written request to the Vermont Department.

The examiners wish to acknowledge the exceptional cooperation of the Company’s Second Vice President, Jacqueline H. Hadley, FLMI, AIRC, in facilitating the examination process.

SCOPE OF EXAMINATION

EXAMINATION AUTHORITY

The examination of The Union Central Life Insurance Company was conducted pursuant to applicable Vermont statutes and regulations.

TIME FRAME

The examination generally covers the period from January 1, 2001 through December 31, 2003.

SAMPLING METHODOLOGY

The examiners used random sampling techniques, utilizing ACL software.

EXAMINATION SITUS

The Company's statutory home office is located at, 1876 Waycross Road, Cincinnati, Ohio 45240, however, this examination was conducted entirely off-site. Information, documents and other materials were provided directly to the examiners in hard copy and/or computer diskettes.

MATTERS EXAMINED

- Replacements
- 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

Replacements

The reviews by the examiners revealed a total of one hundred seventy-three (173) violations of replacement regulations with forty-six (46) of the one hundred eighty-six (186) total files reviewed having at least one (1) violation per file.

The examiners' review of replacement files revealed a total of one hundred thirty four (134) violations out of a total of eighty-six (86) files reviewed. There were a total of twenty-five (25) files having at least one (1) violation per file which represents 29% of the total replacement files reviewed. A major factor contributing to the large number of violations was the Company's failure to implement Regulation 2001-3 on the effective date of March 1, 2002. The Company did not implement the regulation until September, 2002, more than six (6) months after the regulation became effective.

The examiners' review included samples of issued life insurance and annuity files consisting of fifty (50) life insurance files and fifty (50) annuity files. This portion of the reviews revealed a total of thirty-nine (39) violations out of the one hundred (100) files reviewed with twenty-one (21) having at least one (1) violation per file, which represents 21% of the issued samples.

Regulation 2001-3 § 5 A (4) requires that, in cases of replacement, policy and contract owners be furnished notice of their right to return the policy or contract within thirty (30) days and receive a refund of their premium. The Company, however, failed to amend their policies to show the correct number of days, i.e., thirty (30) days, and therefore either provided conflicting information by showing a "free look" period of twenty (20) days in the policy and thirty (30) days in the Notice Regarding Replacement or failed to provide a Notice Regarding Replacement.

Since there is no way of determining how many of these persons would have availed themselves of this opportunity had they been aware of the full thirty (30) days in which to do so, the examiners are recommending that the Company offer them a new ten (10) day "free look" period (thirty (30) days minus the twenty (20) days stated in the policies). Such premium refunds would be as described in the text of this report.

In view of the large percentage of replacement violations, the examiners are also recommending that the Company assign one or more responsible persons specific accountability for the review of every new replacement file and for completing and signing a checklist before each file is finally closed.

Other miscellaneous violations and recommendations regarding replacements are discussed in detail under the section of the report entitled **Replacements**.

Claims Procedures and Processing

There were sixteen (16) individual life insurance claims out of a population of twenty-four (24) and two (2) group life claims out of a population of four (4) where the Company failed to pay the appropriate 6% interest from the date of death until the date of payment as required by 8 V.S.A. § 3665 (c) (2). This represents 67% of the life claims and 50% of the group life claims. After the examiners called this to the Company's attention, they recalculated the interest on these claims using the 6% rate and provided the examiners with copies of the letters and checks, which were mailed to the affected beneficiaries on October 1, 2004.

The Company's initial failure to pay the appropriate 6% interest rate on these claims resulted from their misunderstanding that 8 V.S.A. § 3665 (c) (2) was applicable only to claims where the beneficiaries were Vermont residents. The interest rates prescribed by 8 V.S.A. §3665 (c) (2) are actually applicable to beneficiaries under policies or certificates which were written in Vermont. The Company stated that they had corrected their procedures effective January 1, 2004.

The examiners have recommended that the Company go back as far as the Vermont Department deems appropriate and perform an audit on those claims which are subject to Vermont statutes and recalculate and pay the additional interest due using the statutory rate including interest on the additional amount due, from the date of the initial claim payment to the date the corrective action is taken.

COMPANY PROFILE

HISTORY

The Company was originally incorporated on January 1, 1867, in Ohio, and commenced business on that same date. It was reorganized in 1954 as a mutual insurer.

Products offered by the Company consist mainly of individual life insurance and both individual and group annuities. Individual life products include traditional, universal, variable universal and indexed universal life. Individual annuity products consist of single and flexible premium deferred annuities, immediate annuities, indexed annuities and variable annuities. Individual disability income products, which account for a small percentage of total premiums, are primarily non-cancelable.

The Company is licensed in all states and the District of Columbia. Their 2002 market share of total life insurance companies in Vermont was 2.72% which made them the eight largest writer in the state.

STATUTORY HOME OFFICE

1876 Waycross Road
Cincinnati, Ohio 45240

VERMONT REPORTED PREMIUMS

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

	2001	2002	2003
Life	5,833,678	5,976,354	5,364,204
Annuities	1,298,410	1,491,772	769,312
Accident & Health	53,348	67,559	71,366
Deposit	218,000	0	0
Totals	7,403,436	7,535,685	6,204,882

(I) REPLACEMENTS

(A) DELAYED IMPLEMENTATION OF VERMONT REGULATION 2001-3

The examination period for this report runs from January 1, 2001 to December 31, 2003. Vermont Regulation 2001-3 became effective on March 1, 2002 and replaced Regulation 88-2, which was in effect prior to that time. It should be noted, however, that the Company failed to implement Regulation 2001-3 on March 1, 2002, when it became effective, and did not do so until September of 2002 (more than six months later) when they implemented a new process in ten states simultaneously. The Company explained that the process was “inadvertently delayed due to key personnel changes during the implementation process”. Failure to adopt Regulation 2001-3 when it became effective resulted in multiple violations of the regulation.

(B) REPLACEMENT REVIEW

The examiners reviewed forty-two (42) internal individual life insurance replacement files and nineteen (19) external individual life insurance files, which represented all of the Vermont life insurance replacements during the examination period. It should be noted that the Company included policy # U000025908 in the initial listing representing external replacements, in error, as it was not a replacement for life insurance but a replacement for the Company’s DI (disability income) product line. There were sixty (60) individual annuity replacement files from which the examiners selected a sample of twenty-five (25) for review.

The following chart (Chart I) identifies violations of Vermont’s replacement regulations. The numbers in the right hand column represent violations of various sections of the replacement regulations, which are keyed to the Legend immediately following the chart. The Legend contains citations to the various sections of the regulations in addition to a brief description of each type of violation.

CHART I

Violations from replacement sample:

External Life Insurance Replacements

Policy Number	Violations (Numbers are keyed to legend)
T000029161	1,2*,3,4,5,6
T000038890	7
U000020902	1,2*,3,4,5,6
U000020919	1,2*,3,4,5,6
U000021193	1,2*,3,4,5,6

Policy Number	Violations (Numbers are keyed to legend)
U000021195	1,2*,3,4,5,6
U000021764	1,2*,3,4,5,6
U000022204	1,2*,3,4,5,6
X010000656	8

Internal Life Insurance Replacements

Policy Number	Violations (Numbers are keyed to legend)
T000030903	1,2,3,4,6
T000033775	1,2,3,4,6
U000020767	1,2*,3,4,5,6
U000021225	1,2*,3,4,5,6
U000021552	1,2*,3,4,5,6
U000021911	1,2,4,6
U000021915	1,2*,3,4,5,6
U000021917	1,2*,3,4,5,6
U000021920	1,2,3,4,6
U000022345	1,2*,3,4,5,6
U000022414	1,2,3,4,6
U000023209	1,2,3,4,6

Annuity Replacements

Contract Number	Violations (Numbers are keyed to legend)
A00003767F	1,2*,3,4,5,6
A00004428F	1,2,3,4,5,6
A00004432F	1,2,3,4,5,6
A00004511F	Transfer from mutual funds**
A00004590F	1,2,3,4,5,6,9
A00006091F	Transfer from mutual funds**
A00006527S	Transfer from mutual funds**

CHART I

LEGEND

- 1** Failure to verify that the required forms were received and are in compliance with the Regulation- Reg. 2001-3 § 5 A (1).
- 2** Unable to produce copies of the notification regarding replacement- Reg. 2001-3 § 5 A (3).
- 3** Failure 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 in the case of a variable policy or contract, a payment of the cash surrender value provided under the policy or contract plus fees and other charges - Reg. 2001-3 § 5 A (4).
- 4** No evidence that the producer provided a signed statement identifying any preprinted or electronically presented company approved sales materials used- Reg. 2001-3 § 3 E or a statement that the producer used only company-approved sales materials-Reg. 2001-3 § 5 C (1).
- 5** Notice does not conform to Reg. 2001-3 (Appendix A).
- 6** No notice signed by both applicant and producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud- Reg. 2001-3 § 3 B.
- 7** Failure to notify existing insurer of proposed replacement within five (5) business days – Reg. 2001-3 § 5 A (2).
- 8** Failure to notify existing insurer of proposed replacement within five (5) business days - Reg. 88-2 § 8 B (2).
- 9** No statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts - Reg. 2001-3 § 4 C.
- *** Used old Notice of Replacement.
- **** Should not be included with replacements.

(1) Summary of Violations

It can be determined from Chart I that there was a total of one hundred thirty-four (134) violations out of the eighty-six (86) files reviewed by the examiners with twenty-five (25) of the files containing at least one (1) violation. It should be noted, however, that some of the types of violations automatically create additional violations. For example, if the Company was unable to produce copies of the notification regarding replacement, Regulation 2001-3 § 5 A (3), which is designated in the Legend for Chart I as number "2", then such omission would also result in violations designated in the Legend for Chart I as numbers "1", "3" and "6".

(2) Violations of Regulations 2001-3 § 5 A (3) and 2001-3 § 5 A (4)

Regulation 2001-3 § 5 A (4) requires that, in cases of replacement, policy and contract owners be furnished a notice of their right to return the policy or contract within thirty (30) days and receive a refund of their premium. The Company failed to amend their policies to show the new required number of days, i.e., thirty (30) rather than twenty (20). Although the Company did include the thirty (30) day required "free look" period in their notices regarding replacement, they failed to furnish the notices to applicants in twenty-three (23) instances (violations of number "2" in the Legend for Chart I). Such failure meant that the only "free look" notices which these applicants received showed the incorrect twenty (20) days, which remained on the uncorrected policies themselves thereby resulting in violations of Regulation 2001-3 § 5 A (4) as well (number "3" in the Legend for Chart I).

There is no way of determining which of these persons, if any, would have returned their contracts for a refund of premiums had they been notified of the proper thirty (30) day "free look" period required by Regulation 2001-3 § 5 A (4). In the interest of making these persons whole, the examiners recommend that they be afforded a new "free look" period equal to ten (10) days (thirty (30) days minus the twenty (20) days that they were originally afforded by the right to examine provision). During the new "free look" period they should be allowed an opportunity to return their contracts and receive refunds prescribed by the regulation. For example, if the contract were a variable annuity issued with an original twenty (20) day "free look" period, the annuitant should be granted a new ten (10) day period during which he or she could return the contract and receive the full current cash surrender provided under the contract plus surrender charges and any other fees or charges.

(3) Recommendation

In view of the large percentage of violations, the examiners recommend that the Company assign, to one or more responsible persons, specific accountability for the review of every replacement file and responsibility for completing and signing a checklist before each file is finally closed.

(C) ISSUED LIFE AND ANNUITY REVIEW

The tests performed by the examiners involved reviewing a sample of fifty (50) annuity files out of a population of one hundred and six (106) and a sample of fifty (50) life insurance files out of a population of one hundred and thirty-seven (137) to determine compliance with Vermont Regulation 2001-3, effective on March 1, 2002, or Regulation 88-2, which was in effect prior to that time.

The following chart (Chart II) identifies violations of Vermont's replacement regulations. The numbers in the right hand column represent violations of various sections of the replacement regulations, which are keyed to the Legend immediately following the chart. The Legend contains citations to the various sections of the regulations in addition to a brief description of each type of violation.

Chart II

Violations from issued life and annuity samples:

Issued Annuities

Contract Number	Violations (Numbers are keyed to legend)
A00004356F	7
A00004425F	1,2,3,5,6,7
A64004589S	8
A00004746F	7
A00004759F	1,2,3,5,6,7
A00005400F	7
A00005459F	1,2,3,5,6,7
A64005829S	7
A00005842F	7
A00005843F	7
A00006091F	7
A64006093S	7
A64006094S	7
A64006097S	7
A00006317F	7
A64006478S	7
A64006483S	7
A64007185S	7
A64007368S	7

Issued Life

Policy Number	Violations (Numbers are keyed to legend)
U000018082	4 *
U000021765	1,2,3,5

CHART II

LEGEND

- 1 Failure to verify that the required forms are received and are in compliance with the Regulation- Reg. 2001-3 § 5 A (1).
- 2 Unable to produce copies of the notification regarding replacement- Reg. 2001-3 § 5 A (3).
- 3 No evidence that the producer provided a signed statement identifying any preprinted or electronically presented company approved sales materials used- Reg. 2001-3 § 3 E or a statement that the producer used only company-approved sales materials-Reg. 2001-3 § 5 C (1).
- 4 No evidence that written communication to existing insurer was sent within 5 business days- Reg. 88-2 § 8 B (2).
- 5 Failure to provide 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 in the case of a variable policy or contract, a payment of the case surrender value provided under the policy or contract plus fees and other charges – Reg. 2001-3 § 5 A (4).
- 6 No notice signed by both applicant and producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud – Reg. 2001-3 § 3 B.
- 7 No statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts - Reg. 2001-3 § 4 C.
- 8 No Replacement Notice, as in Exhibit B, and required by Reg. 88-2 § 8 B (1).

* The Company contents that policy # U000018082 was an internal replacement, however, the applicant and the agent indicated on the application that both a UNUM and a Union Central policy were being replaced, hence requiring a written notice be sent to UNUM, the existing insurer.

(1) Summary of Violations

Chart II reflects that there was a total of thirty-nine (39) violations out of one hundred (100) files reviewed. There were twenty-one (21) files having at least one (1) violation.

(2) Violations of Regulation 2001-3 § 4 C

The annuity sample contained eighteen (18) violations of Regulation 2001-3 § 4 C (number "7" in the Legend for Chart II). This regulation requires the applicant and the agent to sign a statement as to whether the applicant has existing policies or contracts. The Company agreed that these eighteen (18) contracts were in violation of the regulation stating: "This was an oversight on our part."

The Company further stated that they were in the process of adding a form, to the forms locator on their website. Once completed, the form will print automatically with all of their annuity applications. The Company also indicated that they would add this requirement to their quality control checklist.

The Company provided a copy of the form, which is in the process of being adding to their website, designed to satisfy the requirements of the regulation. The form contained the following question for the applicant: "*Will any life insurance, annuity, disability income or overhead expense insurance, or any other accident or sickness insurance presently inforce with this or any other company be discontinued, reduced or changed if this annuity application is issued?*". The section to be completed by the agent contained the following questions: "*To the best of your knowledge, does the policy applied for involve replacement, in whole or in part of any existing life insurance, annuity, disability income or overhead expense insurance, or any other accident or sickness insurance?*" and "*Will a policy loan on one or more policies be utilized to pay any portion of the initial premium or deposit on the policy applied for?*" If any of these questions are answered "yes", then the applicant or agent must provide further information including the name of the insurance company and the policy number/s.

Neither question satisfies the requirement of the regulation, which specifically requires a signed statement by the applicant and the agent **as to whether the applicant has existing policies or contracts**. This statement is required whether or not the contract is a replacement.

The examiners recommend that the Company amend their annuity applications or add a form to be completed by all annuity applicants in order to comply with Regulation 2001-

3 § 4 C. The amendment or the new form should contain a statement signed by the applicant and the agent as to whether the applicant has existing policies or contracts.

(3) Violations of Regulation 88-2 § 7 B and 88-2 § 8 A

Similarly, Regulation 88-2 § 7 B required a signed statement by the applicant and Regulation 88-2 § 8 A required a signed statement by the agent as to whether the proposed insurance or annuity would replace existing life insurance. These statements were required to be with or as part of an application for life insurance or annuity. Application forms UC 1162 VT (08/96) for flexible premium deferred annuities and UC 2991 (12/92) for single premium deferred annuities were used during the portion of the examination period which was subject to the cited regulations (January 1, 2001 through February 28, 2002). Form UC 1162 VT (08/96) included the question "Will insurance or annuities with any **other** company be discontinued, reduced or changed by participation in this plan?" for both the applicant and the agent to answer. UC 2991 (12/92) contained the same question for the applicant to complete but did not contain a replacement question to be completed by the agent.

Forms UC 1162 VT (08/96) and UC 2991 (12/92) only addressed replacement of policies and contracts with **other** companies and did not ask the applicant or the agent if the proposed annuities would replace existing life insurance with Union Central, thus preventing internal replacements from being detected. Therefore, by using application forms UC 1162 VT (08/96) and UC 2991 (12/92), the Company was in violation of 88-2 § 7 B and 88-2 § 8 A.

(4) Violations of Regulation 2001-3 § 5 A (3) and Regulation 2001-3 § 5 A (4)

A total of four (4) files, three (3) in the annuity sample and one (1) in the life sample, were missing copies of the notification regarding replacement required by Regulation 2001-3 § 5 A (3) (violation "2" on the Legend). Since the Company provides the required notice to the policy or contract owner of the right to return the policy or contract within thirty (30) days of the delivery of the contract on the notification regarding replacement, these four (4) files were also missing the required notice of the right to return the policy or contract within thirty (30) days of delivery in violation of Regulation 2001-3 § 5 A (4) (violation "5" on the Legend).

As also stated in the section entitled **(B) REPLACEMENT REVIEW**, the examiners recommend that these four (4) policy and contract owners be afforded a new "free look" period equal to ten (10) days (thirty (30) days minus the twenty (20) days that they were originally afforded by the right to examine provision). During the new "free look" period they should be allowed an opportunity to return their contracts and receive refunds as prescribed by Regulation 2001-3 § 5 A (4).

(D) REPLACEMENT GUIDELINES FOR PRODUCERS

The Company provides guidelines for compliance with the Vermont replacement regulation on its website for use by its producers. The website, however, states that if the applicant answers the replacement question by indicating that there is no replacement involved, then the producer needs only to obtain a signed statement by the producer and applicant that no replacement is involved. This was the requirement under Regulation 88-2, which was in effect until Regulation 2001-3 became effective on March 1, 2002. Regulation 2001-3 § 3 A requires that a producer submit to the insurer, with an application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

In addition, on the website, registered contracts are listed as exempt from Regulation 2001-3 “to the extent that only premium or contract contribution amounts and the appropriate prospectus must be provided instead”. However, Regulation 2001-3 § 1 C. states that “registered contracts shall be exempt from the requirements of Sections 5 (A) 2 and 6 B with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.” The omission of the underlined portion of the Regulation above, gives the impression that only premium or contract contribution amounts and the appropriate prospectus must be provided for registered contracts, which are otherwise exempt. The regulation clearly states that registered contracts are only exempt from sections 5 (A) 2 and 6 B of Regulation 2001-3 and only with respect to illustrations or policy summaries.

Additionally, the instructions that the Company provides to the producer for delivering policies state that the twenty (20) day “free look” period begins on the day that the policy is delivered. For cases where replacement is involved, these instructions should state that the **thirty (30) day** “free look” period will begin on the day that the policy is delivered, in accordance with Regulation 2001-3 § 5 A (4).

These errors, in the explanation of the requirements of Regulation 2001-3 which are furnished to the Company’s producers, are in violation of Regulation 2001-3 § 4 A (1), in that the Company failed to inform their producers of the specific requirements of the regulation.

The Company stated that they revised the website guidelines in response to the examiners’ criticism of the above mentioned violations. In addition to these revisions, the examiners recommend that the instructions the Company provides to its producers for delivering a policy, when a replacement is involved, be corrected to state that the “free look” period permitted is thirty (30) days, in accordance with Regulation 2001-3 § 5 A (4).

(E) RIGHT TO RETURN (“FREE LOOK”) PROVISION

The list of new procedures, which was given to the new business teams when the Company adopted the new Vermont replacement regulation (Regulation 2001-3) in September, 2002, pointed out that the “free look” period had changed from twenty (20) days to the required thirty (30) days. This document also contained the statement “The replacement form notifies them of this so we do not need to amend the free look on each policy”.

The examiners noted that the *Important Notice* was revised to include the required thirty (30) day “free look” notification. However, since the “free look” provision on the policies and contracts was not amended, the policy or contract owners had a replacement notice containing a thirty (30) day “free look” period and a policy containing a twenty (20) day “free look” period in replacement situations.

Thus, there was a conflict between the policy language and the language of the *Important Notice* thereby creating an ambiguity. The Company stated that they have phased in a new provision concerning the “free look” period with products which were filed in November 2002 and thereafter. The new provision contains the following language: *If this policy is a replacement for an existing policy you have 30 days after you receive it to review the policy.* Currently, the “free look” provision has been amended on five new products, however, some policies still do not reflect the thirty (30) day “free look” provision for replacement transactions.

The examiners recommend that the Company immediately amend the “free look” provisions on all of the policies and contracts to provide for a thirty (30) day period for replacement transactions.

(F) SUICIDE AND INCONTESTABILITY PERIOD

Some of the life insurance files contained a form (Union Central form UC2174 VT which is Exhibit C under Regulation 88-2) on which the producer filled in information about the applicant’s current policy and the policy being applied for in a side-by-side comparison. In four (4) files, which were all replacement situations where a Union Central policy was being replaced with another Union Central policy, the agent indicated that the suicide and incontestability period under the applied for policy would be two years. Specifically, the policy numbers are U000021225, U000021552, U000022345, and U000021765. These four (4) files contained an outdated replacement form (Union Central form UC 2174 VT) which conformed to Exhibit C under Regulation 88-2. The applications, however, were subject to Regulation 2001-3, not Regulation 88-2, as the policies were applied for after March 1, 2002. (The violations relating to the outdated replacement notices are addressed in section I (B) Replacement Review - Chart I).

Regulation 2001-3 § 5 B requires the insurer to allow credit for the period of time that has elapsed under the replaced policy's incontestability and suicide period up to the face amount of the existing policy in transactions where the replacing insurer and the existing insurer are the same. Therefore, the completed forms (Exhibit C under Regulation 88-2) contained the incorrect suicide and incontestability period, which should have been two years less the time that had elapsed under the existing policy's incontestability and suicide period up to the face amount of the existing policy.

The examiners recommend that the Company inform its producers that the suicide and incontestability period must be reduced by the period of time elapsed under the existing policy up to the face amount of the existing policy in internal replacement situations. The Company should also review the completed form UC2174 VT (Exhibit C under Regulation 88-2) to ensure that the representations made by the agent are correct. The regulation does not require the Company to provide information about the suicide and incontestability period at the time of application, however, if the information is provided, it must be correct.

(G) REPLACEMENT NOTICES RECEIVED FROM OTHER INSURERS

(1) Violations of Regulation 2001-3 § 6 B and Regulation 2001-3 § 6 A

The examiners requested all replacement notifications received by the Company from other insurers during the examination period as required by Regulation 2001-3 § 6 A. The Company provided twenty (20) files in response to the examiners request.

Regulation 2001-3 § 6 B requires that, when an insurer receives a replacement notification from another insurer, they must send a letter to the policy or contract owner advising them of their right to receive information on their existing policy including an in force illustration or policy summary. The examiners' review of the letters revealed that the Company failed to inform the policy/contract owners of their right to receive policy values including an in force illustration or policy summary as required by this regulation.

The Company agreed that they were not in compliance with Regulation 2001-3 § 6 B and asserted that they changed their client replacement letter effective September 27, 2004, to include the language pursuant to the regulation.

The examiners found that annuity contracts numbered A00005842F and A00005843F, in the issued annuity sample, contained replacement notifications dated September 2, 2003, from ING/Golden American Life Insurance Company. The replacement notifications for these two annuity contract numbers were not included with the files of replacement notifications received which were furnished to the examiners. Regulation 2001-3 § 6 A requires the Company to retain and be able to produce all replacement notifications received for at least five (5) years or until the conclusion of the next examination by the Insurance Department of its state of domicile, whichever is later. Failure to produce these two replacement notifications constitutes violations of Regulation 2001-3 § 6 A.

The Company responded that “although paperwork had been submitted from ING/Golden American Life on September 4, 2003, it was not processed as the clients changed their mind and subsequently submitted the Smith Barney paperwork”. Smith Barney sent the Company a replacement notification on November 19, 2003, which was **two and a half months after** they received the replacement notification from ING/Golden American Life Insurance Company. The Company should have sent the letter required by Regulation 2001-3 § 6 B to the contract owners when it received the replacement notification from ING/Golden American Life and should have produced this replacement notice with all replacement notifications received pursuant to Regulation 2001-3 § 6 A. The Company is in violation of these two regulations.

(2) State of Residence

The files of replacement notices received provided to the examiners, contained a listing of twenty (20) files and included a column with the heading “State” for which Vermont was indicated for all of the policies and contracts. However, upon examination, nine (9) out of the twenty (20) files pertain to policies that were not applied for in the state of Vermont, and therefore were not subject to Regulation 2001-3 or the Vermont examination. The following chart describes the examiners’ findings for these nine (9) files:

<u>Policy or Contract Number</u>	<u>Replacing Company</u>	<u>State of Application</u>
02933400	Equitable	NY
U000002640	National Life of Vermont	NY
U000002631	National Life of Vermont	NY
3026759	National Life of Vermont	CT
04102955	National Life of Vermont	NY
04144039	Life Ins. Co. of the S.W.	CA
I000000806	National Life of Vermont	CA
03020028	National Life of Vermont	CT
04047980	National Life of Vermont	CT

The Company responded that these nine (9) files “were included inadvertently” in the listing and “effective immediately, we have changed our procedures to maintain the accurate state of residence of the policy owner, and keep the replacing company in a separate field in our replacement database”.

The Company should institute procedures for determining which policies are Vermont policies when a notification of proposed replacement is received from another insurer.

(II) CLAIMS PROCEDURES AND PROCESSING

(A) DIRECT CLAIMS & BENEFITS PAID

The examiners requested a listing of all individual and group life claims which were paid during the examination period.

The listing representing group life claims contained a total of four (4) paid claims.

The listing representing individual life claims contained a total of twenty-eight (28) records. Upon reviewing the twenty-eight (28) claim files, it was determined that four (4) of the claim files were not subject to Vermont statutes as the policies were issued in states other than Vermont, and therefore not subject to the review.

Vermont Reported Death Benefits Paid

Year	Individual	Group
2001	\$ 327,538	0
2002	\$ 330,656	0
2003	\$ 223,294	\$ 90,000

(B) BASIS OF INTEREST RATE APPLICATION

In a memorandum dated February 16, 2004, the Company stated that it was their practice to base the application of interest rates to death claim proceeds upon the laws of the state of residence of the beneficiary. The Company's practice of paying interest based on the state of residence of the beneficiary instead of paying interest based on those of the issue state (when the issue state is Vermont) is in violation of 8 V.S.A. § 3665 (c) (2) for those cases involving both group life and individual life insurance. (Issue state for group life is determined by the state in which the certificate was issued/applied for and individual life is determined by the state in which the policy was issued/applied for)

The Company agreed with the examiners' criticism and stated in a memorandum dated September 22, 2004, that their procedures were changed effective January 1, 2004. Further, the Company added that their response dated February 16, 2004, described procedures for those claims paid prior to January 1, 2004.

The Company outlined their new procedures (effective January 1, 2004) for determining interest rates as follows:

The interest rate used to calculate interest on claims (date of death to date of payment) will be the greater of the following:

- a. State rate for the insured's residence*
- b. State rate for the beneficiary's residence*
- c. State rate for the issue state of the policy*
- d. Contract rate (if multiple policies are involved, the highest contract rate will apply to all contracts)*
- e. Union Central's administrative rate*

Union Central will allow interest from the date of death to the date of payment using the above criteria.

Further, in the memorandum dated February 16, 2004, the Company stated that their practice with regard to claims that were not paid within 30 days of receipt of proof of loss, was to base "the interest on the higher of the Company's administrative rate, contract rate or appropriate rate in the state regulation." The examiners sought clarification by requesting the specific rate the Company used in those cases where the claim was not paid timely, which in Vermont is 12%.

The Company's response, contained in the referenced memorandum dated September 22, 2004, added that effective January 1, 2004, "Union Central would pay extra interest based on a judgment rate imposed on the Company if a claim was not paid within 30 days of receipt of the proofs required to pay the claim."

(C) GROUP LIFE CLAIM VIOLATIONS

(1) Violations of 8 V.S.A. § 3665 (c) (2)

Of the four (4) group life claims, which represented those claims that were paid during the examination period, 50% were in violation of 8 V.S.A. § 3665 (c) (2).

The following table identifies those claims which were found to be in violation of 8 V.S.A. § 3665 (c) (2):

Policy #	Comments
G303361 Certificate # 009201838	Did not apply 6% interest as required by 8 V.S.A. § 3665 (c) (2)
9GL15377 (No certificate # available)	Did not apply 6% interest as required by 8 V.S.A. § 3665 (c) (2)

The Company responded to the examiners' criticism by stating that they would recalculate the interest on claims using a rate of 6% and make additional payments to the

beneficiaries in addition to including 6% on the additional amount due from the date of the initial payment to the current date.

The examiners were provided copies of the letters and checks which were subsequently mailed to the affected beneficiaries on October 1, 2004.

(2) Violation of Vermont Regulation 79-2 § 6 C

The examiners criticized the Company with respect to the review of the claim paid under policy # G25565. The policy contained, in addition to the death benefit, an accidental death benefit. The Company notified the beneficiary on March 4, 2003, that the payment of the accidental death benefit was under consideration and that when the investigation was completed the beneficiary would be informed of the Company's decision. The notations in the claim file indicate that the beneficiary was again notified of the ongoing investigation by telephone on 6/30/03 and 8/14/03. The accidental death benefit was eventually paid 9/4/03.

With respect to the written communication required pursuant to Vermont Regulation 79-2 § 6 C, the Company failed to notify the claimant every 30 working days by sending a letter to the claimant setting forth the reasons the additional time was needed for the investigation.

It is recommended that the Company take steps to insure that the requirements of Vermont's Fair Claims Practices (Regulation 79-2) are followed.

(D) INDIVIDUAL LIFE CLAIM VIOLATIONS

(1) Violations of 8 V.S.A. § 3665 (c) (2)

Of the twenty-four (24) individual life claims representing those claims that were paid during the examination period, sixteen (16) or 67% were in violation of 8 V.S.A. § 3665 (c) (2).

The following table identifies those claims which were found to be in violation of 8 V.S.A. § 3665 (c) (2):

Policy #	Comments
01134018	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04080494	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
03018818	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04083641	Violation of 8 V.S.A. § 3665 (c) (2) (Did

	not pay 6% interest)
03014403	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04108658	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
4156517	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
1370022	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04123733	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
01303258	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04069108	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
01188512	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
U04273908C	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04240421	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
U04272517C	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)
04109231	Violation of 8 V.S.A. § 3665 (c) (2) (Did not pay 6% interest)

The Company responded to the examiners' findings described in the chart above, by stating that they would recalculate the interest on claims using a rate of 6% and make additional payments to the beneficiaries in addition to including 6% on the additional amount due from the date of the initial payment to the current date. The examiners were provided copies of the letters and checks which were subsequently mailed to the affected beneficiaries on October 1, 2004.

(2) Policy # 04216040 - Violation of 8 V.S.A. § 3665 (c) (2)

The examiners observed that when the above referenced claim (policy # 04216040) was initially paid on 3-13-03, the Company applied 2% interest on the claim proceeds in violation of 8 V.S.A. § 3665 (c) (2). Further, a notation in the file reveals that agent # 633, expressed disagreement with the Company's payment and stated the claim should be paid at 6% interest. Apparently, the Company's practice was to apply 6% interest regarding only those cases where the claim was not paid within 30 days from receipt of proof of loss, according to statements from the Company's claim examiner. The issue of the application of appropriate interest rates was subsequently forwarded to the Company's legal department for review and clarification.

The Company's legal department responded in a claim memorandum dated 4-18-03, with the following statement:

In the future, we will pay 6% interest on claims where the beneficiary is a Vermont resident. (Underlining added for emphasis)

After the statement was reviewed by the Company's claim examiner, corrective action was taken on 4-23-03. The Company re-calculated the interest at 6% interest accruing from the date of death to the date the claim was initially paid (3-13-03) and the additional amount due was deposited into the beneficiary's Direct Access Account.

The examiners criticized the Company for failing to pay the statutorily required 6% interest on the initial claim payment and the Company's handling of the claim in that the Company should have paid extra interest at the rate of 6% from the date of the initial payment to the date the correction was made. The Company responded by issuing a check which included 6% interest applied to the additional interest due from 3-13-03 to 10-1-2004. (Date the company sent the affected beneficiary a letter of explanation and the check)

Additionally, the Company's legal department's statement that the criteria used to apply the provisions of 8 V.S.A. § 3665 would be based on those cases where the beneficiary is a Vermont resident, contravenes the statute, in that 8 V.S.A. § 3665 should be applied to all policies/certificates issued (applied for) in the state of Vermont, regardless of the residence of the beneficiary. The exception would be for those policies/certificates where the state of residency of the beneficiary requires a higher interest rate, for example, the state of Florida.

The Company responded in agreement and referenced their memorandum dated September 22, 2004, in which they described the new procedures effective January 1, 2004. Refer to **(B) BASIS OF INTEREST RATE APPLICATION** for an outline of the Company's criteria with respect to determining the use of appropriate interest rates.

(E) RECOMMENDATION

The examiners recommend that the Company go back as far as the Vermont Department determines appropriate and perform an audit on those claims which are subject to Vermont statutes and recalculate the interest on claims using the statutorily required rate including interest on the additional amount due, from the date of the initial claim payment to the date the corrective action is taken.

SUMMARY OF RECOMMENDATIONS

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1.

Page 12

In view of the large percentage of violations, the examiners recommend that the Company assign, to one or more responsible persons, specific accountability for the review of every replacement file and responsibility for completing and signing a checklist before each file is closed.

2.

Page 15

The examiners recommend that the Company amend their annuity applications or add a form to be completed by all annuity applicants in order to comply with Regulation 2001-3 § 4 C.

3.

Page 12 & 16

It is recommended that those persons whose policies were replaced and who were notified of "free look" periods of less than thirty (30) days or given conflicting information be afforded a new "free look" period equal to thirty (30) days minus the number of days that they were originally afforded during the "free look" period. They should be allowed an opportunity to return their contracts and receive refunds as prescribed in the regulation.

4.

Page 17

It is recommended that the instructions that the Company provides to its producers for delivering a policy, when a replacement is involved, be corrected to state that the "free look" period permitted is thirty (30) days, in accordance with Regulation 2001-3 § 5 A (4).

5.

Page 18

The examiners recommend that the Company immediately amend the "free look" provisions on all of its policies and contracts to provide for a thirty (30) day period for replacement transactions.

6.

Page 18 & 19

It is recommended that the Company inform its producers that the suicide and incontestability period must be reduced by the period of time elapsed under the existing policy up to the face amount of the existing policy in internal replacement situations. The Company should also review the completed form UC2174 VT to ensure that the representations made by the agent are correct.

7.

Page 20

The Company should institute procedures for determining which policies are Vermont policies when a notification of proposed replacement is received from another insurer.

8.

Page 23

It is recommended that the Company take steps to insure that the requirements of Vermont's Fair Claims Practices (Regulation 79-2) are followed.

9.

Page 25

The examiners recommend that the Company go back as far as the Vermont Department deems appropriate and perform an audit on those claims which are subject to Vermont statutes and recalculate and pay the additional interest due using the statutory rate including interest on the additional amount due, from the date of the initial claim payment to the date the corrective action is taken.