

EXAMINATION REPORT
of the
VIRGINIA LIFE, ACCIDENT AND SICKNESS
INSURANCE GUARANTY ASSOCIATION
Richmond, Virginia
as of
December 31, 2019

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

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I, Scott A. White, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Examination Report of the Virginia Life, Accident and Sickness Insurance Guaranty Association as of December 31, 2019, is a true copy of the original report on file with this Bureau.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed to the original the seal of the Bureau at the City
of Richmond, Virginia this 29th day of October 2020

Scott A. White
Commissioner of Insurance



TABLE OF CONTENTS

SCOPE.....1

HISTORY 2

MANAGEMENT AND CONTROL..... 2

PLAN OF OPERATION..... 3

FINANCIAL STATEMENTS..... 6

ACKNOWLEDGMENT 10

Richmond, Virginia
August 19, 2020

Honorable Scott A. White
Commissioner of Insurance
Commonwealth of Virginia
Richmond, Virginia

Dear Sir:

In accordance to your instructions and by authority of § 38.2-1711 of the Code of Virginia, an examination of the affairs and financial condition of the

**VIRGINIA LIFE, ACCIDENT AND SICKNESS
INSURANCE GUARANTY ASSOCIATION**

Richmond, Virginia

hereinafter referred to as the Association, has been completed. The report thereon is submitted for your consideration.

SCOPE OF THE EXAMINATION

The last examination of the Association was made by representatives of the State Corporation Commission's Bureau of Insurance (Bureau) as of December 31, 2016. The current examination covers the three-year period from January 1, 2017 through December 31, 2019.

The examination was conducted in accordance with the NAIC *Financial Condition Examiners Handbook* (Handbook). The Handbook requires that the Bureau plan and perform the examination to evaluate the Association's financial condition, assess corporate governance, identify current and prospective risks of the Association, and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Association were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with Statutory Accounting Principles. The examination does not attest to the fair presentation of the financial statements included herein.

This examination report includes significant findings of fact and general information about the Association and its financial condition. There may be other items identified during the examination that, due to their nature (e.g., subjective conclusions, proprietary information, etc.), are not included within the examination report but separately communicated to other regulators and/or the Association.

HISTORY

The Association was created in 1976 by the Life, Accident and Sickness Insurance Guaranty Association Act (Article 5.2, Chapter 9 of Title 38.1 of the [former] Code of Virginia). Its purpose is to protect policyholders, insureds, beneficiaries, annuitants, payees and assignees of life insurance policies, accident and sickness insurance policies, which for the purposes of this chapter, effective July 1, 2018, includes health maintenance organization subscriber contracts and certificates, or annuities and supplemental contracts thereto. Subject to certain limitations, protection is afforded against failure in the performance of contractual obligations due to the impairment or insolvency of insurers issuing such policies or contracts.

MANAGEMENT AND CONTROL

Management of the Association, according to the Plan of Operation, is vested in a board of directors (board) consisting of not less than nine nor more than thirteen-member insurers elected by the members for three-year terms. Code of Virginia § 38.2-1703 requires that all domestic and foreign insurers be fairly represented. A majority of the board constitutes a quorum for the transaction of business. The acts of a majority of members present at any meeting for which there is a quorum are the acts of the board. However, an affirmative vote by a majority of the full board is required to (1) approve a contract with a servicing facility, (2) levy an assessment or provide for a refund, (3) borrow money or establish or change a line of credit, (4) approve reinsurance contracts, assumption agreements or guaranty plans, (5) adopt amendments to the Plan of Operation, (6) establish or change investment guidelines and oversee compliance, (7) retain or discharge auditors, and (8) retain or discharge an Executive Director.

The Association's Plan of Operation was last amended by the Board on December 12, 2019 and approved by the Commission on January 22, 2020. The board meets at least annually, and at December 31, 2019, was comprised as follows:

Genworth Life & Annuity Insurance Company
Settlers Life Insurance Company
Anthem Health Plans of Virginia, Inc.
Lincoln National Life Insurance Company

Voya Retirement Insurance and Annuity Company
 Teachers Insurance and Annuity Association of America
 Shenandoah Life Insurance Company
 New York Life Insurance Company
 United Healthcare Insurance Company
 Metropolitan Life Insurance Company
 Brighthouse Life Insurance Company
 Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
 Coventry Health Care of Virginia, Inc.

As provided in the Plan of Operation, elected officers at December 31, 2019, were as follows:

| <u>Officers</u> | <u>Company</u> | <u>Represented by</u> |
|-----------------|---|-----------------------|
| Chairman | Anthem Health Plans of Virginia, Inc. | S. Owen Hunt |
| Treasurer | Shenandoah Life Insurance Company | Kathleen M. Kronau |
| Secretary | VOYA Retirement Insurance and Annuity Company | Beth P. Lindsay |

On January 1, 1999, the Association entered into a service agreement with APM Management Services, Inc. ("APM"), an organization owned and operated by former employees of the Association. The agreement requires APM to provide certain management and accounting services to the Association for an initial monthly fee of \$13,750 or \$165,000 annually. These fees are subject to an annual review with increases or decreases subject to mutual assent by the Association and APM and were increased in 2019 to \$285,020 annually. APM agreed to maintain fidelity bonds and insurance policies of the same type that were in effect at the date of the agreement. These policies named the Association as an additional insured.

PLAN OF OPERATION

The Association's members include insurers or health maintenance organizations licensed to contract in the Commonwealth of Virginia any class of insurance or health maintenance organization business to which this chapter applies and includes dental plan organizations as provided in Chapter 61. Excluded by law, however, are cooperative

nonprofit life benefit companies, mutual assessment life, accident and sickness insurance companies, burial societies, fraternal benefit societies, dental and optometric service plans and health services plans not subject to Code of Virginia § 38.2-4213. Contracts or certificates that are not issued to and owned by an individual are also excluded, with limited exceptions.

Upon determination that a member insurer has become insolvent, the Association is obligated to the extent of covered claims, but not exceeding \$300,000 in life insurance death benefits, including not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance; \$500,000 for health benefit plans, \$100,000 for coverage not defined as disability insurance, basic hospital, medical and surgical insurance, major medical insurance or long-term care insurance including any net cash surrender and net cash withdrawal values, and \$300,000 for accident and sickness insurance that constitutes disability insurance or long-term care insurance; \$250,000 in the present value of annuity benefits, including any net cash surrender and net cash withdrawal values; and \$250,000 in the present value of annuity benefits where the annuities are established and maintained as eligible individual retirement accounts and deferred compensation plan accounts. However, the Association shall not be liable to expend more than \$350,000, in the aggregate, with respect to any one individual, except for benefits for basic hospital, medical and surgical insurance, and major medical insurance in which case the aggregate liability of the Association shall not exceed \$500,000 with respect to any one individual.

For purposes of administration and assessment, the Association is required to maintain three separate accounts: a life insurance account, an accident and sickness insurance account and an annuity account. Claims and expenses paid are to be allocated among the three accounts separately. Assessments are to be made for each account against members in amounts necessary to pay obligations.

Code of Virginia § 38.2-1705 B provides for two classes of assessments:

1. Class A assessments for administrative costs and other general expenses not necessarily related to a particular impaired or insolvent insurer.
2. Class B assessments for impaired or insolvent insurers.

The amount of Class A assessments is determined by the board and may be on a pro-rata or non-pro-rata basis. If pro-rata, the board may provide that such assessment shall be credited against future insolvency assessments. A non-pro-rata assessment shall not exceed \$500 per company in any one calendar year. Class B assessments are made as provided by the Code of Virginia. The total of all assessments authorized by the Association with respect to a member insurer for each sub account of the life insurance and annuity account and for the accident and sickness account shall not in any one

calendar year exceed two percent of that member insurer's average annual premiums received in the Commonwealth on the policies and contracts covered by the subaccount or account during the three calendar years preceding the year in which the member insurer became an impaired or insolvent insurer. The Code of Virginia further provides that certificates of contribution shall be issued by the Association for assessments other than Class A and may be shown by the member insurer as an asset in its annual statement. Amounts that are amortized during each calendar year shall be deducted from the premium tax liability incurred on business transacted in the Commonwealth of Virginia for that calendar year, provided the Association diligently pursues all rights available to it to recoup money spent fulfilling its responsibilities.

The Association is a member of the National Organization of Life & Health Insurance Guaranty Associations (NOLHGA), which provides information on pending insolvencies and claims administration. Through its affiliation with NOLHGA, the Association participates in a number of service agreements and reinsurance transactions involving impaired or insolvent companies.

During the period January 1, 2017 to December 31, 2019, the Association's board of directors authorized two Class B assessments, and the Executive Committee authorized billing the uncollected portion of the 2017 Class B assessment. The 2017 Class B assessment could not be fully collected due to the 2% capacity limit in the old law. The assessments were approved at the Annual Board Meetings. These assessments were billed on March 30, 2017, November 15, 2017, June 18, 2018, and November 8, 2019 respectively. Three Class A assessments were authorized and billed on March 30, 2017, March 30, 2018, and April 15, 2019.

During the period under review the following companies that were licensed in Virginia were determined to be impaired or insolvent:

| <u>Name</u> | <u>State of Domicile</u> |
|---|--------------------------|
| Penn Treaty Network America Insurance Company | Pennsylvania |
| American Network Insurance Company | Pennsylvania |
| AF&L Insurance Company | Pennsylvania |
| Senior American Insurance Company | Pennsylvania |
| North Carolina Mutual Life Insurance Company | North Carolina |
| Colorado Bankers Life Insurance Company | North Carolina |
| Bankers Life Insurance Company | North Carolina |
| Southland National Insurance Company | North Carolina |
| Pavonia Life Insurance Company | Michigan |

FINANCIAL STATEMENTS

There follows, on a modified cash basis, a statement reflecting the financial condition of the Association at December 31, 2019, a statement of revenues and expenses for the year ended December 31, 2019 and a statement of changes in account balances for the period under review. The statements made in this part of the report and the amounts included therein are generally in the form of the financial report filed with the Commission.

STATEMENT OF ASSETS AND NET ASSETS**Assets**

| | |
|---------------------------|----------------------------|
| Cash and cash equivalents | <u>\$18,505,315</u> |
| Total Assets | <u><u>\$18,505,315</u></u> |

Net Assets

| | |
|--|----------------------------|
| Administrative - unrestricted | \$2,661,742 |
| Life - temporarily restricted | 495,404 |
| Accident and sickness - temporarily restricted | 13,867,600 |
| Annuity - temporarily restricted | <u>1,480,569</u> |
| Net Assets | <u><u>\$18,505,315</u></u> |

STATEMENT OF REVENUES COLLECTED AND EXPENSES PAID
YEAR ENDED DECEMBER 31, 2019

| | Unrestricted | | Temporarily Restricted | | |
|---|----------------|-------------|--------------------------|----------|----------------|
| | Administrative | Life | Accident and Sickness | Annuity | Total |
| Revenues Collected | | | | | |
| Premiums collected | | | \$16,677 | | \$16,677 |
| Class A assessments | 399,000 | | | | 399,000 |
| Class B assessments | | | 13,912,167 | | 13,912,167 |
| Class B assessment refunds | | | (150) | | (150) |
| Estate Distributions | | | 135,978 | | 135,978 |
| Interest Income | 47,293 | 9,947 | 111,737 | 25,414 | 194,391 |
| | \$446,293 | \$9,947 | \$14,176,409 | \$25,414 | \$14,658,063 |
| Expenses Paid | | | | | |
| Insolvency and allocated administrative expenses | | \$144,018 | \$28,864,542 | \$14,578 | \$29,023,138 |
| Unallocated administrative expenditures | 131,644 | | | | 131,644 |
| | \$131,644 | \$144,018 | \$28,864,542 | \$14,578 | \$29,154,782 |
| Change in Net Assets | \$314,649 | (\$134,071) | (\$14,688,133) | \$10,836 | (\$14,496,719) |

STATEMENT OF CHANGES IN ACCOUNT BALANCES

| | <u>Administrative</u> | <u>Life</u> | <u>Accident & Sickness</u> | <u>Annuity</u> | <u>Total</u> |
|--|---------------------------|-------------------------|------------------------------------|---------------------------|----------------------------|
| Net Assets, December 31, 2016 | \$1,844,394 | \$783,109 | (\$1,957,473) | \$1,298,826 | \$1,968,856 |
| Excess (deficiency) of receipts over disbursements - 2017 | <u>266,304</u> | <u>(78,783)</u> | <u>25,522,374</u> | <u>186,263</u> | <u>25,896,158</u> |
| Balance, December 31, 2017 | \$2,110,698 | \$704,326 | \$23,564,901 | \$1,485,089 | \$27,865,014 |
| Excess (deficiency) of receipts over disbursements - 2018 | <u>236,395</u> | <u>(74,851)</u> | <u>4,990,832</u> | <u>(15,356)</u> | <u>5,137,020</u> |
| Balance, December 31, 2018 | \$2,347,093 | \$629,475 | \$28,555,733 | \$1,469,733 | \$33,002,034 |
| Excess (deficiency) of receipts over disbursements - 2019 | <u>314,649</u> | <u>(134,071)</u> | <u>(14,688,133)</u> | <u>10,836</u> | <u>(14,496,719)</u> |
| Net Assets, December 31, 2019 | <u><u>\$2,661,742</u></u> | <u><u>\$495,404</u></u> | <u><u>\$13,867,600</u></u> | <u><u>\$1,480,569</u></u> | <u><u>\$18,505,315</u></u> |

ACKNOWLEDGMENT

The courteous cooperation extended by the representatives of the Association during the course of the examination was sincerely appreciated.

In addition to the undersigned, William K. Knight, CFE participated in the work of the examination.

Respectfully submitted,

Chris Collins

Chris Collins, CFE
Senior Insurance Examiner
Commonwealth of Virginia

Virginia Life, Accident & Sickness Insurance Guaranty Association

October 21, 2020

Mr. David H. Smith, CFE, CPA, CPCU
Chief Examiner
State Corporation Commission
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23218

RE: Examination Report as of December 31, 2019

Dear Mr. Smith:

We acknowledge receipt of the Association's Examination Report as of December 31, 2019. We are very pleased that the report does not contain any recommendations for corrective action. Please provide me with three copies of the final report.

Sincerely,

Margaret M. Parker

Margaret M. Parker
Executive Director

Cc: S. Owen Hunt, Chairman