

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE SECTION 12938,  
THIS REPORT WILL BE MADE PUBLIC AND BE PUBLISHED ON THE  
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE  
MARKET CONDUCT EXAMINATION OF THE  
RATING AND UNDERWRITING PRACTICES OF THE**

**PACIFIC LIFE INSURANCE COMPANY  
(NAIC GROUP #0709)**

**AS OF NOVEMBER 30, 2012**

**ADOPTED ON DECEMBER 16, 2015**

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE  
MARKET CONDUCT DIVISION  
FIELD RATING AND UNDERWRITING BUREAU**

## **NOTICE**

The provisions of Section 735.5(a), (b), and (c) of the California Insurance Code describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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**DEPARTMENT OF INSURANCE**

CONSUMER SERVICES AND MARKET CONDUCT BRANCH  
FIELD RATING & UNDERWRITING BUREAU  
300 South Spring Street, 10<sup>th</sup> Floor  
Los Angeles, California 90013



December 16, 2015

The Honorable Dave Jones  
Insurance Commissioner  
State of California  
300 Capitol Mall  
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under the California Insurance Code Part 2, Chapter 1, Article 4, Sections 730, 733, and 736 and Article 6.5, Section 790.04, an examination was made of the rating and underwriting practices and procedures in California of the **PACIFIC LIFE INSURANCE COMPANY** (NAIC Group #0709), comprised in California of:

PACIFIC LIFE INSURANCE COMPANY (NAIC #67466, CDI #0161-0)

and

PACIFIC LIFE & ANNUITY COMPANY (NAIC #97268, CDI #3246-6)

hereinafter referred to as PLIC and PLAC individually, or collectively as Pacific Life, the Companies, or the Group. The California Department of Insurance will be referred to as the Department.

This report is made available for public inspection and is published on the California Department of Insurance website ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code Section 12938(b)(1).

## **FOREWORD**

This examination covered the rating and underwriting practices of the aforementioned Companies during the period from September 1, 2012 through November 30, 2012. The Pacific Life examination included a review of life and annuity lines of business. The examination was made to discover, in general, if these and other operating procedures of the Companies conform to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), and other applicable insurance law.

This report contains only alleged violations of CIC § 790.03 and its implementing regulations. A separate report pertains to laws other than CIC § 790.03.

This report is written in a “report by exception” format. This report does not present a comprehensive overview of the subject insurer’s practices. The report contains only a summary of pertinent information about the lines of business examined and of the non-compliant or problematic activities or results that were discovered during the course of the examination, along with the insurer’s proposals for correcting the deficiencies. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon, or criticize non-compliant activities in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices, and the Companies' responses, if any, have not undergone a formal administrative or judicial process.

## SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of the rates, rating plans, forms, and underwriting rules made or adopted by the Companies for use in California, including a review of records of data, statistics, or information maintained by the Companies in support of or relating to such rates, forms, and rules.
2. A review of the application of such rates, forms, and rules by means of an examination of policy files and related records.
3. A review of the Companies' advertising materials, which consisted of bulletins distributed to producers, consumer product brochures that are available in the offices of Pacific Life's brokers and appointed agents, and the Companies' internet site at [www.pacificlife.com](http://www.pacificlife.com).
4. A review of the Department's market analysis results, a review of any consumer complaints and inquiries received by the Department about these Companies in the year prior to the start of the examination, a review of prior market conduct examination reports on these Companies, and a review of any prior enforcement actions by the Department regarding these Companies.

The examination was conducted principally at Pacific Life's home office in Newport Beach, California.

## **EXECUTIVE SUMMARY**

This examination included a review of policies that were in-force, issued, declined, cancelled, withdrawn, replaced, lapsed, rescinded, or surrendered during the period of September 1, 2012 through November 30, 2012, referred to as the “review period,” and a review of the Companies’ general practices and procedures related to rating, underwriting, advertising and marketing, and risk selection. The examiners reviewed 136 in-force policies and 136 terminated and declined policies.

Within the scope of this report, one general practice was alleged to be in violation of CIC § 790.03. PLIC’s Wellness and Lifestyle Credit program rules and practices directed that an applicant’s eligibility for Wellness and Lifestyle Credits was based on whether the risk was retained or reinsured. Only retained policies would be considered for premium credits, and due to Pacific Life’s reinsurance agreements, a high volume of policyholders were excluded from the Wellness and Lifestyle Credit program. As a result, not all individuals of the same class and life expectancy who potentially qualified for the credits had the opportunity to be rated as such, creating the potential for unfair rate discrimination. Cash infusions in the aggregate amount of \$19,219 were returned to consumers as a result of the issue described in this report.

**RESULTS OF THE REVIEW OF MARKET ANALYSIS,**  
**CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS,**  
**AND PRIOR ENFORCEMENT ACTIONS**

The results of the market analysis review revealed that from December 1, 2011 to November 30, 2012, PLIC was subject to a regulatory action taken in the state of Florida. The action alleged an unfair business practice related to Florida's Freedom to Travel Act. No similar violations were found in the results of this examination.

The review of complaints revealed no specific areas of concern. Additionally, there were no violations of CIC § 790.03 alleged in the prior examination.

No prior enforcement actions for rating and underwriting violations of CIC § 790.03 have been taken against Pacific Life.

## **METHOD OF DOING BUSINESS**

Pacific Life Insurance Company is a stock life insurance company. PLIC's primary operating divisions are Life insurance and Retirement Solutions. PLIC offers 33 life insurance products through independent agents, wire houses, select marketing arrangements and the M Financial group and its brokers. The products sold are equity indexed universal life, variable universal life, universal life, whole and term life products. PLIC offers 17 annuity products including deferred variable annuities, deferred fixed annuities, single premium immediate annuities, institutional retirement annuities and institutional structured settlements. PLIC utilizes Financial Industry Regulatory Authority (FINRA) independent agents, financial institutions, and national/regional wire houses to market the annuity products, except for the Direct SPIA which is sold directly through a third party's internet platform.

Pacific Life & Annuity Company is a stock life insurance company domiciled in the State of Arizona, and a wholly owned subsidiary of Pacific Life Insurance Company. There are currently no life or annuity products offered for sale in California through PLAC and therefore no policy files from this Company were selected as part of this examination.

## **AUTHORIZED CLASSES OF BUSINESS**

The Companies are authorized to transact the following classes of business in California:

<u>Class No.</u>	<u>Class Of Insurance</u>	<u>PLIC</u>	<u>PLAC</u>
1.	Life	X	X
6.	Disability	X	X

## **LIFE INSURANCE PREMIUMS AND ANNUITY CONSIDERATIONS**

### Life Insurance Premiums and Annuity Considerations

The following tables show Pacific Life's California life insurance premiums and annuity considerations for calendar year 2012 based on data from the Annual Statements filed with the California Department of Insurance. The "Pacific Life, Consolidated" table shows premium writings and annuity considerations in California for all Pacific Life companies combined.

### **PACIFIC LIFE, CONSOLIDATED** California Life Insurance Premiums and Annuity Considerations for Calendar Year 2012

Description	Premiums and Annuities
Life Insurance	
Ordinary	\$456,412,739
Group	0
Annuity Considerations	
Ordinary	585,086,655
Group	157,293,726
Deposit-type Funds	
Ordinary	3,261,716
Group	5,960,109
Other Considerations	
Ordinary	0
Group	0
<b>TOTALS</b>	<b>\$1,208,014,945</b>

PACIFIC LIFE INSURANCE COMPANY  
California Life Insurance Premiums and Annuity Considerations for Calendar Year 2012

Description	Premiums and Annuities (1)
Life Insurance	
Ordinary	\$456,265,123
Group	0
Annuity Considerations	
Ordinary	578,355,348
Group	157,293,726
Deposit-type Funds	
Ordinary	3,261,716
Group	5,960,109
Other Considerations	
Ordinary	0
Group	0
TOTALS	\$1,201,136,022

PACIFIC LIFE & ANNUITY INSURANCE COMPANY  
California Life Insurance Premiums and Annuity Considerations for Calendar Year 2012

Description	Premiums and Annuities (1)
Life Insurance	
Ordinary	\$147,616
Group	0
Annuity Considerations	
Ordinary	6,731,307
Group	0
Deposit-type Funds	
Ordinary	0
Group	0
Other Considerations	
Ordinary	0
Group	0
TOTALS	\$6,878,923

## Accident and Health Insurance

The following table shows the California accident and health premium and claims experience for PLAC for calendar year 2012, based on data from the Annual Statement filed with the Department. No table is shown for PLIC, as there were no accident and health figures reported for this insurer. The loss ratio for each line is calculated by dividing Direct Losses Incurred by Direct Premiums Earned. (Figures with no meaning due to division by zero are indicated as “NM,” as are calculations including a negative premium earned.

### PACIFIC LIFE & ANNUITY COMPANY California Premium and Loss Experience for Accident and Health for the Year 2012

Accident and Health Coverage Category	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Losses Incurred (\$)	Loss Ratio (%)
Group Policies	\$0	\$0	\$489,530	NM %
Other Individual Policies	0	0	0	NM
TOTALS	\$0	\$0	\$489,530	NM %

## **LINES OF BUSINESS REVIEWED**

The Pacific Life examination included a review of the following lines of business.

### **LIFE INSURANCE**

The examination focused on individual life insurance policies (term life, whole life, universal life, indexed, and variable life) issued by PLIC. The following are the names and descriptions of the top life products for the product types included in the review:

#### **Life Insurance Policies**

- PAC 10 Term Insurance – The individual term life insurance policy guarantees level premiums and death benefit protection for the 10-year term of the policy. After the level period the policy may be continued subject to premium increases.
- Pacific Indexed Performer LT– This is an indexed universal life insurance policy that combines flexible death benefit protection with cash value growth opportunities via fixed and indexed interest-earning accounts. Beginning in policy year 11, the policyholder may receive an additional interest crediting bonus.
- Pacific Indexed Accumulator (PIA) III and IV– These are similar indexed universal life insurance policies that combine a flexible death benefit with a cash value growth component and adjustable premiums. As premiums are paid, a portion of the premium can be allocated into fixed and/or indexed accounts which offer a guaranteed minimum interest rate (floor). There are many specialty riders available, but where the PIA III offered the Accelerated Living Benefits Rider, the PIA IV does not.
- Versa-Flex Pro II-CV – This is a universal life insurance policy that combines flexible premiums and death benefits with a cash value potential based on guaranteed minimum rates and interest rate crediting bonuses. Up to 20 years of no-lapse guarantee protection is available, plus there is an option to convert the policy to a different policy in year 8 without additional underwriting or surrender charges.
- Pacific Select Exec V– This variable universal life insurance product combines tax-free death benefit protection with a wide selection of investment options to grow the cash value portion of the policy. The investment opportunities include 76 variable investments, a 1-year indexed option and 2 fixed options. Up to 25 transfers a year can be made between the variable investment options at no cost to the policyholder.

Additional life products reviewed were the Pacific Prime IUL, MVP Indexed LTP, MVP Indexed UL Survivor's, M's Versatile Product IX, Versa-Flex NLG, and the Custom COLI VIII.

## **ANNUITIES**

Individual annuities are offered on a fixed, variable or immediate-income basis. PLIC offers the Pacific Frontiers II, Pacific Income Provider, and Pacific Index Choice fixed annuities. In addition, PLIC offers variable annuities, including the Pacific Odyssey, Pacific One, Pacific One Select, Pacific Innovations Select, Pacific Voyages, Pacific Value Select, Pacific Journey Select and Pacific Destinations O-Series which were all included in the examiners file review. During the review period, three annuities featured a credit enhancement bonus based on purchase payments. PLIC also offers Pacific Destinations, Schwab Retirement Income Variable Annuity, Pacific Explorer, Pacific Expedition, SPIA, and SPIA (Ages 60 and Older).

## **DETAILS OF THE CURRENT EXAMINATION**

The following sections of the report provide summary information regarding the policy review, and regarding the statutes and regulations that were cited during the examination.

### **POLICY REVIEW RESULTS**

The policy sample was reviewed to determine if the Companies were properly and consistently applying their adopted rates, rating plans and underwriting rules at the individual policy level. The policies were selected at random from the Companies' listing of policies issued or in-force, and terminated or declined during the period of September 1, 2012 through November 30, 2012. The results of this review are listed below on the In-Force Policies table and the Terminated and Declined Transactions table.

The In-Force Policies table summarizes the number of policies reviewed, the number of policies with premium errors, the number of policies with non-premium errors, and the error ratios by program and company resulting from this examination. In general, policies containing errors that result in premium overcharges are corrected by policy endorsement, and refunds are made to the policyholder. Policies with errors that result in undercharges are marked for corrective action at the next policy anniversary date. Non-premium errors include forms, documentation and other errors not affecting premium. (Errors that result in premium changes under \$5 or 1% of the policy premium, whichever is greater, are counted as non-premium errors.)

The Terminated and Declined Transaction table shows the number of termination transactions reviewed per line of business. These include policies that had been declined, withdrawn, replaced, lapsed, rescinded or surrendered. The number of policies with errors noted in the declination or termination transaction is shown, as well as the overall ratio of terminations with errors.

Policy Review Result Summary Tables

In-Force Policies

<b>Program</b>	<b>No. of Policies Reviewed</b>	<b>No. with Premium Errors</b>	<b>Premium Error Ratio %</b>	<b>No. with Non-Premium Errors</b>	<b>Non-Premium Error Ratio %</b>
<b>Life Insurance</b>					
Term Life -	2	0	0%	0	0%
Universal Life -	3	0	0%	0	0%
Variable Universal Life -	3	0	0%	0	0%
Indexed Universal Life -	60	2	3%	2	3%
<b>Total Life</b>	<b>68</b>	<b>2</b>	<b>3%</b>	<b>2</b>	<b>3%</b>
<b>Annuities</b>					
Fixed -	17	0	0%	0	0%
Variable -	51	0	0%	0	0%
<b>Total Annuities</b>	<b>68</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0%</b>
<b>TOTALS</b>	<b>136</b>	<b>2</b>	<b>1%</b>	<b>2</b>	<b>1%</b>

Terminated and Declined Transactions

<b>Program</b>	<b>No. of Policies Reviewed</b>	<b>No. with Errors</b>	<b>Error Ratio %</b>
<b>Life Insurance</b>			
Individual Life			
Declined	40	1	3%
Death Paid/Matured	15	0	0%
Surrendered	20	0	0%
Lapsed	20	0	0%
<b>Total Life</b>	<b>95</b>	<b>1</b>	<b>1%</b>
<b>Annuities</b>			
Surrendered	13	0	0
Replacement	1	0	0
Not-taken	13	0	0
Death Paid	14	0	0
<b>Total Annuities</b>	<b>41</b>	<b>0</b>	<b>0</b>
<b>TOTALS</b>	<b>136</b>	<b>1</b>	<b>&lt; 1%</b>

## **GENERAL PRACTICES REVIEW RESULTS**

The examination included a review of the rates, rating plans, forms, and underwriting rules made or adopted by Regulated for use in California. The table below identifies the provision(s) of CIC § 790.03 and/or its implementing regulations for which violations were alleged during the examination. Each law listed on the following table may be due to a general practice which affects many policyholders. One practice can also violate multiple laws or occur across multiple companies within an insurer group.

### **SUMMARY OF RELEVANT LAWS**

	<b>Code Citation</b>	<b>Description of Law</b>
1.	CIC § 790.03(f)(1)	Making or permitting any unfair discrimination between individuals of the same class or equal expectation of life in the rates charged for a contract of life insurance or life annuity or in the dividends or other benefits payable, or in any other of the terms and conditions of the contract is a prohibited act.

## **SUMMARY OF EXAMINATION RESULTS**

During the Pacific Life examination, and within the scope of this report, one general practice was alleged to be in violation of CIC § 790.03 and its implementing regulations. In response to each of the Department's allegations of non-compliance, Pacific Life was required to identify remedial or corrective action that was or will be taken to correct the deficiency. Regardless of actions taken or proposed by the insurer in this report, it is the insurer's obligation to ensure that compliance with California law is maintained continuously. Any non-compliant practice identified in this report may extend to other jurisdictions. The Companies were asked if they intend to take corrective action in all jurisdictions where applicable. The Companies implemented corrective actions in all jurisdictions.

Cash infusions in the aggregate amount of \$19,219 were returned to consumers as a result of the issue described in this report.

### **Individual Life**

1. Pacific Life's rating plan includes a Wellness and Lifestyle Credits program that was applied only to fully underwritten life policies retained by Pacific Life. These credits were not made available to owners of policies subject to reinsurance although the products that were reinsured utilized the same policy forms and provisions, cost of insurance, and underwriting guidelines as the policies retained by Pacific Life. When applied, Wellness and Lifestyle Credits could move a risk to a better risk classification. The failure to apply the Wellness and Lifestyle Credit program to all individuals purchasing the same type of life insurance policy creates the potential for unfair rate discrimination, because similar risks could be treated differently.

#### **CIC § 790.03 (f)(1)**

**Summary of Insurer Response:** Pacific Life disagrees that the application of its Wellness and Lifestyle Credits program resulted in an unfairly discriminatory practice. Nevertheless, Pacific Life made program adjustments to address the minimal impact of the concerns raised by the Department.

Pacific Life asserts that making the Wellness and Lifestyle Credits available to only fully-retained policies was not inconsistent with the law or the Company's policies, and was not unfairly discriminatory, as the credits were made available to all members of all classes whose policies were fully retained.

Pacific Life has made the following adjustments to the Wellness and Lifestyle Credits program:

- a. All policies issued prior to November 1, 2013, that were not underwritten by Pacific Life, were reviewed to determine if those policies would have qualified for credits.
  - (1) One surrendered policy qualified for an improved risk class and was provided \$27 in additional surrender proceeds.
  - (2) 223 in-force policies would have qualified, at the time of underwriting, for sufficient credits to place the insured in an improved risk classification. Those policies were allocated cash amounts totaling \$19,219 and were updated to the better risk classification going forward. The allocations and risk classification updates were completed February 11, 2015.
  - (3) No insured under a California-issued lapsed policy had died and there were no death claims associated with the lapsed policies.
  - (4) The one California-issued policy that resulted in a death claim was ineligible for an improved risk classification or an increased death benefit amount.
- b. Pacific Life reached agreements with its reinsurers to incorporate a modified Wellness and Lifestyle Credits program into its reinsurance treaties for all reinsured policies. The Wellness and Lifestyle Credits program for reinsured business is now identical to the Wellness and Lifestyle Credits program for retained business. The modified Wellness and Lifestyle credits program was effective November 1, 2013.