

**UNUM LIFE INSURANCE COMPANY OF AMERICA**

2211 CONGRESS STREET  
PORTLAND, MAINE 04122

NAIC GROUP CODE - 0565  
NAIC COMPANY CODE - 62235

MARKET CONDUCT REPORT OF EXAMINATION AS OF JUNE 30, 2001

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I hereby certify that the attached market conduct report of examination dated February 8, 2002 shows the condition and affairs of UNUM Life Insurance Company of America of Portland, Maine as of June 30, 2001 and has been filed in the Bureau of Insurance as a public document.

This report has been reviewed.

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Eric A. Cioppa  
Deputy Superintendent

This \_\_\_\_ day of \_\_\_\_\_, 2002

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## FOREWORD

This Market Conduct Examination Report of UNUM Life Insurance Company of America is, in general, a report by test. The examiners, in writing this report, cited errors the Company made. However, failure to comment on specific products, procedures or files does not constitute approval thereof by the Maine Bureau of Insurance. Statutory cites are as of the period under examination unless otherwise noted. Arthur Andersen LLP provides no representations regarding questions of legal interpretation or opinion. Determination of findings constituting violations or potential violations is the sole responsibility of the Maine Bureau of Insurance. All statutory citations, case law or any other legal opinions or interpretation included herein are provided by the Maine Bureau of Insurance for inclusion in this report. Assistance in the preparation of this report was provided by certain Arthur Andersen LLP personnel in their capacity as Market Conduct Examiners.

Where used in the report:

- "UNUM" or "Company" refers to UNUM Life Insurance Company of America (NAIC # 62235);

February 8, 2002

Honorable Alessandro Iuppa  
Superintendent of Insurance  
State of Maine  
Bureau of Insurance  
State House Station #34  
Augusta, Maine 04333

Dear Superintendent Iuppa:

Pursuant to the provisions of Title 24-A M.R.S.A. §221 and in conformity with your instructions, a market conduct examination has been made on the **UNUM Life Insurance Company of America** at its home office in Portland, Maine. The following report is respectfully submitted.

### **SCOPE OF EXAMINATION**

This examination covers the period from January 1, 1999 through June 30, 2001. The examination was a full scope examination and consisted of a review of the following areas: Company Operations/Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Service, Underwriting and Rating and Claims. The examination was performed in accordance with examination standards and guidelines as set forth in the National Association of Insurance Commissioner's (NAIC) Market Conduct Examiners Handbook, the rules and regulations prescribed by the State of Maine and procedures developed by the Maine Bureau of Insurance (MBOI or Bureau of Insurance). The examination was performed under the supervision and direction of the Maine Bureau of Insurance.

Each examination area has standards that were measured by the examination team. Some standards have specific statutory guidance, others have specific Company guidelines, and yet others have contractual guidelines. Please note that some areas in the NAIC Market Conduct Examiners Handbook were not included in the examination at the discretion and judgment of the examiners, with MBOI concurrence, as part of the planning process.

To the extent deemed appropriate, we reviewed workpapers of the independent accountants for the year ending December 31, 1999. The review focused on process documentation and testing performed in the claims area; however, our ability to utilize the workpapers was limited as the time frame for the examination was as of June 30, 2001 and the independent accountant work was as of December 31, 1999. Various NAIC databases were reviewed and the information was utilized in our examination to the extent deemed appropriate.

For purposes of this report, comments will be made for each Standard in an area reviewed by the examiners and the results of the review will be reported. Exceptions will be noted as part of the comments for the applicable Standard.

While this report contains errors found in individual files, the focus of the examination is on the general business practices of the Company. In this report, examiners used the National

Association of Insurance Commissioners published error tolerance rate of seven percent (7%) for claims practices and ten percent (10%) for all other examination areas. An error rate in excess of this tolerance level may be indicative of a general business practice to engage in that type of conduct.

## COMPANY PROFILE

UNUM Life Insurance Company of America (UNUM America) is a Maine life insurance company licensed in 49 states and Canada. UNUM America's predecessor, Union Mutual Life Insurance Company (Union Mutual) was established in 1848. In 1985, UNUM Corporation, a Delaware Corporation, was organized as an insurance holding company. In 1986, Union Mutual demutualized and became a stock company. As part of that process, it changed its name to UNUM America and became a wholly owned subsidiary of UNUM Corporation.

On June 30, 1999, UNUM Corporation merged with the Provident Companies, Inc. and the name of the merged corporation was changed to UnumProvident Corporation (UNUMProvident). Through its multiple insurance company subsidiaries, UnumProvident is the largest provider of individual and group disability income insurance in the United States, and a leader in the employee benefits market, where it offers group life and other employee paid employee benefits.

After completion of the merger in 1999, UnumProvident integrated its individual and group operations and consolidated its underwriting, claims management, sales and marketing, investment, actuarial and back office functions.

The corporate structure of UnumProvident includes the following companies: UNUM Holding Company (Delaware), UNUM European Holding Company Limited (United Kingdom), Mindtask Limited (United Kingdom), Duncanson & Holt, Inc. (New York), Colonial Companies, Inc. (Delaware), UNUM Japan Accident Insurance Company Limited (Japan), UNUM International Ltd. (Bermuda), Options & Choices, Inc. (Wyoming), Boston Compania Argentina de Seguros S.A. (Argentina), The Paul Revere Corporation (Massachusetts), Benefits Technologies Inc. (Delaware), GENEX Services, Inc. (Pennsylvania), Provident Life and Accident Insurance Company (Tennessee), Provident Life and Casualty Insurance Company (Tennessee), Provident Investment Management, LLC (Tennessee), Provident International Ltd. (Bermuda) and Provident Insurance Agency, LLC (Delaware).

In the corporate structure, UNUM America is aligned under the UNUM Holding Company (UNUM Holding). Other affiliates under UNUM Holding include First UNUM Life Insurance Company (New York), Claims Services International, Inc. (Delaware), UNUM Development Corporation (Maine) and UNUM International Underwriters Inc. (Delaware). UNUM is owned 82.72% by UNUM Holding and 17.28% by UNUMProvident. UNUM America owns 50% of SP Administrator, LLC (California).

UNUMProvident distributes its products through multiple channels to reach different market segments. Individual disability products are distributed through independent insurance brokers and agents, corporate marketing agreements with other insurance companies, associations and financial institutions.

Direct premiums and policy counts by line of business for UNUM America for 2000 are as follows:

<b>Product</b>	<b>Total Premium (000)</b>	<b>%</b>	<b>Maine Only Premium (000)</b>	<b>%</b>	<b>Maine Policy Count</b>
<b>Ordinary Life</b>	\$ 26,825	0	\$1,775	3	6,591
<b>Group Life</b>	843,885	26	23,439	37	383
<b>Individual Annuities</b>	66	0	0	0	0
<b>Individual A&amp;H</b>	447,351	14	7,378	12	5,448
<b>Group A&amp;H</b>	1,947,558	60	30,705	48	1,238
<b>Total</b>	\$3,265,685	100	\$63,297	100	13,660

UNUM America is the largest affiliate of UNUMProvident. It is licensed in 49 states and Canada, and is the leading provider of group disability insurance in the U.S., as well as a leading provider of individual disability insurance, employee benefits and long term care insurance. A review of certificates of authority was performed during this examination and the results can be found in the Company Operation and Management section of this report.

### **INS-99-1 DECISION AND ORDER REVIEW**

As part of the examination, examiners were required to review the June 18, 1999 Decision and Order INS-99-1 issued by the Maine Superintendent of Insurance. The Decision and Order approved the merger of UNUM and Provident (as noted in the History Section above) subject to certain terms and conditions.

One of the terms of the Decision and Order included on Page 14 §1(e), stated that UNUMProvident would prepare and file with the Superintendent written claims procedures and appeals manuals and a written plan specifying which procedures would be instituted to enhance market conduct compliance. During the merger review process, the MBOI contracted with an outside consultant to perform a limited scope market conduct review of Provident. At that time, this review indicated certain potential areas of concern. In light of the consultant's report, the Superintendent required the UNUMProvident plan to address those issues identified in the consultant's report. The plan and manuals were to be filed no later than 6 months from the issuance of the Decision and Order. The Decision and Order also required that UNUM Life Insurance Company of America file with the Superintendent quarterly updates of UNUM Life's progress with respect to its plan for the reduction of the claims inventory as well as a status each quarter on the claims integration activities and reserves. These reports were to also include a claims litigation status report.

Examiners reviewed the information provided by UNUM in the files of the Maine Bureau of Insurance. Also, various MBOI personnel who were involved in the follow-up of the transaction were also interviewed by the Examination Team.

Based upon this review, it appears that UNUM has filed all required documentation with the Bureau of Insurance and has fulfilled the requirements of the Maine Superintendent as required by the June 18, 1999 Decision and Order INS-99-1.

## PERTINENT FACTUAL FINDINGS

### A. Company Operations and Management

The Company Operations and Management portion of the examination is designed to provide a view of what the Company is and how it operates. It is not specifically based upon sampling techniques. It is more concerned with structure. This review is not intended to duplicate a financial examination review, but it is important to provide the market conduct examiners with an understanding of the Company being examined. Many troubled companies have become so because structural problems existed in the Company and management did not have the processes in place to identify, recognize and address the problems in a timely manner.

The areas considered in this review include:

- a. History
- b. Profile
- c. Managing general agent oversight
- d. Internal audits
- e. Antifraud plan
- f. Certificates of authority
- g. Disaster recovery plan
- h. Computer systems

## STANDARDS

### Company Operations/Management

**Standard A-1**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 1*

The examiners reviewed the 1999, 2000 and 2001 Internal Audit Work Plans and status reports as of November 1999 and November 2000 that identified audits actually completed. Internal audit reports that relate to market conduct issues were selected for review. The internal audit reports were selected from the status report of audits completed.

The examiners reviewed the audit reports to determine if the function is providing meaningful information to management and also determine how management was using the reports. The examiner reviewed internal audit reports to determine if the Company responds to internal audit recommendations to correct, modify and implement procedures and if accuracy of internal statistical data and information systems is periodically tested by the Company's audit program.

Based upon this review, examiners concluded that the internal audit function at the Company was providing meaningful information on a timely basis to management. No exceptions were noted in this area.

**Standard A-2**

The Company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 2*

Appropriate controls, safeguards and procedures for protecting the integrity of computer information are an important part of an effective internal control system. Examiners reviewed documentation provided by the Company of their internal controls in this area. Follow-up interviews were also conducted to provide further understanding of the control environment.

Based upon this review of the Company's documentation, it appears that the Company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.

**Standard A-3**

The Company has an antifraud plan in place.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 3*

Written procedural manuals or guides and antifraud plans should provide sufficient detail to enable employees to perform their functions in accordance with the goals and direction of management. Appropriate antifraud activity is important for asset protection as well as policyholder protection. Further, the insurer has an affirmative responsibility to report fraudulent activities of which it becomes aware.

Examiners reviewed documentation of the antifraud plan provided by the Company and noted no deficiencies in this area.

**Standard A-4**

The Company has a valid disaster recovery plan.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 4*

A formal disaster recovery plan is an essential part of the Company's business continuity planning. A detailed plan that includes procedures for continuing operations in the event of a disaster as well as documentation of recent testing of the plan is a requirement.

Examiners were provided with documentation related to disaster recovery and business continuity by the Company. Based upon this review, it was noted that the Company has established plans to minimize the effects of an interruption in business.



**Standard A-5**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 5*

The objective of this standard is to ensure that the Company is conducting an appropriate level of oversight of the activities of MGAs and TPAs.

Based upon information provided by the Company, it was determined that this standard is not applicable as the Company did not utilize the services of any MGAs or TPAs to process Maine business during the period under examination.

**Standard A-6**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 6*

Inadequate, disorderly, inaccessible, or inconsistent records can lead to inappropriate handling of claims, inappropriate underwriting decisions, inappropriate rates and other issues. The Company's policies and procedures in this area are an important part of the internal control environment.

Examiners reviewed the current record retention policies and procedures of the Company and noted that these policies meet the requirements of the State of Maine. Maine Statutes Chapter 24-A §3408 states that "Every domestic insurer shall have and maintain its principal place of business and home office in this state, and shall keep therein accurate and complete accounts and records of its assets, transactions and affairs in accordance with the usual and accepted principals and practices of insurance accounting and record keeping as applicable to the types of insurance transacted by the insurer". During testing, examiners noted several areas where the Company was not able to provide complete or adequate documentation as noted below:

- During review of the ID terminations, declinations and cancellations, one policy was noted as having been cancelled due to lack of payment. The Company advised that the notification of the termination would have been included as part of the billing notices, but they were unable to locate a copy of the notice that was sent to this insured.
- During review of the UNUM Direct terminations, declinations and cancellations, we noted seven items in the sample were missing cancellation notices in the files. The current process for UNUM Direct files does not require the retention of the standard lapse notice or cancellation letter.
- Three additional ID exceptions were noted in that the Company was unable to locate three cancellation notification letters for policies cancelled at the request of the insured.
- Finally, one ID application was declined based upon a review of medical records. The declination appears to be reasonable due to underwriting standards; however, the

declination letter was missing from the file. Both Company policy and Maine Statutes §2212 require formal written notification to an insured in the event of the denial of coverage.

- During review of the Group terminations, declinations and cancellations, two exceptions were noted in that the Company could not locate cancellation letters for two policies that had been cancelled.
- Also in the Group sample, three policies were noted as terminated; however, there was no documentation supporting the reason or notification included in the files.
- In the UNUM Direct sample, three policies were listed as terminated; however, there was no documentation included in the files provided to the examiners supporting termination.
- During review of the denied claims sample, it was noted that 4 files out of 50 denied claims did not include documentation to evidence the reason why the Company had denied the claim, including a copy of the final denial letter.
- Also noted, for six additional files out of 50 denied claims, the file did not contain a copy of the final denial letter to the claimant.
- It was noted that for one file selected for review, the Company was unable to provide supporting documentation of the original claim submission information received from the claimant. The Company was able to provide evidence of the denial of the claim, but the original claim form and supporting documents were not able to be located.

**Standard A-7**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 7*

Examiners reviewed the Company's Maine Certificate of Authority for the period under examination and noted no exceptions.

**Standard A-10**

The Company cooperates on a timely basis with examiners performing the examination.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 10*

Cooperation with examiners in the conduct of an examination is not only required by statute, but it is conducive to completing the examination in a timely fashion and minimizing cost.

Examiners noted that the Company cooperated on a timely basis with the examiners performing the examination.

**B. Complaint Handling**

The NAIC definition of a complaint is a written communication primarily expressing a grievance (meaning an expression of dissatisfaction). The examiners reviewed the Company's procedures for processing policyholder or other related complaints.

## STANDARDS

### Complaint Handling

#### **Standard B-1**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section B, Standard 1*

A review of complaint handling procedures incorporated direct policyholder complaints to the Company and those complaints filed with the Bureau of Insurance. The examiners reconciled the Company complaint register with a list of complaints from the Bureau of Insurance. No exceptions were noted.

The examiners also reviewed and classified the frequency of similar complaints to note any patterns of a specific type of complaint. The examiners reviewed all complaints to determine if any adverse trends exist in complaint volume. No unusual patterns or trends were noted from this review.

#### **Standard B-2**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section B, Standard 2*

The examiners noted that the Company has adequate complaint handling procedures in place and such procedures are routinely communicated to policyholders.

#### **Standard B-3**

The Company should take adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section B, Standard 3*

Examiners used the Market Conduct Examiners Handbook to determine the applicable number of complaints to review based upon the size of the complaint population for Maine policies. Per the Handbook, if the population is less than 5,000 items, the sample size should be 50. There were a total of 114 Maine complaints for the period January 1, 1999 through June 30, 2001 maintained on the Company's complaint registers. Therefore, a random sample of 50 complaints was selected for review from the Company's complaint register.

The examiners reviewed the final disposition of the complaint files selected for review to determine if the Company had taken adequate steps to address the complaint. The examiner then determined if the actions taken appear to be in compliance with the statutes, rules, and regulations.

Based upon this review, it was noted that the Company appears to take adequate steps to finalize and dispose of complaints in accordance with applicable statutes, rules and regulations and in accordance with its contract language.

**Standard B-4**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section B, Standard 4*

Examiners reviewed the sample of complaints as noted above. In addition, the Company's response time was noted both in comparison to applicable statutes, rules and regulations as well as in comparison to internal Company standards.

It appears that the Company is responding to complaints in accordance with applicable statutes, rules and regulations.

**C. Marketing and Sales**

The Marketing and Sales portion of the examination is designed to evaluate the representations made by the Company about its products. The areas reviewed include available written and verbal advertising and sales materials including producer sales training materials in order to determine compliance with statutes, rules and regulations.

Examiners randomly selected advertising materials from the population for detail review. The examiners reviewed the advertising and sales materials to ensure that they were in compliance with applicable statutes, rules and regulations.

All advertisements are required to be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy should be sufficiently clear so as to avoid deception. The advertisement shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive was determined by reviewing the overall impression that the advertisement reasonably may be expected to create upon a person of average education or intelligence within the segment of the public to which the advertisement is directed.

The Company provided a total of 450 sales and marketing documents (applicable to Maine business) used for the period January 1, 1999 through June 30, 2001. A random sample of 50 sales and marketing documents were selected for review from the Company's advertising files.

**STANDARDS**

**Marketing and Sales**

**Standard C-1**

All advertising and sales materials are in compliance with applicable statutes, rules and

regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 1*

This standard is designed to evaluate the representations made by the Company about its products. Based upon review of the above sample, the following comments and exceptions were noted:

During review of the advertisement sample, various test steps were developed based upon Maine Rule 140.

It was noted by the examiners that in accordance with Maine Rule 140, insurers are required to file an annual certification executed by an authorized officer of the insurer wherein it is stated that to the best of his/her knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied with or were made to comply in all respects with the insurance laws of the State of Maine as implemented and interpreted by Maine Rule 140. Examiners noted that the Company had not previously filed such certification with the Maine Bureau of Insurance.

During review of the Company's record keeping for their Internet web sites, it was noted that documentation of past Internet advertisements was not available. The Company's response indicated that the current process for back-up and retention of the e-advertisements on the web sites was that IBM makes a tape backup of website files and retains the last four web iterations. The Company also indicated that they were currently reviewing this archive process. Electronic or hard copies of the Company's web pages should be maintained.

**Standard C-2**

Company internal producer training materials are in compliance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 2*

This standard is designed to evaluate the representations the Company uses to instruct its sales force about the Company's products.

The Company's internal producer training materials appear to be in compliance with applicable statutes, rules and regulations.

**Standard C-3**

Company communications to producers are in compliance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 3*

This standard is designed to evaluate the representations the Company makes to its sales force about the Company's products.

The Company appears to train its producers to comply with applicable statutes, rules and regulations.

**Standard C-4**

Company rules pertaining to agent requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 4*

Because the State of Maine has no statutes, rules or regulations relating to replacement requirements and the Company has advised that their internal policy only relates to individual life policies and that they do not market individual life policies in Maine, this standard would not be applicable.

**Standard C-5**

Company rules pertaining to Company requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 5*

Because the State of Maine has no statutes, rules or regulations relating to replacement requirements and the Company has advised that their internal policy only relates to individual life policies and that they do not market individual life policies in Maine, this standard would not be applicable.

**D. Producer Licensing**

The producer-licensing portion of the examination is designed to test a Company's compliance with state producer licensing laws and rules. The focus of the review relating to producer accounts currently is to aid in the detection of fraud or misuse of funds held by the producer in a fiduciary capacity.

The examiner reviewed and compared information obtained from the Bureau of Insurance and Company records pertaining to licenses held by individuals or entities soliciting business on behalf of the Company.

We tested licensed producers by randomly selecting a sample of producers from the listing of all Maine producers licensed by the Company during the period of January 1, 1999 to June 30, 2001.

## STANDARDS

### Producer Licensing

#### **Standard D-1**

Company records of licensed and appointed (if applicable) producers agree with department of insurance records.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 1*

Examiners compared the Company's list of agents selected in the sample above, with the list of agents approved by the State of Maine Bureau of Insurance. The following exceptions were noted:

One agent was listed as having received commission in Maine during the examination period, but was not located in the MBOI license database.

One producer was reported as having earned a commission in 2000. The Company indicated that the commission system allows group business to issue for non-restrictive states, but holds the commission payment until the producer has an active license in the system. This individual became licensed on October 10, 2001. Holding the commission earned in 2000 until the producer became licensed effective October 10, 2001 appears to be a violation of Title 24-A §1411 and §1450.

#### **Standard D-2**

Producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 2*

See comments relating to Standard D-1 above.

#### **Standard D-3**

Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 3*

Examiners selected a random sample of terminated producers and verified that these producers were no longer soliciting new business for the Company.

During this review, the Company was requested to provide the examiners with copies of termination letters sent to providers upon termination of their appointment. The Company advised that they do not retain copies of the letters. The provision applicable during the exam period, Title 24-A §1441-B, states in part that the insurer "shall provide 90 days" advance written notice of the termination. Accordingly, examiners were unable to determine whether

proper notification per §1441-B had been given for 19 items in our sample of 19. In addition, the Company has advised that their current producer agreement stipulates "[T]he agreement will terminate at the sole discretion of either party, upon thirty (30) days written notice of termination given by either party to the other". This agreement also seems in violation of §1441-B(1), the applicable law for the period examined.

**Standard D-4**

The Company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 4*

This standard is concerned with potential geographical discrimination through the insurer's selection and instructions to its producers. The tests are intended to expose indicators of such a practice and may not be conclusive.

Based on our testing, the Company's policy of producer appointments and terminations does not appear to result in unfair discrimination against policyholders.

**Standard D-5**

Records of terminated producers adequately document reasons for terminations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 5*

Review of documentation in this area indicated that the Company has adequately documented reasons for terminations. See additional comments related to Standard D-3 above.

**E. Policyholder Service**

The policyholder service portion of the examination is designed to test a Company's compliance with statutes regarding notice/billing, delays/no response, premium refund, coverage questions, and nonforfeiture options.

The policyholder service review included standards relating to the adequacy and level of policyholder service provided by the Company.

There were 4,037 LTD, STD, and Life renewals (applicable to Maine business) for the period January 1, 1999 through June 30, 2001. There were 4,826 individual LTC renewals (applicable to Maine business) for the period January 1, 1999 through June 30, 2001. Therefore, a random sample of 50 items was selected from each population of renewals for review. The group LTC renewal population consisted of 39 items. The examiner randomly selected five group LTC items for review.

The examiners reviewed a random sample of renewal notices to determine if the notices were mailed in accordance with Maine statutes and regulations. The examiners also reviewed a



random sample of premium notices to determine if they were mailed in accordance with Maine statutes and regulations.

During testing it was noted that because the Company's LTC products are guaranteed renewable, rates do not change unless the class or block as a whole is re-rated. As a result, policyholders do not receive "renewal notices" unless the rate changes. Individuals can select either automatic payment methods or receive paper bills monthly, quarterly, semi-annual, or annually. The Company does acknowledge policy anniversaries in the bill to the insured. As a result, a policyholder continues to receive a standard invoice unless the rates change. UNUM advised that they have never changed the rates on either the GLTC or ILTC blocks in the State of Maine.

## **STANDARDS**

### **Policyholder Service**

#### **Standard E-1**

Premium notices and billing notices are sent out with an adequate amount of advance notice.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 1*

In order for the statutory limitations on cancellations to operate appropriately, it is important for premium and billing notices to be provided on a timely basis.

The examiners reviewed the system used by the Company to send premium and billing notices to its policyholders. The premium and billing notices appear to be sent out with an adequate amount of advance notice.

#### **Standard E-3**

All correspondence directed to the Company is answered in a timely and responsive manner by the appropriate department.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 3*

Throughout the examination, examiners reviewed correspondence files in conjunction with each area of testing. No unusual or unreasonable delays were identified.

#### **Standard E-9**

Policyholder service for long term care products complies with state laws.

*NAIC Market Conduct Examiners Handbook - Chapter VIII, Section H, Standard 9*

Examiners reviewed the various Long Term Care forms used by the Company to ensure that these forms comply with the Maine statutes. Outlines of coverage, certificates and forms were reviewed with no exceptions noted.

**Standard E-7**

Reasonable attempts to locate missing policyholders or beneficiaries are made.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 7*

Examiners reviewed the Company's policies and procedures related to escheat activity. The Company's attempt to locate missing policyholders or beneficiaries appears reasonable.

**Standard E-8**

The Company provides each policy owner with an annual report of policy values in accordance with statutes, rules, and regulations; and, upon request, an in-force illustration or contract policy summary.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 8*

The Company advised that they did not market any individual life products in Maine during the examination period. Previously, the Company had marketed an individual life product that was reinsured and transferred to Swiss Re in 1998. This is a small closed block of business that is no longer actively marketed.

**Standard E-9**

Unearned premiums are correctly calculated and returned to appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 9*

The Company advised that premiums are paid in advance in a very small percentage of cases. In situations where premium was paid in advance and the group elects to terminate coverage, all unearned premium is refunded to them within 48 hours of receiving their request to terminate.

Examiners reviewed the return of unearned premium, where applicable, during testing of cancellations, terminations and declinations in the Underwriting and Rating review and noted no discrepancies. It appears that UNUM is properly returning premiums where applicable on a timely basis.

**Standard E-10**

Whenever the Company transfers the obligations of its contracts to another Company pursuant to an assumption reinsurance agreement, the Company has gained the prior approval of the insurance department and the Company has sent the required notices to its affected policyholders.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section E, Standard 10*

Based upon discussions with the Company, it was noted that the Company did not enter into any reinsurance assumption agreements during the period covered by this examination.

## **F. Underwriting and Rating**

The underwriting portion of the examination is designed to provide a view of how the Company treats the public and whether that treatment is in compliance with applicable statutes, rules and regulations. It was determined by testing a random sampling of files and applying various tests to the sampled files.

The Company provided a list of individual and group Maine policies that cancelled, terminated or non-renewed during the period of January 1, 1999 to June 30, 2001. The Company also provided declinations and rejections for the period January 1, 1999 to June 30, 2001. Cancellations, terminations, declinations and rejections were used as the population for the review. Two samples of 50 items were selected randomly from the population for each of the major product lines (Individual and Group). Two samples of 10 items and two samples of 5 items were randomly selected from the UNUM Direct, Long term Care, and Association and Special Risk lines of business, respectively.

The examiners assessed whether the declinations and rejections appeared to be unfairly discriminatory and whether reasons were provided to applicants. The policies were reviewed to assess whether reasons for adverse underwriting decisions appeared appropriate and were in compliance with applicable Maine statutes and regulations.

## **STANDARDS**

### **Underwriting and Rating**

#### **Standard F-7**

The Company's underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations, and Company guidelines in selection of risks.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section F, Standard 7*

Inconsistent handling of rating or underwriting practices, even if not intentional, can result in unfair discrimination. A review of a sample of underwriting files indicated that there appears to be no instances of unfair discrimination. However, the following exceptions were noted during the review.

During review of the sample of individual products (LTD, STD, LTC, ID and Life) Examiners noted the following:

One application in the ILTC sample also appeared to have taken an unusually long period of time for review and denial. The application was signed and dated on February 16, 2000, but the denial letter in the file was dated May 10, 2000. A deposit premium was also given with the application and was not returned until May. Information in the Company's underwriting system indicated

that the application had been originally denied for asthma although supporting documentation in the file was unavailable.

The ID terminations, declinations, and cancellations review noted one exception where the termination effective date requested by the insured did not agree with the system termination effective date. The insured had requested termination effective on June 1, 2000, but the policy was not terminated until June 6, 2000. The termination delay resulted in an additional return premium being due to the insured as of the date of this examination.

Also, during review of the ID terminations, declinations and cancellations, one policy was noted as having been terminated at the insured's request. The Company incorrectly calculated the return premium based upon the wrong effective date, but subsequently corrected the error. The correct amount was ultimately returned to the insured; however, a revised notification letter was not prepared and sent to the insured in accordance with Company policy.

**Standard F-11**

Cancellation/non-renewal reasons comply with policy provisions, state laws and Company guidelines.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section F, Standard 11*

Examiners reviewed the Company's policies for cancellation and non-renewal. These policies appear to be in accordance with policy provisions and state laws; however, due to the documentation issues noted in Standard A-6 previously, examiners are unable to conclude on whether the cancellation/non-renewal reasons comply with policy provisions, state laws and company guidelines.

**Standard F-3**

All mandated disclosures for group insurance are documented and in accordance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section F, Standard 3*

Examiners noted no exceptions to the disclosure requirements for group insurance policies tested.

**Standard F-21**

Underwriting and rating for long term care products comply with state laws.

*NAIC Market Conduct Examiners Handbook - Chapter VIII, Section J, Standard 21*

Examiners noted no exceptions to the underwriting and rating process for long term care policies tested.

## **G. Claims**

### **Paid Claims**

The claims portion of the examination is designed to provide an overview of how the Company treats claimants and whether that treatment is in compliance with applicable statutes, rules and regulations. Compliance is determined by testing a random sample of files and applying various tests to open and closed claims. For purposes of testing, "claim file" means the file or files containing the notice of claim, claim forms, proof of loss, settlement demands, claims adjusters logs, claim investigation documentation, supporting bills, estimates, correspondence to and from insureds and claimants or their representatives, copies of claim checks or check numbers and amounts, releases, all applicable notices, and correspondence used for determining and concluding claim payments or denials, and any other documentation necessary to support claim handling activity.

The review is concerned with the Company's claim practices by line of business for compliance with statutes, rules and regulations and policy provisions. Some of the areas considered in this review include:

1. Time studies to measure acknowledgement, investigation and settlement times
2. General handling study
3. Closed without payment survey
4. Litigation survey
5. Unfair claims practices survey
6. Claims form survey
7. Time study on cancelled checks
8. Review of other procedures, as deemed necessary

Examiners tested paid claims by randomly selecting seven paid claim samples to effectively test the seven major lines of business written by UNUM from the population of paid claims related to the period January 1, 1999 through June 30, 2001. The samples were pulled from the following lines of business written in Maine: Long Term Disability (LTD), Short Term Disability (STD), Life/Accidental Death and Dismemberment (AD&D), Long Term Care (LTC), Special Risk (SR), Individual Disability (ID) and UNUM Direct (UD).

Examiners randomly selected paid claims and requested the claim files to compare the data per UNUM's system to the original claim support submission (electronic or hard copy) from the claim files to determine whether UNUM correctly processed the paid claim in accordance with the policy provisions and state regulations. The examiners classified the number and types of errors with respect to the specific fields tested, and identified the source of the errors found.

For the paid claim samples, an error is defined as any one or more elements of the paid claim that was not properly handled by UNUM in relation to the Company's policy or a state law or regulation. Errors are determined on a statute by statute basis.

## Denied Claims

We tested denied claims by selecting a random sample of denied claims relating to the period 1/1/1999 to 6/30/2001 for the following lines of business written in Maine: LTD, STD, Life, AD&D, ID, Special Risk and LTC. The population of denied claims provided by the Company for the period under review was 572 claims. Examiners randomly selected 50 claims for testing across all lines of business. Examiners requested the appropriate claim files to review and determine whether UNUM correctly denied the claim in accordance with policy provisions and state laws and regulations. The examiners classified the number and types of errors with respect to the specific fields tested, and identified the source of the errors noted.

For the denied claim sample, an error is defined as any one or more elements of the denied claim which was not properly handled by UNUM in relation to the Company's policy or state laws and regulations. We looked for potential violations of statutes relating to fair claim handling practices.

## STANDARDS

### Claims

#### **Standard G-1**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 1*

Maine Statutes Title 24-A §2164-D require acknowledgement with reasonable promptness to pertinent written communication with respect to claims arising under its policies. This section also requires the Company to provide forms, accompanied by reasonable explanation for their use, necessary to present claims within 15 calendar days of such a request.

The examiners used seven samples to examine the Company's claims (as noted above). The examination disclosed that in general the Company appears to be making a good faith effort to contact its claimants within the required time frames.

During review of the paid life claims, it was noted that 5 claims out of a sample of 50 did not contain an acknowledgement of the claim in accordance with the Company's Customer Care Center customer service guidelines. The guidelines state that if a claim is turned around within 3 to 5 business days, the need for claim receipt acknowledgement is eliminated. For the 5 claims noted, the claim was not processed within the 3 to 5 business day timeframe and no acknowledgment was included in the file.

#### **Standard G-2**

Investigations are conducted in a timely manner.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 2*

Maine Statutes Title 24-A §2164-D requires the Company to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies.

The examiners used seven samples to examine the Company's claims (as noted above). See Standard G-3 for a summary of the results of the claims review. The examination disclosed that in general the Company appears to make a good faith effort to investigate the accidents and claim related events reported by claimants in a timely manner.

**Standard G-3**

Claims are settled in a timely manner.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 3*

Maine Statutes Title 24-A §2164-D require the Company to affirm coverage or deny coverage, reserving any appropriate defenses, within a reasonable time after having completed its investigation related to a claim. Section 2436 states that a claim for payment of benefits under a policy or certificate delivered or issued for delivery in Maine is payable within 30 days after proof of loss is received by the insurer and ascertainment of the loss is made either by written agreement between the insurer and insured or beneficiary or by filing with the insured or beneficiary of an award by arbitrators as provided for in the policy.

The examiners used seven samples to examine the Company's paid claims (as noted above). Generally the Company paid the claims in a timely manner.

**Standard G-4**

The Company responds to claim correspondence in a timely manner.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 4*

Maine Statutes Title 24-A §2164-D requireS acknowledgement with reasonable promptness to pertinent written communication with respect to claims arising under its policies.

The examiners used seven samples to examine the Company's claims (as noted above). The examination disclosed that in general the Company responds to claim correspondence in a timely manner.

**Standard G-5**

Claim files are adequately documented.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 5*

Without adequate documentation, the various time frames required by statutes and/or regulation cannot be demonstrated.

The examination disclosed exceptions noted above and in the denied claims review.

**Standard G-6**

Claim files are handled in accordance with policy provisions and state law.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 6*

The examiners used seven samples to examine the Company's claims (as noted above). The examination disclosed that in general the Company handles its claims in accordance with policy provisions and in compliance with applicable Maine statutes, rules and regulations.

**Standard G-7**

Company claim forms are appropriate for the type of product.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 7*

Examiners found that the Company uses the appropriate claim forms for the type of products it markets.

**Standard G-9**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 9*

Examiners reviewed a separate sample of denied and closed-without-payment claims.

Based upon the review, it appears that the Company is appropriately denying claims; however, document retention procedures should be reviewed.

**Standard G-10**

Canceled benefit checks and drafts reflect appropriate claim handling practices.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 10*

Examiners reviewed a sample of cancelled checks to determine whether claim proceeds are being promptly mailed or delivered and whether the checks and drafts are payable to the correct payee, for the correct amount and are properly endorsed.

A total of 63 payments were randomly selected from the paid claim samples tested by the examiners with representation from each of the seven claim samples. Examiners verified the check information including the payee, check date, amount, and endorsement to the cancelled check. In the case of Electronic Fund Transfers (EFT), the payment information was traced to supporting EFT documentation provided by the bank.



**Standard G-11**

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

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 11*

Throughout the claims review, examiners reviewed for instances where the Company's claims handling practices appeared to compel claimants to institute litigation. We did not note any instances where the Company appeared to compel claimants to institute litigation.

**Standard G-13**

The Company does not discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 13*

Examiners noted no instances where insureds with differing qualifying events covered under the policy or insureds with similar qualifying events covered under the policy were discriminated against.

**SUMMARY OF FINDINGS AND CONCLUSIONS**

<b>Comment #</b>	<b>Subject</b>	<b>Examination Cycle</b>	<b>Report Section/ Page #</b>	<b>Comment Description</b>
7	Advertising Review	Marketing & Sales	C1/ Page 15	Annual filing advertising acknowledgement
9	Producer Terminations	Producer Licensing	D3/ Page 18	Producer termination letters not maintained
13	Individual LTC Denial	Underwriting & Rating	F7/ Page 24	File did not contain supporting documentation for first denial
14	Individual ID Denial	Underwriting & Rating	F7/ Page 24	Policy not terminated as requested by insured
15	Individual ID Denial	Underwriting & Rating	A6/ Page 9	Lack of documentation - missing termination notification - 1 policies
16	Individual ID Denial	Underwriting & Rating	F7/ Page 24	Lack of documentation - missing revised termination letter - 1 policy
17	Individual ID Denial	Underwriting & Rating	A6/ Page 10	Lack of documentation - missing termination notification - 3 policies
18	Individual ID	Underwriting	A6/	Lack of documentation - missing

	Denial	& Rating	Page 10	declination letter to insured - 1 policy
19	Group Term/Cancel	Underwriting & Rating	A6/ Page 10	Lack of documentation - file missing termination letter - 2 policies
20	Group Term/Cancel	Underwriting & Rating	A6/ Page 10	Lack of documentation - no reason for termination or termination support not noted in file - 3 policies
21	UNUM Direct Term/Cancel	Underwriting & Rating	A6/ Page 10	Lack of documentation - file missing termination letter - 7 policies
22	UNUM Direct Term/Cancel	Underwriting & Rating	A6/ Page 10	Lack of documentation - no reason for termination or termination support missing from file - 3 policies
39	Unlicensed Agents	Producer Licensing	D1/ Page 17	One producer not found on MBOI license database
41	Unlicensed Agents	Producer Licensing	D1/ Page 17	Producer wrote business in 2000 but not licensed until 2001.
44	Life Paid Claims	Claims	G1/ Page 28	Lack of acknowledgement within Company standards - 5 items out of sample of 50
49	Denied Claims	Claims	A6/ Page 10	Lack of documentation - 4 files out of sample of 50 did not include supporting documentation of reason for denial, including denial letter
50	Denied Claims	Claims	A6/ Page 10	Lack of documentation - 6 files out of sample of 50 did not include copy of denial letter to claimant
51	Denied Claims	Claims	A6/ Page 11	Lack of documentation in claim file - 1 file out of sample of 50 - Company could not locate original claim information submitted by claimant

Note: Above listing of findings relates to original listing of examination findings. The lack of numeric sequence of the above listing relates to findings that have subsequently been cleared with the Company.

**ACKNOWLEDGMENT**

The courtesy and cooperation extended by the officers and employees of the Company during the course of the Examination is hereby acknowledged. The Examination was conducted and respectfully submitted by the undersigned. Additionally, Market Conduct Examiners Van Sullivan, Paul Greenier and Carolee Bisson from the Maine Bureau of Insurance participated in this examination.

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Richard J. Nelson  
Examiner-In-Charge

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STATE OF MAINE

COUNTY OF KENNEBEC, SS

Van E. Sullivan, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Alessandro A. Iuppa, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made an examination on the condition and affairs of the

**UNUM LIFE INSURANCE COMPANY OF AMERICA**

of Portland, Maine as of June 30, 2001, and that the foregoing report of examination, subscribed to by him is true to the best of his knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Carolee M. Bisson  
Paul C. Greenier

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Van E. Sullivan  
Supervisor, Market Conduct Division

Subscribed and sworn to before me  
This \_\_\_ day of \_\_\_\_\_, 2002

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Notary Public My commission expires: