



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

125 South Webster • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
Web Address: oci.wi.gov

Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

JACKSON NATIONAL LIFE INSURANCE COMPANY
1 CORPORATE WAY
LANSING MI 48951

dated October 31, 2008, and served upon the company on November 30, 2009, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 31st day of March, 2010.

A handwritten signature in black ink, appearing to read "Sean Dilweg".

Sean Dilweg
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**JACKSON NATIONAL LIFE INSURANCE COMPANY
LANSING, MICHIGAN**

OCTOBER 20, 2008 THROUGH OCTOBER 31, 2008

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October 31, 2008

Bureau of Market Regulation
125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
(608) 266-3585 • (800) 238-8517 (WI Only)
Fax: (608) 264-8115
E-Mail: marketreg@oci.state.wi.us
Web Address: oci.wi.gov

Honorable Sean Dilweg
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted October 20 to October 31, 2008 of:

JACKSON NATIONAL LIFE INSURANCE COMPANY
Lansing, Michigan

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Jackson National Life Insurance Company, a stock company, was founded in April 1961 in Michigan. It received its certificate of authority, from the state of Michigan, on May 10, 1961. The company is wholly owned by Prudential plc, an international financial services corporation. Jackson National Life is headquartered in Lansing, Michigan.

In 1998, Jackson National Life (JNL) formed Jackson National Life Distributors for the purpose of sales and distribution of annuity products. In 2000, the company acquired SII Investments, an independent broker/dealer, and INVEST Financial.

JNL specializes in the sale of fixed annuities, including equity-indexed annuities, variable annuities, life insurance and guaranteed investment contracts.

JNL distributes its products through financial services, which include independent agents and agencies, independent broker/dealers and banks and other financial institutions.

The following table summarizes the total direct national premium written in 2006 and 2007 as compared to the total direct premium written in Wisconsin.

National Direct Business to Wisconsin Direct Business Summary

2007	Life Insurance Premiums	Annuity Considerations	A&H Insurance Premiums	Deposit Type Funds	Other Considerations
Wisconsin	\$9,632,281	\$222,194,374	\$15,845	\$942,346	\$0
National	\$586,891,450	\$10,553,570,601	\$20,035,423	\$2,570,405,702	\$0
<i>Wisconsin As a % of National</i>	1.641%	2.105%	.079%	.036%	0%

2006	Life Insurance Premiums	Annuity Considerations	A&H Insurance Premiums	Deposit Type Funds	Other Considerations
Wisconsin	\$10,677,703	\$200,168,355	\$23,084	\$6,095,878	\$0
National	\$605,338,194	\$8,871,756,560	\$22,243,572	\$2,544,000,772	\$0
<i>Wisconsin As a % of National</i>	1.763%	2.256%	.104%	.240%	0%

The majority of the premium written by the company in 2007 and 2006 was annuity considerations.

The company is licensed to write in the District of Columbia and all states except New York. In both 2006 and 2007 the company reported written premium in all states except New York, in Guam, Puerto Rico, the US Virgin Islands and Canada on the Schedule T of the annual statement.

The following tables summarize the company's Wisconsin premium written and benefits paid in for 2007 and 2006 broken down by line of business.

Wisconsin Life Insurance Business

2007	Ordinary	Credit Life	Group	Industrial
Direct Premiums & Annuity Considerations				
Life Insurance	\$9,633,832	\$0	\$0	\$1,551
Annuity Considerations	\$222,126,491	\$0	\$67,883	\$0
Deposit Type Funds	\$942,346	\$0	\$0	\$0
Other Considerations	\$0	\$0	\$0	\$0
Direct Claims & Benefits Paid				
Death Benefits	\$7,415,531	\$0	\$0	\$0
Matured Endowments	\$10,000	\$0	\$0	\$0
Annuity Benefits	\$23,329,211	\$0	\$545,055	\$0

Surrender Values & Withdrawals for Life Ins	\$153,518,433	\$0	\$1,685,298	\$1,294
All Others	\$0	\$0	\$0	\$0

2006	Ordinary	Credit Life	Group	Industrial
Direct Premiums & Annuity Considerations				
Life Insurance	\$10,677,643	\$0	\$0	\$60
Annuity Considerations	\$200,077,665	\$0	\$90,690	\$0
Deposit Type Funds	\$6,095,878		\$0	
Other Considerations	\$0	\$0	\$0	\$0
Direct Claims & Benefits Paid				
Death Benefits	\$9,906,588	\$0	\$0	\$1,000
Matured Endowments	\$0	\$0	\$0	\$0
Annuity Benefits	\$20,447,382	\$0	\$408,539	\$0
Surrender Values & Withdrawals for Life Ins	\$138,469,820	\$0	\$1,629,486	\$3,021
All Others	\$0	\$0	\$0	\$0

In 2007, in Wisconsin, the company ranked as the 6th largest writer of individual annuities, 44th for individual life insurance, and 228th for individual accident and health insurance.

In 2006, in Wisconsin, the company ranked as the 7th largest writer of individual annuities, 43rd for individual life insurance, and 215th for individual accident and health insurance.

A review of the website for the Insurance Marketplace Standards Association (IMSA) indicates that the company is not a member of IMSA.

The Office of the Commissioner of Insurance (OCI) received 22 complaints against the company from January 1, 2006 through August 31, 2008. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint. The majority of complaints received from January 1, 2007 through August 31, 2008 involved individual annuities for issues relating to marketing, sales, and suitability. During 2006 all 6 complaints that were received involved

individual life policies, mainly for reasons relating to marketing, sales, claims, and policyholder service issues.

Complaints Received

August 31, 2008

Reason Type	Total	Underwriting	Marketing & Sales	Claims	Plychldr Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
Life	0	0	0	0	0	0
Individual Life	1	0	0	1	0	0
Group Life	0	0	0	0	0	0
Individual Annuity	7	0	5	1	1	0
Group Annuity	0	0	0	0	0	0
	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	8	0	5	2	1	0

2007

Reason Type	Total	Underwriting	Marketing & Sales	Claims	Plychldr Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
Life	0	0	0	0	0	0
Individual Life	2	0	0	0	2	0
Group Life	0	0	0	0	0	0
Individual Annuity	5	0	4	0	1	0
Group Annuity	0	0	0	0	0	0
Credit Life	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	7	0	4	0	3	0

2006

Reason Type	Total	Underwriting	Marketing & Sales	Claims	Plychldr Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
Life	0	0	0	0	0	0
Individual Life	6	0	2	1	1	2
Group Life	0	0	0	0	0	0
Individual Annuity	0	0	0	0	0	0
Group Annuity	0	0	0	0	0	0
Credit Life	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	6	0	2	1	1	2

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2006 through August 31, 2008. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

Legislation that went into effect on November 1, 2004, pertaining to the suitability of annuity sales to senior consumers required that the sale of an individual annuity to a person age 65 and above be suitable for the consumer based on the person's financial situation and needs. The law, s. 628.347, Wis. Stat., requires an insurer to establish and maintain a system to supervise the annuity sales and recommendations of its insurance agents. On October 1, 2008, s. 628.347, Wis. Stat. was amended to require that annuity sales to consumers of all ages be appropriate and suitable for their needs. The review of the complaints received by the Office of the Commissioner of Insurance against the company indicated that a majority of the complaints received pertained to the suitability of individual annuity sales. This examination focused on determining whether the company has sufficient oversight and supervisory control over the company's appointed agents as required by s. 628.347, Wis. Stat.

The examination covered individual annuity business in Wisconsin, and included, but was not limited to, a review of company operations and management; marketing, sales and advertising; policy forms; policyholder service and complaints, underwriting, replacement new business and producer licensing. In addition, the examination included the review of new business files during the period of review for the top ten writing agents of annuities.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. CURRENT EXAMINATION FINDINGS

Company Operations and Management

The examiners reviewed the company's response to the company operations and management interrogatory. Jackson National Life Insurance Company is not a member of Insurance Marketplace Standards Association (IMSA). The company considered joining IMSA, however in 1999 the company decided against the IMSA membership.

The internal audits of the company are conducted by an independent contractor, North American Internal Audit (NAIA). Audit related matter results are reported to the company's group audit committee. Audit results for management purposes are reported to the group chief risk officer. The company reported that 39 different internal audits had taken place during the period of review. Significant improvements were found to be needed in some of the company's IT areas including email security and retention, some applications, broker management commissions, information security policy and technical safeguards, and claim administration.

Marketing, Sales and Advertising

The examiners reviewed the company's response to the marketing, sales and advertising interrogatory. The marketing department is responsible for the creation, distribution, regulatory filing and archiving of all product sales literature, product literature for producers and advertising. The company stores its advertising files electronically and the files are maintained for a minimum of six years. The company states that agents are prohibited through the selling agreements from preparing advertising material when using the company's name without first submitting the material to the company for review and approval. The company states that it occasionally uses the Internet to search for potential misuse of the company name. The company states that it also reviews and monitors customer complaints to identify potential usage of unapproved advertising material.

The examiners reviewed a sample of 50 advertisements. The examiners found one advertisement (Form XADV12391RGL01 Advid 123439) in which the template used the word "advisor" to indicate where the insurance agents presenting an informative event should insert their names. Section Ins 2.15 (9) (c), Wis. Adm. Code requires that the terms financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case. The use of the word "advisor" in the template might result in the insurance agent using such terms in violation of the regulation.

- 1. Recommendation:** It is recommended that the company cease using the term "advisor" in its template advertisement to prevent a possible violation of s. Ins. 2.15 (9) (c), Wis. Adm. Code.

The examiners found four advertisements (Forms CMC0264, XADV12178TPPT 1107, KADV12391RGL01 20070901 and XQDV14162 20070101) on which the company's name was prominently displayed, and the individuals presenting were identified as agents of Jackson National Life. These advertisements did not disclose that at the dinners and slide show presentations insurance sales would be discussed in a general manner. Section Ins 20.01 (4), Wis. Adm. Code requires an insurance agent, at the time of initial contact or communication with the buyer, to clearly and expressly disclose a statement of the fact that insurance is being sold; and the type of insurance being solicited.

- 2. Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure all advertisements, including dinner invitations and slide show presentations, include a statement of the fact that insurance would be discussed at the event, that individuals may be contacted by an insurance agent following the event, and the type of insurance that may be solicited as required by s. Ins 20.01 (4), Wis. Adm. Code.

The examiners found five advertisements (Forms XADV13457A 20060501, XADV13458A 0508, XADV13458A 0508, XADV13464A 0508, and XADV13464B 20060501) which showed the advertised interest rate but did not show the guaranteed interest rate with

equal prominence. Section Ins 2.16 (24), Wis. Adm. Code requires, in part, that all life insurance or annuity advertisements which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence the guaranteed rate of interest paid on the cash value.

- 3. Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure that all advertisements showing an advertised interest rate, also show the guaranteed interest rate with equal prominence as required by s. Ins 2.16 (24), Wis. Adm. Code.

Policy Forms

JNL sells fixed annuities, including indexed annuities, variable annuities, life insurance and guaranteed investment contracts. Since the mid-1990s, JNL has focused on diversification of products and distribution channels. In 1995, JNL began selling its first variable annuity and, in addition, began selling guaranteed investment contracts and funding agreements through the company's institutional products department. In 1996 JNL introduced its first fixed indexed annuity. In 2002, JNL began selling Perspective II (VA250), a variable annuity that allows customers to choose and pay for only those features that they want.

The examiners reviewed the company's response to the policy forms interrogatory. The product drafting and state filing department is responsible for the submission to the OCI of the rates and forms used by the company. The compliance group of the company's legal department is responsible for ensuring the company is in compliance with the Wisconsin insurance laws, and communicates to the rest of the company all regulatory and statutory changes.

During the period of review the company submitted for review and approval 42 annuity contracts, 57 endorsement and 45 applications. All of these forms, except 27 applications, were reviewed and approved by OCI staff. While on site the examiners reviewed the 27 applications that had been deemed approved. No exceptions were noted.

Policyholder Service and Complaints

The company's policy owner services department is responsible for answering requests for basic information from customers and producers, processing address changes, withdrawals, sending billing notices and providing assistance with tax forms. The customer relations department, which is part of the company's legal department, administers and manages the investigation and handling of complaints, which is actually done by the complaint-handling department, which includes all complaints made by customers, producers, the OCI, the Securities and Exchange Commission (SEC) and Financial Industry Regulatory Authority (FINRA). Fraud complaints are referred to a special investigation unit of the customer relations department.

The examiners reviewed the company's response to the policyholder service and complaints interrogatory. The company defines a complaint as "Any grievance against the Company or a producer. It includes all written complaints, as well as oral complaints that are not addressed through routine or standard policyholder communication. The definition applies to grievances submitted by customers, producers, and the Department of Insurance (DOI), and includes complaints alleging fraud, which are referred to the Special Investigative Unit (SIU) within Customer Relations."

The examiners also reviewed all 31 complaints on the company's complaint log that were received by the company during the period of review. Twenty-six percent of the complaints (8) were received via a policyholder questionnaire the company sends to new policyholders. Eight complaints (25%) involved alleged agent misconduct, two of which alleged unsuitability of sale and two of which alleged agent misrepresentation. In all but one of the agent complaints, the company indicated that it had provided an explanation to the complainant or that no further action was necessary. In only one of the agent complaints did the company indicate

that corrective action had been taken which was that the policyholder was assigned a new servicing agent. Thirteen of the complaints (42%) involved service delays, or requests for information or services. The examiners reviewed 12 OCI complaints involving individual annuities that were received during the period of review. Nine of the twelve complaints involved allegations of unsuitable sales of annuities and/or agent misrepresentation. OCI took administrative action against the writing agent in one of the complaints for an unsuitable sale involving a senior.

OCI requires that companies respond to OCI within 20 calendar days of receiving an OCI complaint, and that companies contact the complainant within 10 calendar days to address the complainant's concerns. The examiners noted that in five of the twelve complaints reviewed, the company failed to directly respond to the complainant after receiving the OCI complaint, and instead, provided OCI a copy of an earlier letter the company sent to the complainant prior to receiving the OCI complaint. In two other complaints, the company contacted the complainant more than 10 calendar days after receiving the OCI complaint.

4. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure that the company contacts a complainant within 10 calendar days of receiving an OCI complaint, per OCI's referral instructions, in order to comply with s. 601.42, Wis. Stat.

New Business

The examiners reviewed the company's response to the New Business interrogatory. The company's new business department is responsible for reviewing incoming annuity new business and replacement forms to verify the application is complete, complies with the company's procedures and the necessary paperwork is included. The department verifies the new business annuity paperwork is complete and complies with company procedure. The payouts team in the policy owner service department enters policy data information online to the computer system, reviews the documentation and either requests additional information or issues the policy.

New Business – Replacement

The examiners reviewed the company's response to the Replacement interrogatory. JNL defines replacement as any transaction in which an individual life insurance policy or annuity contract is to be purchased and the producer and/or insurer knows or should know that, as a result of the transaction, an existing life insurance policy or annuity contract will be, among other things; lapsed, forfeited, surrendered, assigned to the replacing insurer or terminated. The company has a replacement procedure that provides direction regarding the actual processing of an annuity application and paperwork.

The company's replacement procedure requires a written notification of replacement be sent to the insurer whose policy is being replaced if the replacement is external.

The examiners found all ten files written by one agent during the period of review involved replacement of one particular insurer's policies. The company stated that it did not conduct an inquiry as to the suitability of the replacement policies submitted by the agent. The company stated that it has utilized a producer monitoring program since January 2008 that identifies producers on a monthly and annual basis for review based on their percentage of replacement business and senior sales compared to company averages. Although the agent wrote 8 of the 10 replacement policies after January 2008, the company stated the number of replacements did not reach the reporting criteria established by the company.

- 5. Recommendation:** It is recommended that the company further enhance its producer monitoring program so that it is not solely based on company averages, and can better monitor and identify inappropriate replacement activity and when a high percentage of an agent's new annuity sales involves replacement, pursuant to s. Ins 2.07 (5), Wis. Adm. Code.

The following chart provides information on the annuity policies issued by JNL during the period of review:

Policies Issued from January 1, 2006 through August 31, 2008	7298			
	Replace		Not	
Number that involved replacement and did not involve replacement	3564		3734	
	Under 65		Age 65 & Over	
Policies issued to under age 65 and age 65 and older	4610		2688	
	Replace	Not	Replace	Not
Number that involved replacement and did not involve replacement	1821	2789	1743	945
	Under Age 75		Age 75 & Over	
Policies issued to under age 75 and age 75 and older	6153		1145	
	Replace	Not	Replace	Not
Number that involved replacement and did not involve replacement	2742	3411	822	323

The examiners reviewed 146 new business files, which included 96 new business files from the top-ten writers of annuities during the period of review, and 50 replacement files. The examiners noted two files where the company did not send a written notification of replacement or possible replacement to the home office of the replaced insurer within 5 days of receipt of the application as required by s. Ins 2.07 (5) (a) 4b, Wis. Adm. Code. The examiners noted an additional file where notice was given to the home office of the replaced insurer 7 days after receipt of the application. The company noted that the violation was the result of personnel error, and did not reflect the company's policies and procedures.

- 6. Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure it mails a notice of replacement to the insurer whose policy is being replaced in accordance with its own procedures and as required by s. Ins 2.07 (5) (a) 4b, Wis. Adm. Code.

The examiners found 14 files in which the agent did not indicate on the application whether or not replacement was involved. Section Ins 2.07(5) (a) 1, Wis. Adm. Code requires the company to secure as part of each application the statements as to whether the new insurance or annuity will replace existing insurance or annuity on the same life. The company stated it has procedures that require the producer and applicant be notified when applications do not meet the requirements of the Wisconsin replacement regulation, and the company requires the completion of outstanding requirements. The company stated that allowing the continued processing of the incomplete applications was the result of human error.

7. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure it obtains with each new application, the statements as to whether the policy will replace an existing life insurance policy or annuity in accordance with its own company procedures and as required by s. Ins 2.07(5) (a) 1, Wis. Adm. Code.

New Business – Suitability

The examiners conducted an interview with Bart Vitou, Associate General Counsel and Pamela Simon, Manager, representing the New Business Compliance & Support department of the company to discuss the company's suitability monitoring procedures for agencies, agents, replacement, new business, high risk factors, suitability standards, unsuitable annuity sales, and post-sale consumer telephone calls. The company stated that it does not make direct recommendations to consumers regarding the purchase or exchange of an annuity, and that suitability of sales is established by the producer. The company stated it does not monitor the suitability of fixed annuity sales on an individual basis. The company monitors applications to ensure that new business annuity applications and forms are completed in full and compliant with the company's processing procedure. The company indicated that it checks 5% of new business applications and forms for completeness and, in addition, checks 5% of replacement applications for compliance with the company's processing procedure.

During the period of review, the company required that only applicants age 65 or older complete a suitability acknowledgement form. On September 2, 2008 the company began to require that the company's suitability acknowledgement form, (X0950 06/08) be completed for all individual annuity sales with the exception of sales by registered broker dealers. The suitability acknowledgement form does not request any financial information. The form requires the owner/applicant to answer yes or no questions as to whether the agent discussed financial status, financial objectives, annuity features, and premium with the owner/applicant and requires the agent to sign an acknowledgement that the agent is responsible for and has made a determination of suitability for the recommended transaction. The company's procedures only monitor to ensure this form is completed and submitted with the application. Since January

2008, the company utilizes a monthly producer monitoring program to identify producers for review based on their percentage of replacement business and senior sales compared to company averages. Agents may be marked for further surveillance based upon these reports and the company will review applicable application files. The company stated that agent monitoring is also facilitated through the company's Customer Relations Department's investigation of transactions when a complaint is filed.

Section 628.347 (2) (b), Wis. Stat. requires that before making an annuity recommendation, an agent must make reasonable efforts to obtain information concerning a consumer's financial status, tax status, investment objectives, and other information that is reasonably appropriate to determine the suitability of the annuity recommendation to the consumer. In addition, s. 628.347 (3), Wis. Stat. requires an insurer to establish and maintain a system to supervise its agents' annuity recommendations that is reasonably designed to ensure that the annuity recommendations are suitable by maintaining written procedures and conducting periodic reviews of its records. By having procedures to obtain only confirmation that an agent discussed certain financial information with the consumer, and failing to require that an agent obtain and forward a consumer's financial information to the company, the company does not have sufficient records and financial information to review and monitor whether an agent's recommendation was suitable, and therefore is not in compliance with the requirements of s. 628.347 (3), Stat.

For variable annuity business, the company stated that it has a third-party suitability certification program in which it requests certifications from a senior manager of broker/dealers and financial institutions that the broker/dealer or financial institution has written supervisory procedures, and is in compliance with applicable regulations or statutes regarding the suitability of variable annuity sales. The broker/dealer is responsible for the implementation of the system of supervision of the suitability requirements of each state's regulations. In addition, the company stated that it monitors the suitability procedures involving variable annuity business

from a random number of broker/dealers and financial institutions for compliance. The company's compliance & risk group within the legal department monitors the suitability policies and procedures of broker/dealers and financial institutions.

In reviewing the new business annuity files written by the top-ten writing agents of annuities, the examiners noted the questionable suitability of the following annuity transactions. The examiners reviewed ten new business files written by one agent. The examiners found one annuity file in which a 75 year-old annuitant paid a \$4000 surrender fee to cancel his existing policy in order to purchase the Jackson National Life annuity. The examiners found another policy file in which the annuitant lost \$23,206.46 by surrendering her existing policy. When asked about the suitability of these transactions, the company stated that it does not make direct recommendations to consumers regarding the purchase or exchange of an annuity, and that suitability of sales is established by the producer.

The examiners reviewed 14 new business files written by another agent. The examiners found the agent had sold an annuity to a 72 year-old man who lost \$1,969.85 by surrendering his current policy. The company waived surrender charges of \$4,474 however, a Market Value Adjustment (MVA) charge of \$1,969.85 was still deducted from the policyholder's balance. The examiners found another file in which the agent had sold a 77 year-old annuitant two policies, each with a 12-year surrender period on the same day. When asked about the suitability of these transactions, the company stated that it does not make direct recommendations to consumers regarding the purchase or exchange of an annuity, and that suitability of sales is established by the producer.

The examiners reviewed ten new business files written by a third agent. The examiners reviewed two files in which the policyholders, who were both in their mid-eighties, purchased new policies subjecting them to a new surrender charge period when the surrender charge periods for their existing policies had already expired. The examiners found another three files in which the policyholders were over age 65 and purchased new policies subjecting

them to a new surrender charge period when the surrender charge periods for their existing policies had already expired. The examiners reviewed another two files where although the surrender charge periods would have expired within ten months and eleven months respectively on their existing policies, the policyholders went ahead with the replacement of their existing policies, subjecting them to the surrender charge. When asked about the suitability of these transactions, the company stated that it does not make direct recommendations to consumers regarding the purchase or exchange of an annuity, and that suitability of sales is established by the producer.

Section 628.347 (3), Wis. Stat. requires an insurer to establish and maintain a system to supervise annuity recommendations that includes maintaining written procedures and conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing unsuitable annuity sales. The company stated during the suitability interview that it does not audit every transaction of fixed annuity business. The company stated it has not developed consumer interview scripts for post-sale consumer telephone calls and does not conduct post-sale interviews with consumers. The company stated that as of 1999 it sends a Policyowner Questionnaire to all fixed and fixed indexed policyholders within 45 days of the purchase of an annuity.

8. **Recommendation:** It is recommended that the company develop, document and implement a process and written procedure to obtain with each new fixed and fixed indexed annuity application certain facts disclosed by the consumer as to his or her investments, other insurance products, and financial situation and needs, to ensure that before it issues a new fixed or fixed indexed annuity, there are reasonable grounds to believe that the recommendation to purchase or exchange an annuity is suitable for the consumer, as required by s. 628.347 (3), Wis. Stat.
9. **Recommendation:** It is recommended that the company develop, document and implement a process and written procedure to monitor and supervise the new fixed and fixed indexed annuity recommendations of its agents that include internal monitoring practices that are reasonably designed to assist in detecting and preventing unsuitable annuity sales as required by s. 628.347 (3), Wis. Stat.

Producer Licensing

The examiners reviewed the company's response to the producer licensing interrogatory. The company's broker management department is responsible for the management of agent contracts, with its main duties as assisting independent producers, agencies, banks and broker dealers with licensing and appointment-related issues. The company contracts with independent agents either directly or indirectly through the agent's agency, bank or broker dealer.

The company indefinitely maintains agent files within a document imaging system. The company states that it verifies that the writing agent is appointed with the company prior to accepting and processing annuity applications. The company verifies that an agent holds an active Wisconsin license during the appointment process and when appointments are renewed.

The company does not provide training for its agents but does provide to agents the company's producer compliance manual. An agent is required to complete anti-money laundering training annually. The company also provides continuing education for its agents.

The company states that it notifies its agents of new products or product changes through email, regular mail and conference calls. The company states that agents are provided with sales kits that include product guides, applications, business forms and prospectuses. The implementation of new or revised company procedures usually coincide with new product launches, at which time agents are provided with revised sales kits. Statutory or regulatory changes are summarized and communicated to agents by email.

The company states that terminated agents are mailed system generated notification letters and are requested to return indicia of the company. The company also has a procedure for terminating an agent for cause. The company identifies and investigates the potential issue involving an agent. A designated attorney from the legal department will review the facts, conduct an investigation, and discuss the issue with the broker/dealer compliance officer. If the decision to terminate the agent for cause is made, the legal department will notify

the company's licensing unit. The agent is notified of the termination by letter, as is the state insurance department.

The examiners reviewed a sample of 50 agent files, and found 15 discrepancies between the date the company had recorded as the agent's license date and the agent's license date as recorded in OCI's data base. The company explained that in 10 cases the agent was appointed with the company prior to the company's use of the Producer Data Base (PDB) for licensing information, so they could not determine the origin of the licensing date that was recorded by the company. In the remaining 5 cases, the discrepancies were a result of keying errors. The examiners also found 21 discrepancies between the date the company had recorded as the agent's appointment date with the company and the appointment date as recorded in OCI's database. The company explained that in 4 cases, the discrepancies were a result of keying errors, in 4 cases, the discrepancies were the result of the company using a reinstatement date, and in 13 cases, the discrepancies resulted because the company recorded the date the agent became registered with his or her Broker Dealer as the company appointment date.

The examiners compared the company's agent database with the OCI's agent database. The examiners found 27 agents the company reported as appointed with the company but who were not appointed on the OCI's records. The company indicated that in 5 cases, the company had not updated its records when the agent was terminated by OCI, and in 22 cases, the company indicated that it appeared that, in each case, a clerical error occurred as no documentation could be located showing that the appointment was submitted to OCI. The company reported it had accepted a total of 9 new pieces of business from 6 of the agents who were not appointed with OCI. The examiners also found six agents whose appointments had been submitted and entered into the OCI licensing system more than 15 days after the date the agents' contracts were executed. Section Ins 6.57 (1), Wis. Adm. Code requires that an agent application for appointment must be submitted to the OCI and entered in the OCI licensing system within 15

days after the earlier of the date the agent contract is executed or the first insurance application is submitted and shall show the lines of authority being requested for that agent.

10. Recommendation: It is recommended that the company develop, document and implement a process and procedure to accurately report and maintain agent listings to comply with s. 628.11, Wis. Stat. and s. Ins 6.57, Wis. Adm. Code.

11. Recommendation: It is recommended that the company develop, document and implement a process and procedure to ensure it submits agent applications for appointments to OCI within 15 days after the earlier of the date the agent contract is executed or the agent submits his or her first insurance application to the company, pursuant to s. Ins 6.57 (1), Wis. Adm. Code.

The examiners reviewed a sample of 50 terminated agent files. The examiners found 26 terminated agent files for which the company had not requested the return of indicia of agency. Section Ins 6.57 (2) Wis. Adm. Code requires that prior to or within 15 days of filing the notice of termination of an agent, the company shall provide the agent with a written notice stating that the agent is no longer to be appointed as a representative of the company, and that includes a formal demand for the return of all indicia of agency.

12. Recommendation: It is recommended that the company develop, document and implement a process and procedure to ensure that the company demands the return of all indicia of agency upon termination of an agent pursuant to s. Ins 6.57 (2) Wis. Adm. Code.

The examiners found three terminated agent files in which the notice of termination was not filed with the OCI prior to or within 30 days of termination of the agent. The company indicated that the termination notice to OCI was filed late due to clerical error. The examiners found thirteen additional terminated agent files where it appeared no notice of termination had been filed with the OCI. The company explained that the company termination information that was provided to the examiners was inaccurate, and that the thirteen agents were either still actively appointed with the company or their termination date was in error. Section Ins 6.57 (2), Wis. Adm. Code requires that notice of termination of an agent must be filed with the OCI prior to or within 30 days of termination.

13. Recommendation: It is recommended that the company develop, document and implement a process and procedure to ensure that notice of an agent's termination is filed with OCI prior to or within 30 days of the termination as required by s. Ins 6.57 (2), Wis. Adm. Code.

14. Recommendation: It is recommended that the company develop, document and implement a process and procedure to accurately maintain its agent appointment and termination records as required by s. 628.11 and s. Ins 6.57, Wis. Adm. Code.

The examiners reviewed sample agent and agency contracts for JNL. The examiners found that the general agency agreement that is used by JNL states JNL shall not be liable for any obligation, act or omission of the general agent or its sub-agents. The examiners found the JNL master general agent's agreement between JNL and master general agent stated JNL shall not be liable for any obligation, act or omission of MGA or its General Agents. The examiners found the JNL Selling Agreement stated broker/dealer shall be solely responsible for all acts and omissions of each producer. Section 628.40, Wis. Stat. states that every insurer is bound by any act of its agent performed in this state that is within the scope of the agent's apparent authority, while the agency contract remains in force and after that time until the insurer has made reasonable efforts to recover from the agent its policy forms and other indicia of agency. Section 631.09, Wis. Stat. states that an insurer is deemed to know any fact material to the risk or which breaches a condition of the policy, if the agent who bound the insurer or issued the policy or transmitted the application to the insurer knew it at the time the agent acted, or if thereafter any of the insurer's agents with whom the policyholder is then dealing as agent of the insurer learns it in the course of the agent's dealing with the policyholder, and knows that it pertains to a policy written by the insurer. Also, a failure by any policyholder or insured to perform an act required to perfect his or her rights under the policy, or failure to perform the act in the time and manner prescribed, does not affect the insurer's obligations under the policy if the failure was caused by an act, statement or representation or omission to perform a duty by an agent of the insurer who has apparent authority, whether or not the agent was within the actual scope of the agent's authority.

15. Recommendation: It is recommended that the company amend its agent and agency contracts and selling agreements to delete language stating the company is not liable for the acts of its agents in order to comply with s. 628.40 and 631.09, Wis. Stat.

IV. CONCLUSION

This was OCI's first market conduct examination of Jackson National Life Insurance Company. The examiners wrote a total of 15 recommendations for this company.

The examiners found four areas of concerns during the examination of this company including marketing, sales & advertising; new business – replacement; new business – suitability; and producer licensing.

In the marketing, sales & advertising area, the examiners found advertisements that were not in compliance with Wisconsin insurance regulations. It was recommended that the company document and implement procedures to ensure all company advertisements are compliant with Wisconsin insurance regulations.

In the new business – replacement area the examiners found no oversight by the company of agents' replacement business. The examiners also found noncompliance with Wisconsin insurance regulations regarding promptly notifying the insurer whose policy was being replaced, and obtaining the required statements on the application as to whether the sale involved a replacement. It was recommended that the company develop procedures to ensure compliance with Wisconsin insurance regulations regarding replacement, and to develop a process to monitor agents' new business replacement activities to ensure that the consumer's purchase of a new policy and replacement of existing life insurance and/or annuity policies is suitable.

In the new business – suitability area the examiners found no company process or procedure for monitoring and supervising the fixed annuity sales of its agents as required by s. 628.347 (3), Wis. Stat. When asked about its procedures for monitoring the suitability of agent sales of fixed annuities, the company stated it does not audit every transaction of fixed annuity business. The company stated that it does not make direct recommendations to consumers regarding the purchase or exchange of an annuity, and that suitability of sales is established by

the producer. It was recommended that the company develop and implement a procedure to ensure compliance with Wisconsin's suitability law.

In the producer licensing area, the examiners found many agent licensing records were incorrect. The examiners found the company did not verify the accuracy of its agent records with the OCI's agent records. The examiners also found the company was not diligent in notifying the OCI in a timely manner regarding appointments and terminations of agents for the company. The examiners also found non-compliance with Wisconsin insurance regulations regarding the process of terminating agents. It was recommended that the company develop and implement procedures to ensure compliance with the Wisconsin insurance regulations pertaining to producer licensing, appointments and terminations.

V. SUMMARY OF RECOMMENDATIONS

Marketing, Sales & Advertising

- Page 7 1. **Recommendation:** It is recommended that the company cease using the term "advisor" in its template advertisement to prevent a possible violation of s. Ins. 2.15 (9) (c), Wis. Adm. Code.
- Page 7 2. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure all advertisements, including dinner invitations and slide show presentations, include a statement of the fact that insurance would be discussed at the event, that individuals may be contacted by an insurance agent following the event, and the type of insurance that may be solicited as required by s. Ins 20.01 (4), Wis. Adm. Code.
- Page 8 3. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure that all advertisements showing an advertised interest rate, also show the guaranteed interest rate with equal prominence as required by s. Ins 2.16 (24), Wis. Adm. Code.

Policyholder Service and Complaints

- Page 10 4. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure that the company contacts a complainant within 10 calendar days of receiving an OCI complaint, per OCI's referral instructions, in order to comply with s. 601.42, Wis. Stat.

New Business - Replacement

- Page 11 5. **Recommendation:** It is recommended that the company further enhance its producer monitoring program so that it is not solely based on company averages, and can better monitor and identify inappropriate replacement activity and when a high percentage of an agent's new annuity sales involves replacement, pursuant to s. Ins 2.07 (5), Wis. Adm. Code.
- Page 12 6. **Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure it mails a notice of replacement to the insurer whose policy is being replaced in accordance with its own procedures and as required by s. Ins 2.07 (5) (a) 4b, Wis. Adm. Code.
- Page 13 7. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure it obtains with each new application, the statements as to whether the policy will replace an existing life insurance policy or annuity in accordance with its own company procedures and as required by s. Ins 2.07(5) (a) 1, Wis. Adm. Code.

New Business - Suitability

- Page 16 8. **Recommendation:** It is recommended that the company develop, document and implement a process and written procedure to obtain with each new fixed and fixed indexed annuity application certain facts disclosed by the consumer as to

his or her investments, other insurance products, and financial situation and needs, to ensure that before it issues a new fixed or fixed indexed annuity, there are reasonable grounds to believe that the recommendation to purchase or exchange an annuity is suitable for the consumer, as required by s. 628.347 (3), Wis. Stat.

Page 16 **9. Recommendation:** It is recommended that the company develop, document and implement a process and written procedure to monitor and supervise the new fixed and fixed indexed annuity recommendations of its agents that include internal monitoring practices that are reasonably designed to assist in detecting and preventing unsuitable annuity sales as required by s. 628.347 (3), Wis. Stat.

Producer Licensing

Page 19 **10. Recommendation:** It is recommended that the company develop, document and implement a process and procedure to accurately report and maintain agent listings to comply with s. 628.11, Wis. Stat and s. Ins 6.57 (1), Wis. Adm. Code.

Page 19 **11. Recommendation:** It is recommended that the company develop, document and implement a process and procedure to ensure it submits agent applications for appointments to OCI within 15 days after the earlier of the date the agent contract is executed or the agent submits his or her first insurance application to the company, pursuant to s. Ins 6.57 (1), Wis. Adm. Code.

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Page 21 **15. Recommendation:** It is recommended that the company amend its agent and agency contracts and selling agreements to delete language stating the company is not liable for the acts of its agents in order to comply with s. 628.40 and s. 631.09, Wis. Stat.

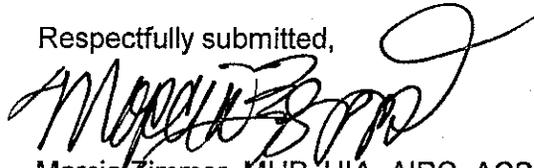
VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
John Kitslaar	Insurance Examiner, Senior
Glen Navis	Insurance Examiner
John Pegelow	Insurance Examiner

Respectfully submitted,



Marcia Zimmer, MHP, HIA, AIRC, ACS, MCM, AIE
Examiner-in-Charge