2006 SUNSET REVIEW

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

The Functions of the Division of Insurance Related to the Regulation of Life Insurance

October 12, 2006

STATE OF COLORADO

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Bill Owens
Governor

October 12, 2006

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the functions of the Division of Insurance related to the regulation of life insurance. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2007 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

> The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...
>
> The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination….

The report discusses the question of whether there is a need for the regulation of life insurance provided under Title 10, C.R.S. The report also discusses the effectiveness of the Division of Insurance and staff in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Tambor Williams

Tambor Williams
Executive Director

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Quick Facts

What is Regulated? Life insurance producers and life insurance companies.

Who is Regulated? In fiscal year 04-05 there were 10,371 active life insurance producer licensees:
3,208 new life insurance producer licensees
7,163 life insurance producer license renewals

Also, there are nine Colorado-domiciled life insurance companies.

How is it Regulated? Life insurance producers are required to satisfy prelicensure education requirements, pass a written examination, administered by Promissor, a licensing vender, complete mandatory continuing education requirements and pay applicable fees.

Life insurance companies must obtain a Certificate of Authority in order to sell life insurance products by completing an application, meeting all of the capital and surplus requirements required by the State of Colorado and paying applicable fees.

What Types of Consumer Complaints and Inquiries Does the DOI receive? During the five year period of fiscal year 00-01 to fiscal year 04-05, the DOI Consumer Affairs Section received the following complaints:

Claim Handling	201
Marketing and Sales	264
Policy Holder Service	692
Underwriting	167

The DOI also received the following inquires during the five-year period of fiscal year 00-01 to fiscal year 04-05:

Claim Handling	52
Marketing and Sales	46
Policy Holder Service	111
Underwriting	28

Where Do I Get the Full Report? The full sunset review can be found on the internet at: http://www.dora.state.co.us/opr/oprpublications.htm

Key Recommendations

Continue the functions of the Division of Insurance related to the regulation of life insurance for nine years, until 2016.
Due to the complexity of the life insurance products available as well as the potential for harm against the community, regulation of the life insurance industry is warranted. Continuing the functions of the DOI related to the regulation of life insurance provides public protection by ensuring that life insurance producers as well as life insurance companies are conducting business consistent with the standards established by the State of Colorado. These measures serve to insulate the public from unscrupulous business practices.

Major Contacts Made in Researching the 2006 Sunset Review of the Functions of the Division of Insurance Related to the Regulation of Life Insurance

American Association of Retired Persons
American Association of Health Plans
Life and Health Insurance Protection Association
Division of Insurance staff
National Association of Insurance Commissioners

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with the public interest. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the rights of businesses to exist and thrive in a highly competitive market, free from unfair, costly or unnecessary regulation.

Sunset Reviews are Prepared By:
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Background

The Sunset Process

The regulatory functions of the Division of Insurance (DOI) with respect to life insurance in accordance with Title 10, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2007, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the functions of the DOI related to the regulation of life insurance pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the function should be continued for the protection of the public and to evaluate the performance of the DOI in relation to the regulation of life insurance. During this review, the DOI must demonstrate that there is still a need for the function and that the function is the least restrictive regulation consistent with the public interest. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 32.

Methodology

As part of this review, DORA staff attended stakeholder meetings, interviewed DOI staff, reviewed DOI records including complaint and disciplinary actions, interviewed officials with state and national professional associations, reviewed Colorado statutes and DOI rules, and reviewed the laws of other states.

Profile of the Industry

Market forces guide the sale of life insurance products to the community, due to the complexity of the products as well as the potential for harm to the public, regulation of the life insurance industry is warranted. The DOI, located within DORA, regulates the insurance industry in Colorado. The DOI is charged with providing oversight to adequately protect the public from harm, while minimizing its interference with the free market. Over-regulation could potentially impede an insurance company's ability to operate within Colorado, and under-regulation could leave the public vulnerable to unscrupulous business practices. As a result, regulation must maintain a balance between encouraging competition and providing for public protection.

Specifically, the DOI serves the public interest through the following:[1]

- Providing a prompt, effective, complaint resolution process for Colorado consumers;
- Providing prompt and effective service and education to Colorado consumers, the public, and regulated entities;
- Promoting and preserving a sound, competitive insurance marketplace through effective state regulation;
- Promoting access to affordable insurance that allows for adequate consumer choice;
- Promoting and developing more streamlined, uniform, and efficient regulatory processes;
- Ensuring that management systems are in place to operate the DOI efficiently and effectively; and
- Providing resources, training and support for DOI staff to promote and maintain a knowledgeable, dedicated, and productive workforce.

The DOI outlines its program functions as follows:

- Consumer Affairs, which includes Life/Health Consumer Affairs, Property/Casualty related to Consumer Affairs, and Senior Consumer Services;
- Market Regulation, which includes Rates and Forms, Producer Licensing, Market Conduct, Compliance, Market Analysis, and Investigations; and
- Finance and Administration, which includes Financial Examinations, Financial Affairs, Corporate Affairs, Premium Tax Collection, Budget Services, and Actuarial.

Additionally, the Commissioner of Insurance (Commissioner) is responsible for ensuring that the business of insurance is conducted in accordance with the laws of the state. Section 10-1-108(7), C.R.S., describes the Commissioner's duties:

> It is the duty and responsibility of the Commissioner to supervise the business of insurance in the state to assure that it is conducted in accordance with the laws of this state and in such a manner as to protect policyholders and the general public.

[1] Colorado Division of Insurance. About the Division. Retrieved August 9, 2006, from www.dora.state.co.us/insurance/about/about.htm.

Life and Health Insurance Protection Association

In 1991, the General Assembly statutorily created the Life and Health Insurance Protection Association (Association). The Association is a non-profit organization and is comprised of member companies authorized to sell life and health insurance products in Colorado. The Association was created to pay claims of Colorado residents who hold policies issued by life and health insurance companies that become insolvent or can no longer meet contractual obligations to consumers. The Association provides coverage of up to $300,000 on life insurance benefits, including $100,000 in net cash surrender or withdrawal for life insurance products.

Currently there are more than 1,000 companies participating in the Association. The Association charges an annual fee of $150 to its members. Also, when an insolvent life insurance company fails to meet its obligations to policyholders, Association members are assessed a share of the amount required to cover the claims of the insolvent life insurance company. The amount Association members are assessed is based on the amount of premiums collected. Approximately $2.9 million in claims have been paid to Colorado consumers in the past five years through the Association.

National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) is a voluntary organization comprised of insurance regulatory officials from throughout the country.

> The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost effective manner, consistent with the wishes of its members: [2]

The organization seeks to:

- Protect the public interest;
- Promote competitive markets;
- Facilitate the fair and equitable treatment of insurance consumers;
- Promote the reliability, solvency and financial solidity of insurance institutions; and
- Support and improve state regulation of insurance.

[2] The National Association of Insurance Commissioners. About the NAIC. Retrieved August 9, 2006 from http://www.naic.org/index_about.htm

Colorado is actively involved in the NAIC, with the Commissioner and various staff within the DOI serving on a variety of committees, task forces, working groups and subcommittees.

Life Insurance Products

Licensed life insurance producers sell a variety of products to businesses and the general public.

Life insurance products are popular in Colorado and throughout the country. Life insurance products provide financial stability in retirement as well as a financial safety net.

The DOI is responsible for regulating life insurance products in Colorado. Currently, there are a variety of options available to consumers. Life insurance products include:

- Annuities (fixed and variable);
- Term life insurance;
- Universal life insurance;
- Whole life insurance; and
- Viaticals.

Annuities

Annuities are often complex investment vehicles and can provide a stream of income for a long period of time. As a result, annuities are mainly used for retirement income, although they can be used to assist in paying for a child's college tuition, creating a trust fund, or providing income for a surviving spouse.

Before committing to a specific type of annuity, the consumer must choose the timing of the payout; that is, the consumer must decide whether he or she would like immediate or deferred payments. In an immediate annuity, the investor begins to receive payments immediately upon investing or at a predetermined date in the future.[3] Immediate annuities are suited for investors who need immediate income from their annuity. When choosing a payment option, an investor may elect to have his or her payments for a specified period of time (typically between 5 to 20 years), or for the rest of the investor's or the investor's spouse's life. An investor may also choose any combination of the aforementioned options.

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[3] Annuity FYI. Immediate Annuities. Retrieved August 2, 2006, from http://www.annuityfyi.com/ca1fdesc.html.

Additionally, an investor may elect to purchase a deferred annuity. Deferred annuities are usually used in situations where the investor would like to receive payments in the future, usually after retirement. Although deferred annuities are typically long-term investments, withdrawal payments are commonly allowed 30 days after purchasing an annuity at up to 10 percent of the total value per year. Deferred annuities can be purchased by either making a lump sum payment or by making periodic payments.

There are two types of annuities an investor may elect to purchase: fixed and variable. Fixed annuities are considered more financially conservative than variable annuities, and are invested primarily in government securities and high-grade corporate bonds.[4] Fixed annuities offer a fixed rate of return, typically for a period of between 1 to 15 years.

Variable annuities achieve the same goal as fixed annuities. That is, they both are investment options that can provide a steady stream of income for a long period of time. Variable annuities, however, enable the investor to invest in a variety of portfolios, typically mutual funds. As a result, variable annuities are more vulnerable to fluctuations within the stock market, and therefore a variable annuity could increase or decrease in value over time. Investors could potentially receive large gains (typically larger than fixed annuities) or lose some or all of their original investment.

An equity-indexed annuity is another investment option for investors. An equity-indexed annuity is a fixed annuity, either immediate or deferred, that earns interest or provides benefits that are linked to an external equity reference or an equity index.[5] In other words, an equity-indexed annuity could potentially earn a higher rate of return because it is tied to either a specified stock or index, such as the Standard and Poor's 500 Composite Stock Index.

Further, an equity-indexed annuity has a guaranteed minimum interest rate like a fixed annuity. Investors who purchase equity-indexed annuities will not drop below the guaranteed minimum established.

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[4] Annuity FYI. What is an annuity? Retrieved June 28, 2006, from http://www.annuityfyi.com/ab1a_what_is_an_annuity.html.
[5] NAIC. Buyer's Guide to Fixed Deferred Annuities with Appendix for Equity-Indexed Annuities, p. 14. Retrieved August 11, 2006, from http://www.dora.state.co.us.Insurance/consumer/buygidann.pdf.

Finally, an investor may also choose to add a death benefit provision to his or her fixed or variable annuity. In a death benefit provision, the issuer guarantees that at a minimum, upon the death of the insured, the total premiums already paid are dispersed to the insured's beneficiaries.[6] Certain annuities also provide incentives or "step-up" features, typically on the investor's anniversary of the date the annuity was purchased. The step-up feature allows the investor's beneficiary or beneficiaries to collect the total premium at its highest value at any preceding anniversary.

Term Life Insurance

Term life insurance offers insurance protection for consumers for a specified period of time, usually 1 to 30 years, or until a specific age. Consumers who purchase term life insurance pay monthly, quarterly or annual premiums to the insurance company. Depending on the policy, premiums may be renewable annually or remain the same for a specified period.

At the end of the term period, the policy may permit renewal without a medical exam, although, because the consumer is older, the premium may increase. Term life insurance only pays a death benefit, and does not generate any cash value.

Universal Life Insurance

Universal life insurance offers the consumer flexibility when choosing the amount of insurance to be purchased as well as the payment of the premium. Within a universal life insurance policy, the consumer, as his or her needs change, may adjust the amount of coverage and the premium paid.

Additionally, universal life insurance allows the premiums to be credited as a cash value account, and the money grows, tax-deferred. Generally, the consumer, through loans or withdrawals, can access the cash value account.

Consumers can also purchase indexed universal life insurance. Indexed universal life insurance offers interest-crediting rates that are linked to a stock market index. A consumer may realize a greater return on his or her investment through an indexed universal life insurance product. Indexed universal life insurance products also provide the safety of a minimum guaranteed interest rate.

[6] AnnuityFYI. Is an annuity suitable for me? Retrieved June 28, 2006, from http://www.annuityfyi.com/ab1b_is_an_annuity_right_for_m.html.

Whole Life Insurance

Whole life insurance provides a guaranteed death benefit for the insured's entire life, unlike term life insurance, which provides coverage for a specified period. Whole life insurance also builds cash value, via premium payments, which grows, tax-deferred and can be borrowed, with accompanying processing fees.

Viaticals

A viatical is simply the sale of a current life insurance policy to a buyer.[7] The buyer purchases a life insurance product from a policyholder at a discounted rate of the face value of the policy. The policyholder receives a cash payment for the policy from the buyer. The buyer, in turn, becomes the owner of the policy and makes all applicable premium payments.

History of Regulation

Colorado began regulating insurance through the State Auditor's Office in 1883. The Colorado Department of Insurance was formed in 1913, in response to widespread growth in the industry. In the mid-1960s, the Insurance Department became part of the Colorado Department of Regulatory Agencies as the Division of Insurance (DOI). The head of the DOI is the Commissioner of Insurance, who is appointed by the Governor and confirmed by the Senate.[8]

In 1999, the U.S. Congress enacted the Gramm-Leach-Bliley Act (GLBA). The GLBA repealed Depression-era restrictions against affiliations between banks, insurance companies and securities firms, while affirming the functional regulation of insurance by the states. The GLBA also contained provisions requiring the states to achieve reciprocity or uniformity as it relates to insurance producer licensing, including continuing education requirements, by November 12, 2002, or face the pre-emption of non-resident licensing by the National Association of Registered Agents and Brokers.

Since the passage of the GLBA, the NAIC has focused on responding to the call for increased uniformity as it relates to the regulation of insurance by the states and in assisting states in meeting the deadlines established in the GLBA as it relates to producer licensing, as well as in creating the standards for uniformity in company and producer licensing.

[7] Viaticals. Providing Important Information on Viaticals. Retrieved August 3, 2006, from http://www.viatical-advocate.org/viaticals.htm.
[8] Colo. Const. art. IV, § 23.

Legal Framework

State statutes and the rules promulgated thereunder by the Division of Insurance (DOI) govern life insurance in Colorado. Specifically, Article 7 of Title 10, Colorado Revised Statutes (C.R.S.), contains the statutory directives for the life insurance industry in Colorado. The six parts that comprise Article 7 include:

- General;
- Group life insurance;
- Standard Nonforfeiture and Valuation Act;
- Variable contracts;
- Standard Nonforfeiture Law for Individual Deferred Annuities; and
- Viatical settlements.

Part 1 addresses general issues regarding life insurance in Colorado. Further, Part 1 outlines the current requirements for life insurance policies. Salient characteristics outlined in Part 1 are as follows:

- All premiums are required to be paid in advance to the company or life insurance producer who is employed by the company;[9]
- A policy is incontestable after it has been in place for a period of two years;[10]
- Policyholders must abide by the terms of the policy and any amendments to the policy must be completed prior to issuance;
- If the age of the policyholder is misstated, the amount payable under the policy must be the same as if the premium was purchased at the correct age;[11]
- When dividends are first declared on a policy, the policyholder must be permitted to select how the dividends will be apportioned to his or her policy;[12]

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[9] § 10-7-102(1)(a), C.R.S.
[10] § 10-7-102(1)(b), C.R.S.
[11] § 10-7-102(1)(d), C.R.S.
[12] § 10-7-102(1)(e), C.R.S. and § 10-3-205, C.R.S.

- A consumer has a grace period of one month, not less than 30 days, to pay his or her premium after the first year before interest penalties occur. If the consumer dies within the grace period, any unpaid premium for the current policy year may be deducted in any settlement of the policy;[13]

- If a policy is earmarked for final expenses for a funeral, internment or cremation, the policy must clearly state that the policy does not guarantee that the payout will cover the expenses in their entirety.[14]

Additionally, Part 2 addresses group life insurance, which is defined in statute as a policy that covers more than three individuals at the date of issue.[15] Part 2 outlines consumer protection provisions regarding group life insurance. The statute also provides that eligible candidates are subject to eligibility standards established by the insurer. Group life insurance may be extended to dependents of insured persons.[16]

Several policy provisions are outlined in Part 2, including:

- Policyholders are entitled to a one-month grace period for the payment of premiums due, except the first payment. During the grace period, the death benefit coverage remains in force unless the policyholder has provided written notice to the insurer of discontinuance.[17]

- Policies cannot be contested, except for nonpayment of premiums, after the policy has been in force for two years from the date of issue.[18]

- Copies of a policyholder's application must be attached to the policy prior to issuance.[19]

- Insurers can require persons eligible to receive insurance to furnish evidence of insurability prior to issuing coverage.[20]

- Insurers may adjust premiums or benefits for misstated ages of policyholders.[21]

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[13] § 10-7-102(1)(i), C.R.S.
[14] § 10-7-102(1)(j), C.R.S.
[15] § 10-7-201(1), C.R.S.
[16] § 10-7-201(2), C.R.S.
[17] § 10-7-202(1)(a), C.R.S.
[18] § 10-7-202(1)(b), C.R.S.
[19] § 10-7-202(1)(c), C.R.S.
[20] § 10-7-202(1)(d), C.R.S.
[21] § 10-7-202(1)(e), C.R.S.

Additionally, Part 3 contains the Standard Nonforfeiture and Valuation Act (Act). The Act ensures that a policyholder's equity in his or her policy cannot be forfeited to an insurance company if the policyholder defaults on the premium payments. To recover the equity, a policyholder may accept the cash surrender value (the company may defer payment for up to six months), take a policy loan or purchase paid-up insurance.

Part 4 contains the provisions governing variable rate contracts. Variable rate contracts are variable rate annuities or life insurance products that contain an element of risk through market fluctuation. As a result, separate accounts are typically created for variable rate contracts. By rule, specifically DOI Regulation 4-1-1, the stipulations for separate accounts are outlined. The insurance company must maintain in each such separate account assets with a market value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Commissioner of Insurance.[22]

Part 5 contains the Standard Nonforfeiture Law for individual annuities. Specifically, Part 5 sets the rules for determining the minimum value of an individual deferred annuity. Part 5 also prohibits insurance companies from establishing unreasonably high expense charges on a contract and states that they must credit interest in the contract at a specific minimum interest rate, either one or three percent, depending on the contract. Companies are currently limited to 12.5 percent of any premium paid.

Finally, Part 6 requires viatical settlement providers to obtain a license. Viatical settlement providers must possess a life insurance producer license for one year and apply for a viatical settlement license within 30 days of negotiating his or her first viatical settlement agreement.[23]

[22] Division of Insurance. DOI Regulation 4-1-1 § IV.
[23] § 10-7-603(1), C.R.S.

Program Description and Administration

The Division of Insurance (DOI) is responsible for a broad range of compliance related activities concerning the insurance industry in Colorado. As a result, the DOI created three functional areas of responsibility to effectively regulate the insurance industry in Colorado. The three functional areas are:

- Finance and Administration;
- Compliance and Market Regulation; and
- Consumer Affairs.

Within the three functional areas, the DOI created various sections to facilitate every aspect of regulation. All enforcement actions by the DOI are undertaken in the name of the Commissioner of Insurance (Commissioner).

Actuarial Section

The Actuarial Section provides assistance and financial expertise regarding the actuarial requirements and concerns of insurers, non-traditional entities (self insurance pools and captives), government and consumers. The Actuarial Section is involved in the regulation of various types of insurers and risks, including life insurance. The functions related to the Actuarial Section are as follows:

- Rates and Forms – Reviews and analyzes all referred and assigned rate files and analyzes specific rating, coverage, or underwriting issues.
- Actuarial Opinions and Reports – Reviews all domestic regulated entity actuarial opinions and various reports. Upon review, the results are incorporated into the overall financial analysis performed by the Financial Affairs Section.
- Actuarial Reviews and Financial and Corporate Affairs Sections - Reviews and analyzes filings and issues related to medical financial responsibility, reinsurance, corporate changes (including licensure), Multiple employer welfare associations, and other financial and corporate issues.
- Consumers and Industry – Reviews consumer complaints, industry authorization requests, and industry and consumer inquiries.
- General – Assists in the development of and amendments to regulations and addresses actuarial questions or concerns posed by the general public, industry, or other regulators.

- Financial Examinations – Participates in as well as arranges actuarial services for the financial examinations of domestic insurers. Staff also supervises actuarial consultants (if any) assigned to the examination.

- Database – Provides database support for DOI personnel, and ensures accurate and timely data transmissions to the National Association of Insurance Commissioners (NAIC) and from Promissor, a contract vendor that performs examination services. Staff provides statistical reports, analysis and studies related to market analysis. The section also maintains and enhances DOIs unified database.

Corporate Affairs Section

The Corporate Affairs Section is responsible for several duties related to the regulation of life insurance companies. Specifically, the Corporate Affairs Section's major responsibility is the issuance of Certificates of Authority, which provide companies a license to sell life insurance in Colorado. The responsibilities include:

- Initial company licensure of both foreign (domiciled outside the state of Colorado) and domestic (Colorado-domiciled) insurers;

- Suspension of foreign insurers based on financial position;

- Corporate amendments, including name changes, redomestications (changing domiciles), line changes, mergers and address changes of both foreign and domestic insurers;

- Approval of companies qualified as Colorado regional home office resulting in a reduced tax rate; and

- Licensure of viatical settlement providers.

Financial Affairs Section

The essential function of the Financial Affairs Section is to preserve a safe and sound insurance marketplace for Colorado policyholders through review and analysis of financial statements and other filings made with the DOI. More specifically, the Financial Affairs Section has the overall responsibility for monitoring, through the Financial Analysis System, the financial solvency of the 51 Colorado-domiciled companies (nine of which are life insurance companies). The Financial Analysis System is designed to monitor the current financial condition of Colorado's regulated companies. Also, the Financial Analysis System utilizes a combination of NAIC-designed checklists, as well as the DOI checklists, to analyze and monitor the current financial condition of Colorado-domiciled life insurance companies.

One of the key objectives of the Financial Affairs Section is to detect errors, as early as possible, in financial reporting, solvency concerns, or negative financial trends affecting domestic insurers. Once errors or solvency issues are identified, the Financial Affairs Section addresses the issues with the company, obtains a corrective action plan, assesses the feasibility of the plan, monitors the company's compliance with the corrective plan, and recommends appropriate regulatory action to the Commissioner.

Additionally, the Financial Affairs Section utilizes automated programs developed by the NAIC to monitor the financial condition of domestic companies. These programs include trending and other analytical documents compiled by the NAIC, as well as audit programs that are utilized as part of the analysis of the financial filings reviewed by the Financial Affairs Section.

The NAIC establishes standards that the Financial Affairs Section must follow in fulfilling its financial solvency monitoring duties for the State of Colorado. The DOI uses the NAIC check sheets as well as its own check sheets in determining financial solvency of life insurance companies.

The NAIC sets forth these standards as part of determining if a state will be considered an accredited state. The accreditation program was established to ensure uniformity of laws and solvency monitoring techniques between all the states. To be an accredited state, the state must annually complete a self-audit, answering a series of questions that demonstrate that the state continues to meet the minimum qualifications for NAIC accreditation. Every five years, the NAIC sends out a team of accreditation auditors to review the state's laws and examination and analysis oversight functions. If a state passes the audit, it is re-accredited for another five-year period.

Also, the Financial Affairs Section analyzes the annual statements of every life insurance company domiciled in Colorado as well as the financial statements, which are submitted on a quarterly basis to the DOI.

Financial Examination Section

The Financial Examination Section is responsible for conducting financial condition examinations (audits) of Colorado domestic insurers. Financial condition examinations are conducted to protect the public interest by:

- Detecting as early as possible those insurers with potential financial trouble;
- Assessing the financial condition and operating practices of insurers to determine compliance with applicable statutes, regulations and statutory accounting principles;
- Compiling information/documentation needed for timely, appropriate regulatory action; and

- Monitoring regulatory actions against insurers that are financially troubled or otherwise hazardous to the public.

Additionally, the Financial Examination Section conducts financial condition examinations of commercial insurers, including life insurance insurers, at least once every three to five years; however, examinations may be conducted on a more frequent basis as deemed necessary based on the assessed risk for each company. The primary focus of the financial examination is on domestic insurance companies in Colorado.

The DOI has the authority to take regulatory action against insurers based upon the findings resulting from the financial condition examinations. Examples of regulatory action taken include:

- Assessing penalties related to the examination findings;
- Requiring corrective action plans;
- Placing a company under supervision;
- Placing a company under receivership/conservatorship; and
- Placing a company under liquidation.

Compliance Section

The Compliance Section is charged with ensuring that all regulated entities are in compliance with all insurance laws. This section analyzes and applies insurance laws, identifies and analyzes legal and policy issues and develops strategies for addressing compliance issues. Additionally, the Compliance Section:

- Monitors the marketplace to identify new or emerging trends related to life insurance issues;
- Acts as a resource for market conduct investigations; and
- Conducts investigations involving life insurance producers and companies.

Investigations Section

The Investigations Section is responsible for investigating alleged violations of the insurance statutes by life insurance producers. The scope of responsibilities includes:

- Collecting evidence against a suspected violator;
- Contacting witnesses;

- Conducting interviews; and
- Taking written statements from alleged victims.

Upon receiving and analyzing information collected, the Investigations Section prepares cases that are referred to the Attorney General's Office, Business and Licensing Section for further action, or negotiates stipulated agreements. For example, the Investigations Section could settle a violation with a life producer by imposing a fine, revoking a life insurance license or suspending the life insurance producer.

Licensing Section

The Licensing Section monitors producer licensing in Colorado. This section ensures that individuals who are attempting to secure a life insurance producer license in Colorado complete the appropriate requirements.

Market Conduct Section

The Market Conduct Section assists the DOI in its oversight of the insurance industry in Colorado by conducting examinations on companies' market related activities. The purpose of market conduct examinations is to ensure that insurance companies are operating in compliance with Colorado laws, and that consumers and providers receive equitable treatment.

Market conduct examinations are periodic reviews of an insurance company's market-related activities, and may include any or all of the following operational areas:

- Marketing;
- Complaint handling;
- Producer oversight;
- Forms;
- Underwriting; and
- Claims.

Examinations are conducted in accordance with procedures developed by the DOI, based on model procedures developed by the NAIC. Examinations have typically involved onsite reviews of information provided by the company, and generally require a considerable period of time to complete.

Rates and Forms Section

After an insurance company is initially approved to sell products in Colorado, it submits for approval, copies of all policies and the rate structure for each policy to the Rates and Forms Section. The section reviews the policies (forms) to ensure they comply with Colorado laws, such as mandatory coverages and renewal provisions. The section also evaluates rates to ensure they are not excessive, inadequate or discriminatory. Once established in Colorado, a company does not generally need prior approval for new products. However, a company is still required to submit any new products to the section for review.

A company must also submit any new rates to the section. All rates are subject to the aforementioned requirements; that is, the new rates must not be excessive, inadequate or discriminatory. Most rates are certified as being in compliance by the issuing company and may be used when filed.

Consumer Affairs Section

The Consumer Affairs Section is responsible for fielding inquiries and complaints from consumers regarding life insurance issues. The Consumer Affairs Section handles a large volume of requests from a variety of sources, including:

- Individual consumers;
- Employers;
- Insurance producers (agents and brokers); and
- Companies concerned about competitors.

Licensing

Life Insurance Companies

Prior to selling life insurance products in Colorado, companies must acquire a Certificate of Authority (COA). A COA functions as a license and ensures that only responsible and financially viable companies provide insurance to consumers. An insurance carrier interested in offering its products in Colorado must apply to the DOI for a COA. The DOI, Corporate Affairs Section, reviews the application and conducts an extensive examination to verify and analyze the financial data submitted by the applicant. Due to the complexity of many applicants' financial conditions, the Corporate Affairs Section can enlist the services of other sections within the DOI, such as the Actuarial and Financial Affairs Sections, to assist in determining whether an applicant meets the financial criteria for licensure. Upon review of the information submitted by the applicant and the subsequent review by the Corporate Affairs Section, the DOI determines whether to approve or deny an applicant's request to obtain a license (COA) to sell life insurance in Colorado.

In order to qualify to receive a COA through the DOI, the insurance company must meet the capital and surplus requirements established in statute. The capital requirements are outlined in section 10-3-201, Colorado Revised Statutes (C.R.S.), which states:

> No insurance company, issued a [C]ertificate of [A]uthority on or after July 1, 1995, shall be permitted to do any business in this state, unless, in addition to the other requirements of law, it possesses the minimum capital or guaranty fund and an accumulated surplus in the form of cash or marketable securities which combined are at least equal . . . to $1.5 million for life insurance companies.

Additionally, the application fee for all COA applicants is $500 and is non-refundable. Upon granting a COA, the applicable fees for life insurance companies are graduated based on the previous year's premium collections. Table 1 outlines the annual fees a life insurance company possessing a COA in Colorado would be required to pay, pursuant to section 10-3-207(1), C.R.S.

Table 1
Life Insurance Company Annual Fees

Prior Year's Direct Written Premiums in Colorado	Fee
Less than $1 million	$670
More than $1 million but not exceeding $10 million	$2,010
More than $10 million	$3,345

Source: Section 10-3-207, C.R.S.

Life Insurance Producers

Life insurance producers sell, solicit, renew, negotiate and deliver life insurance products to consumers. There are several criteria a life insurance producer must satisfy prior to selling life insurance in Colorado, including the successful completion of:

- Prelicensure education;
- Attainment of a license to sell life insurance products in Colorado; and
- Continuing education credits.

Prelicensure education was established to provide a baseline level of competency for life insurance producers prior to selling products. Specific exemptions to required prelicensure education apply to life insurance producers who wish to apply for reinstatement of an expired or canceled existing insurance producer license if the license has been inactive for less than one year. Also, a prospective insurance producer may be extended an exemption from the prelicensure education requirement if he or she is applying for a temporary license. A temporary license can be used for no more than 180 days in Colorado. An insurance producer who was previously licensed in another state and completed the prelicensure requirements is not required to complete the prelicensure education requirement prior to receiving a license.

Prelicensure education for life insurance producers requires the completion of a minimum of 50 hours in an approved course or program addressing life insurance issues; a minimum of three hours of the 50 must cover life insurance industry code of ethics. The curriculum required is outlined in DOI Bulletin 13-94, which was issued to address specific subject areas required to fulfill the education mandates. The curriculum includes:[24]

- Contractual elements of a life insurance policy;
- Types of policies;
- Insurable interest;
- Making of the contract – offer and acceptance;
- Taxation issues;
- Underwriting; and
- Business issues.

[24] Division of Insurance. (January 1995) Core Curriculum Requirements for Prelicensing Courses. Bulletin 13-94. Retrieved August 8, 2006, from http://www.dora.state.co.us/insurance/regs/b13-94.pdf.

Prelicensure education and programs are subject to certification by the Commissioner. Any full-time program of prelicensure education operated by an insurance company with a qualified home office located in Colorado are not required to submit courses for review and certification by the Commissioner.[25] However, all other prelicensure education courses must be submitted to the Commissioner for approval. Requests must include a Program of Training Approval Request Form in addition to the following information:[26]

- Course or program outline showing individual topic(s) to be covered and hours to be satisfied;
- Copies of all proposed study materials. Publicly published text or other study materials require submission of the title, edition date, publisher, and authority. The DOI may request the text or other materials, as necessary;
- Instructor qualifications;
- Method of measuring satisfactory completion; and
- Payment of a nonrefundable fee, currently $20, as authorized by section 10-2-104, C.R.S.

Once approved, a course may be offered for five years without additional notice to the DOI so long as the course content is not materially changed, except to reflect changes in the insurance laws.

Upon successful completion of the prelicensure education, a candidate is eligible to pursue state licensure to sell life insurance products to consumers. A life insurance producer candidate must pass a written examination, which is administered by Promissor, an examination services vendor, and pay a $73-fee.

[25] Colorado Division of Insurance, Insurance Regulations. Minimum training requirements for Insurance Producer Licensure. DOI Regulation 1-2-5 § 6.
[26] Colorado Division of Insurance, Insurance Regulations. Minimum training requirements for Insurance Producer Licensure. DOI Regulation 1-2-5 § 6.

Table 2 illustrates the number of life insurance producers in Colorado for fiscal years 00-01 through 04-05.

Table 2
Life Insurance Producers in Colorado

Fiscal Year	Number of Licenses		
	New Licensees	Renewal	TOTAL*
00-01	5,287	9,455	14,742
01-02	6,277	8,538	14,815
02-03	7,025	11,190	18,215
03-04	6,200	14,662	20,862
04-05	3,208	7,163	10,371

*Total represents the total number of active licensees for the fiscal years indicated.

There are several types of applicants who are exempt from the written examination requirements. For example, an applicant who is currently licensed in another state to sell life insurance is not required to take the written examination or complete the prelicensure education requirements.

Additionally, life insurance producers who pass the written examination and obtain state licensure to sell life insurance in Colorado must satisfy continuing education requirements as delineated in DOI rules:[27]

- After the first continuation cycle, every producer who is licensed in Colorado and not otherwise specifically exempted, must complete 24 credit hours of approved courses biennially;
- At least 18 of the 24 credit hours must be in approved courses in the authorities for which the producer is licensed;
- At least three of the 24 hours of continuing education must be courses in ethics; and
- A maximum of six of the 24 hours must be in approved courses on subjects designated by the Commissioner whenever the Commissioner determines that continuing education in such subjects is needed to protect insurance consumers.

[27] Colorado Division of Insurance, Insurance Regulations. Continuing Education Requirements for Licensed Insurance Producers. DOI Regulation 1-2-4 § 5(A).

Life insurance producers are required to maintain accurate records of their continuing education requirements. Supporting documentation must be:[28]

- Maintained by the producer for five years following license continuation; and
- Available for audit by the DOI or the continuing education administrator.

Additionally, viatical settlement providers are required to obtain licensure in Colorado effective January 1, 2006. To obtain licensure in Colorado, viatical settlement providers must possess a current life insurance producer license for a minimum of one year.

An insurance producer must apply for a license and pay a $500-fee no later than 30 days after negotiating his or her first viatical settlement.

Licensing Examinations

The examination to obtain a life insurance producer license in Colorado was developed by staff within the DOI and Promissor, an examination services vendor. A development team was created to develop the examination. The development team consisted of DOI staff, industry personnel, and exam developers employed by Promissor.

DOI contracts with Promissor to administer the life insurance producer examination. Additionally, prior to taking the examination, a candidate must complete an application and pay the $73-fee. Once the applicable fees have been paid, a candidate must reserve a time to take the examination. The examination is offered Monday through Friday at various sites located throughout the state. Currently, there are seven test locations, including:

- Durango;
- Colorado Springs;
- Denver/Greenwood Village;
- Greeley;
- Grand Junction;
- Pueblo; and
- Denver/Wheat Ridge.

[28] Colorado Division of Insurance, Insurance Regulations. Continuing Education Requirements for Licensed Insurance Producers. DOI Regulation 1-2-4 § 5(D)(2).

The life insurance producer licensing examination consists of 50 questions from various disciplines. For example, candidates are required to know issues ranging from types of policies (e.g., whole life, term life, and annuities) to completing a life insurance producer license application in order to pass the examination. Also, the examination is computer-based and test results are available immediately following completion of the examination. Candidates who do not pass the examination are eligible to retake the examination after waiting one business day.

Table 3 outlines the number of examinations administered in Colorado between fiscal years 00-01 through 04-05, as well as the corresponding passing rate for the test.

Table 3
Examination Information of Life Insurance Producers

Fiscal Year	Number of Written Examinations Given	Pass Rate (%)
00-01	6,490	62
01-02	7,540	61
02-03	7,683	64
03-04	6,925	63
04-05	6,977	62

Financial Examinations

<u>Financial Examinations Section</u>

The Financial Examinations Section is required to conduct examinations on Colorado-domiciled life insurance companies every three to five years. Currently, there are nine life insurance companies domiciled in Colorado; however, examinations may be conducted on a more frequent basis as deemed necessary based on the assessed risk of each company. Table 4 illustrates the number of examinations conducted by the Financial Examinations Section during the past five fiscal years.

Table 4
Financial Examinations Audits of Life Insurance Companies

Fiscal Year	Number of Audits
00-01	3
01-02	0
02-03	3
03-04	5
04-05	0
Total	11

The variance in the number of audits conducted each year is attributable to the difference in size and complexity of specific companies scheduled for examination in a specific year. The size variance regarding life insurance companies domiciled in Colorado ranges from approximately $230,000 to $33.6 billion as of December 31, 2005. The size of a company is based on total net assets, including cash, investments, real estate, receivables, etc.

Market Conduct Section

The Market Conduct Section, in accordance with section 10-1-204, C.R.S., conducts examinations of life insurance companies in Colorado. The purpose of the examination is to determine whether a company is in compliance in the following areas:

- Marketing;
- Complaint handling;
- Producer oversight;
- Forms;
- Underwriting; and
- Claims.

Table 5 illustrates, for fiscal years 00-01 through 04-05, the number of examinations conducted in Colorado by the DOI regarding market conduct.

Table 5
Market Conduct Examinations of Life Insurance Companies

Fiscal Year	Number of Inspections
00-01	1
01-02	4
02-03	1
03-04	1
04-05	2
Total	9

Corporate Affairs Section

The Corporate Affairs Section issues, tracks and monitors COAs. Table 6 outlines the activity of the Corporate Affairs Section related to companies operating with a COA.

Table 6
Corporate Activities – Life Insurance Companies

Action	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
New Admissions					
Approved	6	4	1	6	2
Withdrawn	3	3	4	3	0
Certificate of Authority Surrenders	1	1	3	2	0
Company Suspensions		2	2	0	2
Mergers	19	15	16	20	11
Name Changes	17	6	15	13	9
Redomestication/Article Amendments	62	32	23	31	38
Change of Control	14	12	6	8	6
Amend Line of Authority	5	7	3	6	1
Address Change		179*	35	45	37

*First fiscal year to track this information.

Complaints/Disciplinary Actions

Financial Examinations Section

The Financial Examinations Section imposed penalties related to examination findings for various violations. Table 7 illustrates the fines imposed for fiscal years 00-01 through 04-05. For example, one company was penalized in 04-05 because it failed to provide a timely response to the DOI pursuant to examination requests for information.

Additionally, in fiscal year 03-04, a company was fined $20,000 for a variety of infractions. For example, the company failed to provide adequate information to the DOI during the examination. Specifically, the company failed to comply with Regulation 1-1-4 within the DOI regulation that states:[29]

> A company must ensure that documents or copies of documents are physically available to the DOI within 10 calendar days of request, or are immediately electronically available.

[29] Colorado Division of Insurance Regulations. Concerning the Maintenance of Offices in this State. DOI Regulation 1-1-4 § IV(C).

The company was also fined for failing to provide complete, accurate or relevant information that is essential for conducting a financial condition examination, including:

- Reinsurance treaties;
- Reinsurance agreements;
- Custodial agreement;
- Expense allocations, by line of business, classification or by affiliates;
- Annual statement; and
- Documentation to allow examiners and actuaries to readily verify amounts reported in the annual statement.

Table 7 illustrates total fines, both the number of fines and the value of fines, imposed on life insurance companies in Colorado.

Table 7
Fines Imposed on Life Insurance Companies

Fiscal Year	Number of Fines Imposed	Total Value of Fines Imposed
00-01	2	$3,500
01-02	1	$2,500
02-03	3	$4,500
03-04	3	$30,500
04-05	1	$5,500

Market Conduct Section

The Market Conduct Section imposed fines on companies in Colorado for various violations. Table 8 illustrates the fines imposed for fiscal years 00-01 through 04-05.

Table 8
Fines for Market Conduct and Annuity Examinations of Life Insurance Companies

Fiscal Year	Number of Fines Imposed	Total Value of Fines Imposed
00-01	1	$2,000
01-02	4	$4,700
02-03	1	$1,000
03-04	1	$1,500
04-05	2	$7,500

Most market conduct and annuity examinations identify issues of non-compliance with Colorado laws. As a result, civil penalties and corrective actions are included in the final DOI order issued to the company.

For example, in fiscal year 04-05, a total of $7,500 in penalties was assessed in connection with market conduct exams related to life and annuity companies. Penalties were assessed for non-compliance on a variety of issues, including:

- Failure to maintain records required for market conduct purposes;
- Failure to disclose the company's advertising rules to its agents;
- Failure to include certain required statements and/or disclosure information in the company's policy forms; and
- Failure to comply with replacement notification requirements.

Consumer Affairs Section

The Consumer Affairs Section fields a variety of complaints and inquires related to the life insurance industry in Colorado. Table 9 illustrates the total number of complaints and inquiries received between fiscal years 00-01 and 04-05.

Table 9
Total Number of Life Insurance Complaints and Inquiries to the Consumer Affairs Section

	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Complaints	204	218	179	183	172
Inquiries	53	38	39	43	20
TOTAL	257	256	218	226	192

Table 10 outlines the types complaints and inquiries that were submitted to the Consumer Affairs Section for the indicated fiscal years. The number of complaints and inquiries in Table 10 exceed the total number of complaints and inquiries in Table 9. This is due to the fact that when the Consumer Affairs Section receives complaints or inquiries, they may contain more than one issue. For example, a complaint may include issues with claim handling, marketing and sales, and policyholder service. Table 10 includes all of the issues that are included within a complaint, while Table 9 counts the complaint or inquiry as one single entry, regardless of the number of issues within the compliant or inquiry.

Table 10
Complaints and Inquiries to the Consumer Affairs Section by Type

Reasons	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05
Complaints					
Claim Handling	39	53	37	36	36
Marketing and Sales	38	54	48	71	53
Policyholder Service	140	139	136	143	134
Underwriting	28	41	32	41	25
Inquiries					
Claim Handling	13	10	9	15	5
Marketing and Sales	12	11	9	9	5
Policyholder Service	27	22	24	25	13
Underwriting	5	1	7	9	6

As outlined in Table 9, there are two different categories utilized by the Consumer Affairs Section to classify consumer information requests. The Consumer Affairs Section distinguishes complaints from inquiries usually by the manner in which both are received. Formal complaints are required to be submitted in writing or filed on-line through the DOI website, and require specific information about the company that is involved in the dispute. A complaint also requires specific information be provided, including:

- Policyholder's type of insurance;
- Policy number;
- Claim number;
- Contact information for the insurance agent;
- Description of the insurance issued; and
- Written statement of possible solutions to the issue.

Inquires are broad in scope and usually are answered with general information about a life insurance issue.

Both complaints and inquiries are divided into the same categories:

- Claim Handling;
- Marketing and Sales;
- Policyholder Service; and
- Underwriting.

Analysis and Recommendations

Recommendation 1 – Continue the functions of the Divison of Insurance related to the regulation of life insurance for nine years, until 2016.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety and welfare. The Division of Insurance (DOI) regulates the life insurance industry in Colorado. Due to the complexity of the life insurance products available as well as the potential for harm against the community, regulation of the life insurance industry is warranted. The life insurance products currently available include:

- Annuities (both fixed and variable);
- Term life insurance;
- Universal life insurance;
- Whole life insurance; and
- Viaticals.

Currently, more than 10,000 life insurance producers are licensed in Colorado. Coloradans possess approximately 2.5 million life insurance policies, with the total annual premiums for life insurance products reaching $1.8 billion and annuities accounting for $4 billion.

The DOI requires life insurance producers to complete prelicensure education requirements, pass a written examination and complete continuing education requirements. The aforementioned requirements establish a baseline competency for life insurance producers to sell life insurance products to residents of the state.

The DOI receives and responds to a number of consumer complaints annually. For example, the Consumer Affairs Section within the DOI received 172 consumer complaints and 20 inquiries in fiscal year 04-05. Some consumer complaints resulted in disciplinary action by the DOI regarding the life insurance producers, while many consumer complaints dictated that the DOI conduct market conduct or compliance audits on the life insurance companies.

Additionally, licensed insurance producers may sell various types (lines) of insurance products (e.g., life, auto, etc.). Insurance producers who commit violations are subject to fines, suspension or corrective actions by the DOI. In fiscal year 04-05, the Investigations Section researched 222 insurance producer complaints, and issued four enforcement actions for producers who possess a life insurance line of authority. The four enforcement actions reported by the DOI were taken against an insurance producer's license, rather than his or her line of authority, such as life. The DOI does not track enforcement actions by each line of authority; instead it tracks and issues enforcement actions to producers who are in violation. Therefore, it is impossible to determine whether the enforcement actions in fiscal year 04-05 were related to life insurance producers.

Further, the DOI may receive a complaint from a consumer about a life insurance producer. Upon reviewing the complaint, the DOI could conclude that the life insurance company was not in compliance with current laws and regulations within Colorado. The DOI, in an effort to correct the situation, may request that a compliance audit be completed on the company. The compliance audit may uncover business practices that are not in compliance with current laws and regulations in Colorado. The Compliance Section may mandate that the company correct the issue or issues. As a result, the consumer, in this scenario, would have his or her complaint addressed through the company.

According to 2005 data provided by DOI staff, 480 companies sell life insurance products to Colorado residents; 324 companies sell annuities, both fixed and variable.

Additionally, there are currently nine life insurance companies domiciled in Colorado that provide a variety of life insurance products. The total premium written (nationwide) in 2005 by the nine life insurance companies, including premiums written in the state was $9.6 billion. The total premium written by the nine life insurance companies in Colorado during the same time period was $1.5 billion.

In order to ensure financial solvency and market conduct related to ethical business practices, several sections within the DOI monitor the nine life insurance companies domiciled in Colorado. Between fiscal years 00-01 and 04-05, the DOI conducted a number of audits, including financial examinations. As a result of the audits, several fines were issued as well as corrective actions ordered. Financial examinations are proactive measures conducted in order to detect companies that may have financial solvency issues.

In sum, continuing the functions of the DOI related to the regulation of life insurance provides public protection by ensuring that life insurance producers as well as life insurance companies are conducting business consistent with the standards established by the State of Colorado. These measures serve to insulate the public from unscrupulous business practices.

The DOI annually fields a number of consumer complaints related to life insurance. As a result, the DOI researches consumer complaints and determines whether disciplinary action is necessary for the individual life insurance producer or if the life insurance company needs further examination. Although researching consumer complaints is a reactive measure, the DOI attempts to mitigate the problem through a variety of measures, including suspensions, fines, and corrective actions.

Additionally, the DOI proactively conducts market conduct audits, compliance audits and financial examinations to ensure life insurance companies are in compliance with statutes, regulations and statutory accounting principles as well as being financially solvent. By proactively conducting audits, the DOI is able to identify problems or potential problems, and issue corrective orders or fines, thereby enhancing public protection.

The regulation of life insurance producers and life insurance companies provides oversight by mitigating potential harm to consumers. Without such regulation, and in the absence of oversight, life insurance producers could potentially sell life insurance products that are not suitable to consumers. The DOI serves the important function of regulating and monitoring the suitability of life insurance products sold to consumers and in doing so provides an invaluable function within the market place and to consumers.

The regulation and oversight of life insurance companies provides consumers a heightened level of protection by ensuring that life insurance companies are financially stable and are able to pay claims to consumers who purchase life insurance products. Without regulation, life insurance companies could potentially collect premiums from consumers without the guaranteed ability to insure the claim payout.

Administrative Recommendation 1 – Implement a system that tracks enforcement actions by line of authority.

The DOI currently uses the Sircon computer database system for data storage and tracking of insurance complaints. The system tracks complaints by issues (e.g., policyholder service, claim handling, etc.) not by specific lines of authority. Insurance producers may have more than one line of authority (e.g., life, health, auto, etc.). In the event that a complaint is filed against an insurance producer, disciplinary actions are imposed on the producer's license, not on his or her specific line of authority.

As a result, during the sunset review process, it was difficult to quantify how many enforcement actions were taken by the DOI against life insurance producers based on life insurance issues. That is, the DOI database could not disaggregate enforcement actions based on specific lines of authority. Doing so would enable the quantification of enforcement actions to be differentiated by lines of authority.

To improve accountability and transparency within the regulatory process, the DOI should implement a system that tracks complaint information by each specific line of authority. In doing so, the DOI would be able to track and identify trends in life insurance complaints. This would allow the DOI to effectively identify complaint trends and address potential solutions, which could result in greater consumer protection related to life insurance products.

Appendix A – Sunset Statutory Evaluation Criteria

(I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;

(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;

(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;

(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;

(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;

(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;

(VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;

(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

(IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.