

**Report On**  
**The Targeted Market Conduct Examination**  
**of**  
**John Hancock Life Insurance Company (U.S.A.)**

**NAIC # 65838  
NAIC Company Code  
NAIC Market Action Tracking System No. RI-RI112-1**

**as of**

**December 31, 2018**



**State of Rhode Island  
Department of Business Regulation  
Insurance Division**



**State of Rhode Island  
DEPARTMENT OF BUSINESS REGULATION  
1511 Pontiac Avenue, Bldg. 69-2  
Cranston, Rhode Island -02920**

**Insurance Division**

**ADOPTION ORDER**

The attached Report on The Targeted Market Conduct Examination as of December 31, 2018, of John Hancock Life Insurance Company (U.S.A.), hereinafter referred to collectively as “the Company,” was recently completed by duly qualified examiners pursuant to the provisions of the Rhode Island General Laws.

Due consideration has been given to the comments of the examiners regarding the operation of the Company and its affairs, as reflected in the report.

It is therefore ORDERED that said Report be, and it is hereby, adopted and filed (with the Company’s formal written response included) and made an official record of this Department as of this date subject to the following conditions:

- That a Consent Agreement between the Company and the Insurance Division be executed requiring the Company to implement the corrective actions identified in the Report’s Summary of Recommendations (with any adjustments/modifications agreed-upon by the Superintendent) and to provide the Insurance Division with all requested follow-up information and procedures, as outlined in the Report’s Summary of Recommendations.
- That the Company agree and make payment to the state of an appropriate monetary penalty to be determined by the Insurance Division based upon the violations noted by the examiners as a result of the examination.

DEPARTMENT OF BUSINESS REGULATION

A handwritten signature in black ink that reads "Elizabeth Kelleher Dwyer".

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Elizabeth Kelleher Dwyer  
Superintendent of Insurance

Dated May 1, 2023



April 11, 2023

**VIA ELECTRONIC MAIL**

Matthew M. Gendron, Esq.  
General Counsel & Chief of Regulatory Compliance  
State of Rhode Island  
Department of Business Regulation Insurance Division  
1511 Pontiac Avenue, Building 69-2  
Cranston, RI 02920

**Re: Report on the Targeted Market Conduct Examination of John Hancock Life Insurance Company (U.S.A.) as of December 31, 2018**

Dear Mr. Gendron:

On behalf of John Hancock Life Insurance Company (U.S.A.), I am writing at your invitation relative to the “Report on the Targeted Market Conduct Report of John Hancock Life Insurance Company (U.S.A.) as of December 31, 2018” (“Report”) that you forwarded to me on March 3, 2023. As you know, the Company had significant issues with a draft of the Report that was provided to the Company on April 20, 2022. The Company’s position on the draft Report was set forth in my June 2, 2022 letter to you. However, in the spirit of compromise, we were subsequently able to resolve the issues to our mutual satisfaction. The resolution of said issues is reflected in the final Report.

The final Report accurately references the remedial action that the Company had already undertaken or committed to take going forward. The Company looks forward to working with the Department to implement all outstanding corrective action.

I anticipate receiving for my review the draft Consent Agreement. I am confident that we can amicably and expeditiously resolve all outstanding aspects of the examination and bring the matter to a close.

Thank you for your consideration and cooperation.

Sincerely,

William A. Gottlieb  
AVP & Associate Chief Counsel  
U.S. Litigation, Alternative Dispute Resolution & Bankruptcy  
617-572-9184  
[wgottlieb@jhancock.com](mailto:wgottlieb@jhancock.com)

WAG/ash

cc: Brett Bache  
Daniel Bradley  
Donna L. Cataldo

197 Clarendon Street, C-05-31, Boston, Massachusetts 02116

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Rhode Island Market Conduct Examination Report  
John Hancock Life Insurance Company (U.S.A.)

March 2, 2023

Ms. Elizabeth Kelleher Dwyer  
Deputy Director and Superintendent of Banking and Insurance  
State of Rhode Island  
Department of Business Regulation  
1511 Pontiac Avenue, Bldg. 69-2  
Cranston, Rhode Island 02920

Dear Superintendent Dwyer:

In accordance with your instructions, and pursuant to the statutes of the State of Rhode Island, a Targeted Market Conduct Examination has been conducted of:

**JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.)**

The examination of John Hancock Life Insurance Company (USA), hereinafter referred to as "John Hancock" or "the Company," was performed as of December 31, 2018. The Company is organized under the laws of the state of Michigan.

The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

197 Clarendon Street  
Boston MA 02116

The off-site examination phase was performed at the offices of the Rhode Island Department of Business Regulation, Insurance Division ("the Department"), located at 1511 Pontiac Avenue in Cranston, Rhode Island, or other suitable locations.

The report of examination herein is respectfully submitted.

## I. EXECUTIVE SUMMARY

On September 10, 2019, this Market Conduct Examination was ordered by the Department's Deputy Director and Superintendent of Insurance. Prior to ordering the examination, the Department had made inquiries regarding the Company's relatively high percentage of life insurance replacement transactions. Based on the Company's response, the Department determined that a targeted examination was in order.

This examination was conducted to determine the Company's compliance with Rhode Island laws, regulations, and rules regarding the sales and marketing of life insurance product replacements. As part of the examination, an evaluation was conducted to determine whether the Company maintained sufficient supervision and oversight of its appointed producers. The examination encompassed a review of the following areas: Operations and Management, Complaint Handling, Marketing and Sales, and Producer Licensing.

As a result of this examination, general business practices deemed not in compliance with Rhode Island laws or regulations were identified. While some findings occurred multiple times, other findings were identified as process violations where the Company was found to have a process in place that did not appear designed to achieve the statutory or regulatory goals. Finding 1 is of utmost importance to the Department, as it informs the entire process around which the Company relies for its oversight of replacement transactions.

The following twelve findings were noted:

- **Finding 1. 230 RICR 20-25-4.5(A)(1)**

Process: The Company failed to maintain an adequate system of supervision and control to ensure compliance with the requirements of the Replacement Regulation.

- **Finding 2. 230 RICR 20-25-4.5(A)(1)(a)**

Process: The Company failed to maintain an adequate system of supervision and control to inform its producers of the requirements of the Replacement Regulation.

- **Finding 3. 230 RICR 20-25-4.5(A)(1)(b)**

Process: The Company failed to maintain an adequate system of supervision and control to inform its producers of the acceptability of replacements and to guide them regarding the appropriateness of replacement transactions.

- **Finding 4. 230 RICR 20-25-4.5(A)(1)(c)**

Process: The Company failed to maintain an adequate system of supervision and control to ensure compliance with its selling agreement. The Company's selling agreement has requirements for its general agent and its producers, but an inadequate system to oversee the general agent or producers.

- **Finding 5. 230 RICR 20-25-4.5(A)(1)(d)**

Process: The Company failed to establish sufficient procedures that would ensure compliance with the Replacement Regulation.

- **Finding 6. 230 RICR 20-25-4.6(B)**

Process: For internal replacements, the Company issued contracts that did not indicate within the contract that the suicide and contestability period was modified due to the contract having been internally replaced. This also represents violations of R.I. Gen. Laws §§ 27-4-6(a) and 27-29-4(2).

- **Finding 7. 230 RICR 20-25-4.5(B)(2)**

Process: The Company could not produce a Rhode Island-specific report pertaining to producer lapses as a percentage of that producer's total annual life insurance sales.

- **Finding 8. 230-RICR-20-25-4(H), 230-RICR 20-60-4.5(A), (B)**

4 Exceptions: Upon request, the Company failed to provide copies of producer files, in whole or in part, for the Examiners' review.

- **Finding 9. R.I. Gen. Laws § 27-29-4.7**

Process: Of those producer files provided by the Company for review, many lacked sufficient documentation regarding: (1) compliance with § 27-29-4.7 (twisting/churning), (2) adequate evidence of "reasonable grounds, after inquiry, to believe that (the) purchase (was) suitable for the prospective purchaser," as required by the John Hancock Producer Terms and Conditions agreement, and (3) adequate evidence that a thorough, documented analysis of the client's needs and financial objectives had been conducted as required by the John Hancock Agent's Code of Conduct. This pattern of insufficient documentation, in turn, evidenced the Company's failure to exercise proper oversight of its appointed producers.

- **Finding 10. R.I. Gen. Laws §§ 27-2.4-3 and 27-2-17(c)**

Process: The Company has a business process to make sure it only accepts business from licensed insurance producers. For two of the four years of the exam, the Company failed to conduct that process.

- **Finding 11. R.I. Gen. Laws § 27-2-17(a)**

2 Exceptions: The Company miscalculated its retaliatory taxes for two of the four years of the exam.

- **Finding 12. 2017 & 2018 RI Form T-71 Insurance - General Instructions**

1 Exception: When filing taxes, the Company took credit for a prior year overpayment instead on their taxes without filing an amended return.

## **II. SCOPE OF EXAMINATION**

Authority for this examination is provided by R.I. Gen. Laws § 27-13.1-1 et seq. and R.I. Gen. Laws § 27-71-1 et seq. This examination covered the period of January 1, 2015, through December 31, 2018. The purpose of the examination was to determine Company compliance with Rhode Island insurance laws, regulations, and rules pertaining to life insurance replacement transactions.

The examination was a targeted market conduct examination of the Company's life insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, and Producer Licensing.

## **III. METHODOLOGY**

The examination was conducted in accordance with standards established by the National Association of Insurance Commissioners ("NAIC") and procedures developed by the Department. In addition to evaluation of the Company's compliance with Rhode Island laws and regulations, an analysis was conducted of the Company's general business practices related to life insurance replacement transactions.

Testing conducted during the examination formed the basis for the exceptions noted and recommendations presented in this report. The examination consisted of verification and evaluation of information contained in the Company's files and records.

The Company identified the universe of files for each segment of the review. Based on the universe sized identified, a statistically valid random sample was selected. Judgmental sampling was utilized as indicated.

This targeted Market Conduct Examination Report is a report by exception. An instance of Company activity that does not comply with a Rhode Island insurance statute or regulation is noted as an exception. Information relating to practices, procedures, and/or files subject to review during the examination has been omitted from the report if no errors and/or irregularities were indicated.

The following areas were examined:

- Operations and Management - Retaliatory Taxes and Fees
- Complaint Handling
- Marketing and Sales - Advertising
- Marketing and Sales - Life Insurance Replacements
- Marketing and Sales - Life Insurance Replacements - Producer File Review
- Producer Licensing

#### **IV. COMPANY HISTORY AND PROFILE**

The Company was incorporated on August 20, 1955, in the state of Maine as the Maine Fidelity Life Insurance Company and commenced writing business on January 31, 1956.

On December 30, 1982, the Company became a wholly owned subsidiary of The Manufacturers Life Insurance Company (“MLI”) when MLI acquired all of the then issued and outstanding shares of the Company. The Company subsequently changed its name to The Manufacturers Life Insurance Company (U.S.A.) on July 31, 1990, and re-domesticated to Michigan as of December 30, 1992.

On January 1, 2002, the Company merged with its immediate parent, Manulife Reinsurance Corporation (U.S.A.), a Michigan Insurer, and its wholly owned subsidiary, The Manufacturers Life Insurance Company of North America, a Delaware insurer, with the Company surviving. Also, on January 2002, by way of assumption reinsurance, the Company assumed all of the insurance business, including all assets and liabilities, of its wholly owned subsidiary, The Manufacturers Life Insurance Company of America, which was subsequently merged with and into the Company on December 5, 2005. Following the Aril 28, 2004 merger between Manulife Financial Corporation (“MFC”) and John Hancock Financial Services, Inc., the Company changed its name to John Hancock Life Insurance Company (U.S.A.), effective January 1, 2005. On December 31, 2009, the Company merged with its affiliates, John Hancock Life Insurance Company and John Hancock Variable Life Insurance Company, both Massachusetts insurers, with the Company surviving.

#### **V. DIRECT PREMIUMS WRITTEN**

Based on Schedule T of the Annual Statement, the Company’s direct premiums written in both Rhode Island and in the United States for each calendar year of 2015 through 2018 are shown below:

<b>Direct Premiums Written</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<b>John Hancock Life Insurance Company (U.S.A.) – Rhode Island</b>	\$ 20,624,634	\$ 22,689,099	\$ 20,348,328	\$ 20,896,859
<b>John Hancock Life Insurance Company (U.S.A.) – United States</b>	\$4,398,637,013	\$4,219,707,743	\$4,234,554,960	\$4,293,440,061

## VI. FACTUAL FINDINGS

### A. Marketing and Sales - Life Insurance Replacements

For the experience period of January 1, 2015 through December 31, 2018, a random sample was taken from the universe of replacement transactions for each calendar year, totaling 287 files. Of the 287 files, the Company later identified six as non-replacements and one as "closed before issue." A review of sampled replacement files from period of January 1, 2015, through December 31, 2018, was conducted to determine compliance with applicable Rhode Island laws and regulations, including the following:

#### **230 RICR 20-25-4 - Life Insurance and Annuities Replacement**

##### **4.5 - Duties of Insurers that Use Producers**

###### *A. Each insurer shall:*

- 1. Maintain a system of supervision and control to insure compliance with the requirements of this Part that shall include at least the following:*
  - a. Inform its producers of the requirements of this Part and incorporate the requirement of this Part into all relevant producer training materials prepared by the insurer;*
  - b. Provide to each producer a written statement of the company's position with respect to the acceptability of replacements providing guidance to its producer as to the appropriateness of these transactions;*
  - c. A system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with § 4.5(A)(1)(b) of this Part above;*
  - d. Procedures to confirm that the requirements of this Part have been met;*

The following seven findings were noted related to Replacements.

##### **Finding 1. 1 Process Exception for the Company's Failure to Appropriately Monitor Its Producers in Marketing Replacements Pursuant to 230 RICR 20-25-4.5(A)(1).**

230 RICR 20-25-4.5(A)(1) requires that the insurer "(m)aintain a system of supervision and control to ensure compliance with the requirements of this Part..." The Company outsourced the oversight and review of its replacement transactions to the general agency (or general agent) responsible for each contracted producer. When each insurance application was submitted by the general agent to the Company, the Company did not review the appropriateness of the replacement situation beyond ensuring that the documents were properly completed and signed/dated. From the Department's perspective, the Company failed to appropriately monitor the outsourced function and, as such, many of the cases reviewed by the Examiners lacked sufficient documentation to evidence that each applicant's needs and financial objectives were thoroughly assessed prior to the Company's approval of the replacement transaction.

While it is the Department's position that the Company could appropriately outsource the sales oversight function to a third party, it is also the Department's position that the Company **cannot** appropriately outsource that function to an entity that stands to benefit from the sale directly. By using the general agent or general agency responsible for the sale to conduct its sales oversight function, the Company not only violated the purpose of the Regulation, but also violated the requirement to maintain a system of supervision and control to ensure compliance with the Regulation. Moreover, when each insurance application was submitted by the interested third party, the Company failed to conduct a proper review to ensure the appropriateness of each replacement transaction pursuant to 230 RICR 20-25-4.5(A)(1).

The Company's reliance on an interested third-party to oversee compliance, coupled with the Company's failure to conduct a proper review of each transaction pursuant to the requirements of 230 RICR 20-25-4.5(A)(1)(a)-(d), provided no assurance that the replacement transactions resulted after a thorough assessment of the client's needs and financial objectives.

*Recommendation:* The Department recommended that the Company maintain a proper system of supervision and control to ensure compliance with the requirements of 230 RICR 20-25-4.5(A)(1) by having a team at the company review the replacement transactions in accordance with the Regulation. The Company has agreed to the Department's specific recommendation.

**Finding 2. 1 Process Exception for Failure to Maintain a System of Supervision and Control Pursuant to 230 RICR 20-25-4.5(A)(1)(a).**

230 RICR 20-25-4.5(A)(1)(a) requires the Company to maintain a system of supervision and control to ensure its producers are informed of the requirements of this Part and that the requirements of this Part are incorporated into all relevant producer training materials prepared by the insurer. As noted in Finding 1 above, the Company failed to maintain an adequate system of supervision and control by outsourcing that function to general agents and agencies.

In addition, the following statement provided by the Company regarding its stance on the training of producers is noteworthy:

*John Hancock does provide product training documentation (Producer Guides, Seller's Guides, Power Point materials) on our products. John Hancock does not develop producer training manuals. John Hancock does not have responsibility to train producers.*

*Producer Training is a joint responsibility between a producer and the General Agent. John Hancock's Producer Terms & Conditions, which all agents must complete in order to be appointed with John Hancock, includes a specific provision that "The Company does not undertake to be responsible for my supervision, training and compliance with applicable laws, regulations, codes of conduct or procedures."*

*The Producer responsibility is further addressed in John Hancock's Agent Code of Conduct, previously supplied to Noble Consulting. In the Agent Code of Conduct, under Professional*

*Competence: "You [Producer] are expected to participate in professional training and education and to continue your development throughout your career."*

*Producer Training is also the responsibility of the General Agent. John Hancock previously provided our specimen Selling Agreement. In the Selling Agreement, § 3(c): "Producer Oversight: General Agent shall oversee all Producers and be responsible for their training and compliance with applicable insurance laws." (Emphasis added - underline).*

*Recommendation:* The Department recommended that the Company maintain an adequate system of supervision and control to ensure compliance with the requirements of 230 RICR 20-25.4.5(A)(1)(a). The Company has agreed to have a dedicated group of employees at John Hancock review all proposed Rhode Island replacements for appropriateness.

**Finding 3. 1 Process Exception for Failure to Maintain a System of Supervision and Control Pursuant to 230 RICR 20-25-4.5(A)(1)(b).**

230 RICR 20-25-4.5(A)(1)(b) requires the Company to maintain a system of supervision and control to ensure each producer is provided "a written statement of the company's position with respect to the acceptability of replacements providing guidance to its producer as to the appropriateness of these transactions." As noted in Finding 1 above, the Company failed to maintain an adequate system of supervision and control by outsourcing that function to general agents and agencies. Moreover, when asked whether the Company provided guidance to its producers as to the appropriateness of replacement transactions, the Company pointed to language contained within the Agent's Code of Conduct:

*The Agent's Code of Conduct requires Producers to be familiar with replacement regulations. Agents are also required to make product and service recommendations "based on a thorough, documented analysis of your client's needs and financial objectives."*

*Recommendation:* The Department recommended that the Company institute and maintain a system of supervision and control to ensure compliance with the requirements of 230-RICR-20-25-4.5(A)(1)(b). The Company has agreed to have a dedicated group of employees at John Hancock review all proposed Rhode Island replacements for appropriateness.

**Finding 4. 1 Process Exception for Failure to Maintain a System of Supervision and Control to Ensure Compliance with the Company's Selling Agreement.**

230 RICR 20-25-4.5(A)(1)(c) requires the Company to maintain a system of supervision and control to ensure the establishment of a "system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with § 4.5(A)(1)(b) of this Part above." The Company failed to maintain an adequate system of supervision and control to ensure compliance with its selling agreement. The Company has requirements in the selling agreement for its general agent and its producers, but an inadequate system to oversee the general agent and producers. As noted in Finding 1 above, the Company failed to maintain an

adequate system of supervision and control by outsourcing that function to general agents and agencies who stood to benefit from the transaction. The process in place was described by the Company as follows:

*(T)he appropriateness of a transaction is determined by the producer and it is specified in the Selling Agreement between John Hancock and the General Agency. The Selling Agreement specifies that "Neither General Agent nor any Agent shall recommend the purchase of a Contract to a prospective purchaser unless it has reasonable grounds, after inquiry, to believe that such purchase is suitable for the prospective purchaser." The Selling Agreement also specifies that General Agents shall oversee Producers and be responsible for their training and compliance with applicable insurance laws, regulations, codes of conduct, guidelines or procedures of the Company.*

**Recommendation:** The Department recommended that the Company institute and maintain a system of supervision and control to ensure compliance with 230 RICR 20-25-4.5(A)(1)(c). The Company has agreed to have a dedicated group of employees at John Hancock review all proposed Rhode Island replacements for appropriateness.

**Finding 5. 1 Process Exception for Failure to Establish Required Procedures to Ensure that Replacement Transactions are Conducted Appropriately.**

230 RICR 20-25-4.5(A)(1)(d) requires the Company to maintain a system of supervision and control to ensure that procedures are instituted and maintained for the purpose of confirming that the requirements of this part have been met. As noted in Finding 1 above, the Company failed to maintain an adequate system of supervision and control by outsourcing that function to general agents and agencies. Moreover, a lack of proper procedures resulted in the exceptions noted immediately above for 230 RICR 20-25-4.5(1)(a) – (c).

**Recommendation:** The Department recommended the Company institute and maintain a system of supervision and control to ensure compliance with 230 RICR 20-25-4.5(A)(1)(d). The Company has agreed to have a dedicated group of employees at John Hancock review all proposed Rhode Island replacements for appropriateness.

**Finding 6. 1 Process Exception for Not Including Suicide and Incontestability Period Changes Within Each Individual Contract.**

**230 RICR 20-25-4 - Life Insurance and Annuities Replacement**

**4.6 - Duties of Replacing Insurers That Use Producers**

*B. In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.*

**R.I. Gen. Laws § 27-4-6(a)** states:

“No life insurance corporation doing business in this state, nor any insurance producer of the corporation, shall permit, offer, or make any contract of insurance or agreement as to any contract other than as plainly expressed in the policy issued on the contract or agreement;”

**R.I. Gen. Laws § 27-29-4(2)** prohibits:

“Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business that is untrue, deceptive, or misleading;”

Internally replaced contracts issued by the Company during the exam period did not reflect a different suicide or contestability period for those contracts as required by the regulation. Instead, the contracts utilized standard language detailing a two-year suicide and contestability period.

*Recommendation:* It is recommended the Company include within the contract language identifying the applicable period of suicide or contestability for each internal replacement. If the Company cannot do this, it should at a minimum include language within the life insurance contract that addresses the availability of a credit for suicide and contestability periods for internal replacements.

**Finding 7. 1 Process Exception for Failure to Monitor Rhode Island-Specific Transactions. 230 RICR 20-25-4 - Life Insurance and Annuities Replacement**

**4.5 - Duties of Insurers that Use Producers**

- B. *Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the Director. The capacity to monitor shall include the ability to produce records for each producer's:*

...

- 2. Number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;*

The Company failed to demonstrate that it had the ability to produce a Rhode Island-specific report pertaining to the number of lapses of policies by a producer as a percentage of that producer's total annual sales for life insurance. When asked to provide this type of report, the Company provided the following statement:

*The Company does produce a Replaced Insurance Detection System (RIDS) report. However, this report does not currently include the state. We have requested that the IT folks look into providing an additional column for State of issue.*

*Recommendation:* The Department recommended that the Company develop and conduct procedures to ensure compliance with 230 RICR 20-25-4.5(B)(2). The Company has agreed to do so.

## **B. Marketing and Sales - Life Insurance Replacements - Producer File Review**

For the experience period of January 1, 2015 through December 31, 2018, a random sample was taken from the universe of replacement transactions for each calendar year, totaling 287 files. A judgmental sample of 84 was selected from the 287 files, and two of the files were later identified by the Company as being erroneously listed as replacements.

Copies of the producer files were requested from the Company which, in turn, requested the files from its appointed producers. Files were received and reviewed to determine compliance with applicable Rhode Island laws and regulations.

As a result of the producer file review, the following two findings were noted.

### **Finding 8. 4 Exceptions for Failure to Maintain Documentation**

#### **230 RICR 20-25-4 - Life Insurance and Annuities Replacement**

##### **4.5 - Duties of Insurers that Use Producers**

- H. Maintains records in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.*

#### **230 RICR 20-60-4.5 - Policy Record File**

- A. A policy record file shall be maintained for each policy issued, and shall be maintained for the duration of the current policy term plus four (4) years, or for life insurance policies and annuity contracts, for the time the policy or contract is in force and four (4) years thereafter. Policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. If a policy is terminated, either by the insurer or the policyholder, documentation supporting the termination and account records indicating a return of premiums, if any, shall also be maintained. Policy records need not be segregated from the policy records of other states so long as the records are readily available to market conduct examiners as required under this Part.*

- B. Policy records shall include the following:*

- 1. Any application and accompanying records for each contract. The*

*application shall bear a clearly legible means by which an examiner can identify a producer involved in the transaction. The examiners shall be provided with information clearly identifying the producer involved in the transaction.*

In four (4) instances, the Company failed to provide copies of producer files upon request by the Department. In three (3) of the four (4) instances, no documentation was provided at all. In one (1) instance, the producer's file was not provided, with the exception of a copy of an in-force illustration.

*Recommendation:* The Department recommended that the Company take appropriate action to ensure records are maintained in compliance with 230 RICR 20-25-4.5(H) and 230 RICR 20-60-4.5(A), (B) and are available for inspection by the Department upon request. The Company has agreed to do so.

**Finding 9. 1 Process Exception for Lack of Company Oversight as Evidenced by Inadequate Documentation within Multiple Producer Files Representing both Internal and External Life Insurance Replacements**

**Unfair Competition and Practices**

**R.I. Gen. Laws § 27-29-4.7. Additional unfair methods of competition.**

(a) *In addition to those listed in § 27-29-4 the following are also defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:*

(1) *Twisting. Knowing making any misleading representations or incomplete or fraudulent comparisons or fraudulent material omissions of or with respect to any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or take out a policy of insurance in another insurer.*

(2) *Churning. The practice whereby policy value in an existing life insurance policy or annuity contract, including, but not limited to, cash, loan values, or dividend values, and in any riders to that policy or contract, are directly or indirectly used to purchase another insurance policy or annuity contract with that same insurer for the purpose of earning additional premiums, fees, commission, or other compensation:*

*Without an objectively reasonable basis for believing that the replacement or extraction will result in an actual and demonstrable benefit to the policyholder*

**John Hancock Producer Terms and Conditions**

Page 1, 2(c), "Compliance with Laws, Regulations, Codes of Conduct, and Procedures" states:

*I will not recommend any Company Contract to an applicant unless I have reasonable grounds, after inquiry, to believe it is **suitable.**" (Emphasis added – bold).*

**John Hancock Agent's Code of Conduct**

Page 1, "The Sales Process," states:

*Your product and service recommendations should be based on a **thorough, documented analysis** of our client's needs and financial objectives. Each of your product and service recommendations should be designed to satisfy those needs and objectives in a way that is appropriate and **suitable** for the client.* (Emphasis added – bold).

Examiners reviewed the producer files provided, which represented both internal and external replacements. The files were reviewed to determine compliance with R.I. Gen. Laws § 27-29-4.7, which prohibits misrepresentation (twisting) and requires an "objectively reasonable basis for believing that the replacement or extraction will result in an actual and demonstrable benefit to the policyholder" (churning). See § 27-29-4.7 included above for reference. In addition, the files were reviewed to determine whether a proper suitability assessment had been conducted in accordance with the Company's Producer Terms and Conditions agreement, and whether the applicant's needs and financial objectives were thoroughly analyzed and documented, as required by the John Hancock Agent's Code of Conduct.

**C. Producer Licensing**

**Finding 10. 1 Process Exception for Failure to Design a System to Appropriately Ensure that Producers are Licensed at the Time Insurance Contracts are Solicited and Issued.**

**R.I. Gen. Laws § 27-2.4-3**

*A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.*

**R.I. Gen. Laws § 27-2-17(c)**

*Whenever insurance companies that are authorized to do business in this state issue, deliver, or make any contract of insurance on a person or property in this state, the companies shall place the business through a licensed resident insurance producer or licensed nonresident insurance producer as permitted under § 27-2-3 or any other provision of Rhode Island law;*

The Company maintains and utilizes an internal database known as LARS to track producer licensing information. In non-appointment states like Rhode Island, the Company's internal processes are to reconcile LARS annually. The Company would use the reconciliation process to

check all of the licenses in Rhode Island against the Rhode Island producer licensing database, to ensure that all producers were appropriately licensed. The Department does not consider annual reconciliation to be appropriate, as a producer's license could be surrendered or revoked in the interim and the Company would be unaware of that.

Separately, the Company was unable to produce evidence that LARS was reconciled for Rhode Island in 2015 or 2017. As a result, the Company was unable to ensure that its contracted producers were licensed at the time of solicitation or issuance of the contract.

*Recommendation:* The Department recommended the Company appropriately reconcile LARS to ensure compliance with R.I. Gen. Laws §§ 27-2.4-3 and 27-2-17(c). The Company noted there were no sales by unlicensed agents referenced in the Report. The Company reported that beginning in April of 2021, the Company transitioned from an annual to a quarterly reconciliation process of licenses and appointments.

#### **D. Company Operations and Management - Retaliatory Taxes and Fees**

Examiners reviewed the Company's annual filing and retaliatory fee payments for the experience period 2015 through 2018 to determine whether the amounts due were properly calculated and paid. These fee payments were made directly to the Rhode Island Department of Business Regulation ("the Department") and via Schedule C of tax form T-71. As a result of this review, examiners determined that the Company twice paid the incorrect amount and separately, it failed to file an amended return when taking credit for a prior year overpayment.

Three (3) exceptions were noted:

#### **Findings 11 & 12. 3 Exceptions Related to Retaliatory Tax Calculations and Payment.**

##### **R.I. Gen. Laws § 27-2-17. Reciprocal fees and charges.**

*(a) Whenever, by the laws of any other state of the United States, any fees, charges, taxes, deposits of money or of securities, or other obligations or prohibitions are imposed on insurance companies incorporated or organized under the laws of this state or on the insurance producers of the insurance companies, so long as the laws continue in force, the fees, charges, taxes, deposits, and obligations shall be imposed on the insurance companies doing business in this state which are incorporated or organized under the laws of the other state and on their insurance producers.*

##### **2017 RI Form T-71 Insurance - General Instructions**

*Informational Section...If filing an amended T-71, check the "Amended" box.*

##### **2018 RI Form T-71 Insurance - General Instructions**

*Schedule C – Computation of Reciprocal Fees & Assessments...Line 2: Refer to your March 2018 invoice billed by the Rhode Island Insurance Division to identify the proper fees to include on line 2.*

In 2017, the Company paid a retaliatory fee for the Michigan Regulatory Fee without taking an allowable 50% deduction. Without bringing the issue to attention of the Department or the Rhode Island Tax Division, the Company over-deducted in its 2018 filing in an attempt to correct the 2017 overpayment. Examiners concluded that the Company had underpaid Rhode Island \$1,725 over-all in retaliatory fees for years 2017 and 2018. When brought to the Company's attention, the Company paid the appropriate amounts.

The following exceptions were noted:

- Finding 11. R.I. Gen. Laws § 27-2-17(a): In two (2) instances the Company improperly calculated payment of the Rhode Island retaliatory fee.
- Finding 12. 2017 and 2018 RI Form T-71 Insurance – General Instructions: In one (1) instance, the Company failed to follow Form T-71 instructions.

*Recommendation:* It is recommended the Company take appropriate action to ensure compliance with R.I. Gen. Laws § 27-2-17(a) and with Rhode Island Form T-71 instructions.

## VII. CONCLUSION

Examination procedures were applied to the data and information contained in this report using the techniques deemed appropriate to support the findings and recommendations. While the examination procedures utilized do not give complete assurance that all errors and irregularities were detected, those that were detected during the course of this examination have been disclosed in this report. Other than what has been noted in the body of this report, Examiners were not informed of, and did not become aware of, any errors or irregularities that could have a material effect on the Company.

## VIII. EXAMINATION DRAFT REPORT SUBMISSION

The examination was conducted by Brett Bache, Brian Werbeloff, and Segun Daramola of the Rhode Island Department of Business Regulation - Insurance Division; and Linda Armstrong, John Murphy, and Jim Hattaway of Noble Consulting Services, Inc., and is respectfully submitted.



Linda Smith Armstrong  
Examiner-In-Charge