STATE OF NORTH DAKOTA BISMARCK, NORTH DAKOTA

REPORT OF EXAMINATION

OF

NORTH DAKOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

FARGO, NORTH DAKOTA

AS OF JUNE 30, 2020

STATE OF NORTH DAKOTA INSURANCE DEPARTMENT

I, the undersigned, Commissioner of Insurance of the State of North Dakota do hereby certify that

I have compared the annexed copy of the Report of Examination of the

North Dakota Life and Health Insurance Guaranty Association

Fargo, North Dakota

as of June 30, 2020, with the original on file in this Department and that the same is a correct transcript therefrom and of the whole of said original.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City of Bismarck, this 31 day of

2022.

Jon Godfread

Insurance Commissioner

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Honorable Jon Godfread Insurance Commissioner North Dakota Insurance Department 600 East Boulevard Avenue Bismarck, ND 58505-0320

Dear Commissioner:

Pursuant to your instructions and statutory requirements, an examination has been made of the books, records, and financial condition of

North Dakota Life and Health Insurance Guaranty Association Fargo, North Dakota

The North Dakota Life and Health Insurance Guaranty Association, hereinafter referred to as the "Association" was last examined as of June 30, 2015, by the North Dakota Insurance Department, hereinafter referred to as the "Department."

The present examination was conducted as of June 30, 2020, by representatives of the Department.

SCOPE OF EXAMINATION

This examination was a financial examination conducted in accordance with North Dakota Century Code "N.D.C.C." §§ 26.1-38.1-12 and 26.1-03-19.3 and observed guidelines and procedures contained in the NAIC *Financial Condition Examiners Handbook*. The examination was conducted to determine the Association's financial condition, its compliance with statutes, and to review its corporate affairs. This statutory examination covers the period from July 1, 2015 to June 30, 2020, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of this statutory examination.

STATUS OF PRIOR EXAM FINDINGS

The Association had no exam findings in the previous examination.

SUMMARY OF SIGNIFICANT FINDINGS

There were no material adverse findings or material changes in the financial statements.

SUBSEQUENT EVENTS

On December 18, 2020, the Association's Board of Directors approved a Class B assessment to fund payments for the Life & Health Insurance Company of America and the Penn Treaty Network America insolvencies. The Association reported during its 2021 Annual meeting that this assessment generated \$4,378,629 in revenue.

HISTORY

General

The Association was created on July 1, 1983, under the provisions of N.D.C.C. Chapter 26.1-38.1 as a nonprofit, unincorporated legal entity. The purpose of the Association is to provide funds for the continuation of in-force contracts and payment of contractual obligations under certain life, health, and annuity insurance contracts of insolvent insurance companies. Except for entities specifically exempted by N.D.C.C. § 26.1-38.1-02(12), all insurers, including nonprofit health service corporations, licensed or holding a Certificate of Authority to transact in this state any kind of insurance for which coverage is provided under N.D.C.C. § 26.1-38.1-01, and includes any insurer whose license or Certificate of Authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn must be and remain members of the Association as a condition of their authority to transact insurance in the State of North Dakota. For the purpose of administration and assessment, the Association is required to maintain separate life, health, annuity, and unallocated annuity accounts.

The Association has received a determination from the Internal Revenue Service that it is exempt from federal income taxes under the provisions of the Internal Revenue Code Section 501(C)(6).

Board of Directors

The Plan of Operation specifies that the Board shall consist of seven to nine member insurers who shall be selected by member insurers, subject to the approval of the Commissioner.

The Plan of Operation specifies that the annual meeting of the Board of Directors shall be held at a place designated by the Board on the third Tuesday in the month of July, immediately following the annual meeting of the member insurers, unless the Chair, upon reasonable notice, shall designate some other time, day, or place. At each annual meeting the Board shall elect officers; appoint committees; receive reports from the Commissioner; review the plan and submit proposed amendments, if any, to the Commissioner for approval; review each outstanding contract or agreement; review operating expenses and outstanding contractual obligations and determine

whether an assessment, or a refund of a prior assessment, is necessary for the proper administration of the Association and, if so, the amount of either.

Regular meetings, if any, shall be scheduled by the Board at its annual meeting. Notice of such meetings shall be given to the Commissioner. Special meetings may be called by the Chair and shall be called upon the request of any two Board members, upon not less than two days' notice to each Board member.

The Board of Directors held an Annual Meeting, in compliance with the Plan of Operation, in each of the years covered by this statutory examination.

Directors duly elected on July 31, 2019 and serving June 30, 2020, together with their addresses and business affiliations are as follows:

<u>Name</u>	Term Expires	Business Affiliation
John Baumgardner II Portland, Oregon	2020	Director, EB Compliance Standard Insurance Company
David Breuer Fargo, North Dakota	2022	Executive VP of Finance & Chief Financial Officer Blue Cross Blue Shield of North Dakota
Laura Haines Washington, D.C.	2021	Senior Vice President, Government Affairs The Guardian Life Insurance Company of America
James M. Harrison Des Moines, Iowa	2022	Counsel, Government Relations Principal Life Insurance Company
Julie Tindall Milwaukee, Wisconsin	2020	CPA, Controllers Department Northwestern Mutual Life Insurance Company
Jessica Walker Mount Airy, Maryland	2021	Director, National Regulatory Affairs UnitedHealthcare Insurance Company

Officers

Pursuant to the Plan of Operation, the Board elected a Chair, Vice Chair, Secretary, and Treasurer each to one-year terms during the exam period. Officers elected at the July 31, 2019, annual meeting of the Board of Directors and serving at June 30, 2020, were as follows:

<u>Name</u>	<u>Title</u>
David Breuer	Chair
John Baumgardner II	Vice Chair
Laura Haines	Secretary and Treasurer

Executive Committee

The Plan of Operation provides that the Board of Directors may appoint from among its members an Executive Committee of three members, including the Chair of the Board, the Vice Chair and either the Secretary or Treasurer. The Board of Directors reserves to itself the sole power to determine assessments. Subject to the foregoing limitations, the Executive Committee shall possess and exercise all other powers of the Board of Directors during intervals between meetings. Members of the Executive Committee as of June 30, 2020, were as follows:

David Breuer
John Baumgardner II
Laura Haines

CORPORATE RECORDS

Plan of Operation

On August 23, 2018, the Association approved minor changes to its Plan of Operations. The Association again approved changes to the Plan of Operations on September 4, 2019. This amendment defined a framework for allocating Class B assessments attributable to the Association's obligations for any covered long-term care policies between life and health companies.

Board of Directors and Committee Minutes

The Board of Directors meeting minutes for the period under examination were reviewed. The minutes indicate that meetings are well attended and held in accordance with the Plan of Operation. The deliberations of the Board were adequately documented.

ASSESSMENTS

N.D.C.C. § 26.1-38.1-06 provides that for the purpose of providing funds necessary to carry out the powers and duties of the Association, the Board of Directors shall assess the member insurers, separately for each account, at such time and for such amounts as the Board finds necessary. Assessments are due within 30 days and accrue interest at 18 percent per annum on and after the due date.

Class A assessments are made for the purpose of meeting administrative, legal costs, and other general expenses. Class A assessments must be made whether or not it is impairment or insolvency related and must be authorized and called on a non-pro rata basis. Non-pro rata Class A assessments are assessed on a per capita basis and must be approved by the Board of Directors.

Class B assessments are made to the extent necessary to carry out the powers and duties of the Association with regard to an impaired or insolvent insurer. Class B assessments are allocated among the member insurers based upon premiums paid on business issued in North Dakota by each assessed member insurer. Class B assessments against member insurers must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to such premiums received on business in this state for such calendar years by all assessed member insurers. The total of all assessments upon a member insurer in any one year may not exceed two percent of such insurer's average premiums received in this state during the three years preceding the year in which the insurer became insolvent or impaired.

The Plan of Operation permits the Board to abate or defer an assessment if, in its opinion, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligation, or the insurer has been placed under an Order of Rehabilitation or an Order of Liquidation.

ESTATE DISTRIBUTIONS

The Association has a priority claim over general creditors of an insolvent insurer. The amount of the priority claims is equal to the claims paid by the Association pursuant to the Act. Distributions and refunds received from liquidators aggregated \$50,742 during the period under review.

CLAIMS

The benefits for which the Association may become liable may in no event exceed the lesser of:

- The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer.
- With respect to one life regardless of the number of policies or contracts:

- 1. \$300,000 of life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values of life insurance;
- 2. \$500,000 of basic hospital, medical and surgical, or major medical insurance;
- 3. \$300,000 of disability or long-term care insurance; or
- 4. \$250,000 of the present value of annuity benefits, government retirement benefit plans established under section 401(k), 403(b), or 457 of the Internal Revenue Code that are covered by an unallocated annuity contract, and structured settlement annuity plans.

The following is a schedule of benefits and total expenses paid by insolvency during the period under examination:

Insolvency	2016	2017	2018	2019	2020	Total
Executive Life	485	1,009	900	1,133	1,146	4,673
Executive Life / KCL	168	24	43	156	43	434
Life & Health Ins Co of Am.	158,880	199,824	177,916	150,834	167,529	854,983
Lincoln Memorial	571	226	1,526	765	291	3,379
Medical Savings	301	137	0	0	0	438
Midwest International	546	23	0	0	0	569
National Heritage	956	35	55	148	10	1,204
National States	114	58	211	170	114	667
Penn Treaty	0	1,220,523	357,443	353,891	350,266	2,282,123
Reliance Insurance	38	0	0	0	0	38
Senior Health Insurance	0	0	0	0	5,585	5,585
Other Companies	5,128	257	321	603	5,212	11,521
Total	<u>\$167,187</u>	<u>\$1,422.116</u>	<u>\$538,415</u>	\$507,700	<u>\$530,196</u>	<u>\$3,165,614</u>

Refunds

The Plan of Operation provides that the Board of Directors may refund by payment or credit against Class B assessments to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to fund obligations of the Association for that account. No refunds were made during the examination period.

ADMINISTRATION AND CONSULTANTS

The Association contracts with an Executive Director and an Accountant who perform various administrative functions for the Association.

With each insolvency, NOLHGA evaluates, negotiates and selects third party administrators and consultants where necessary and each participating guaranty association either opts-in or selects its own consultant. The Association is currently using all NOLHGA selected consultants and administrators for insolvencies.

ACCOUNTS AND RECORDS

The Association maintains its records on the cash basis. Under the cash basis of accounting, income is recognized when received and expenses are recognized when paid.

The records of the Association consist of a cash receipts journal, a cash disbursements journal, check register, corporate records, and subsidiary records necessary for the preparation of statistical data.

The Association allocates Class B and Class A expenses to the various accounts and sub-accounts using various expense categories, e.g., claims, administration, legal, and general. In fiscal year ending June 30, 2020, the Association allocated approximately 22.5 percent of its expenses to the administrative account and the remainder to individual insolvency accounts. The Association currently allocates all investment income to the administrative account.

The Association does not adhere to the guidance of NOLHGA's Accounting Guidelines Manual in terms of allocating the investment income based on the average of the beginning and ending net asset balance for each estate for the period over which the income was earned. Alternatively, the Association has adopted a policy of allocating all investment income into an account used for the sole purpose of covering administrative expenses.

FINANCIAL STATEMENTS

The financial statements section includes the following:

- Statement of Assets, Liabilities and Net Assets Current Year, by Account
- Statement of Activities and Changes in Net Assets Current Year, by Account
- Statement of Activities and Changes in Net Assets Current Year, by Account and Insolvency

These financial statements are based on the statutory financial statements filed by the Fund with the North Dakota Insurance Department and present the financial condition of the Fund for the period ending June 30, 2020. The accompanying comments on financial statements reflect any examination adjustments to the amounts reported in the annual statement and should be considered and integral part of the financial statements.

North Dakota Life and Health Insurance Guaranty Association Statement of Assets, Liabilities and Net Assets June 30, 2020

	Life	Allocated Annuity	Unallocated Annuity Health		Other Companies			Grand Total
Assets:								
Cash and Cash Equivalents	\$1,592,587	\$459,381	\$4,492	(\$2,519,137)	\$232,007	(\$230,670)	\$504,795	\$274,125
Total Assets	\$1,592,587	\$459,381	\$4,492	(\$2,519,137)	\$232,007	(\$230,670)	\$504,795	\$274,125
								-
Liabilities and Net Assets:								
Net Assets	\$1,592,587	\$459,381	\$4,492	(\$2,519,137)	\$232,007	(\$230,670)	\$504,795	\$274,125
Total Liabilities and Net Assets	\$1,592,587	\$459,381	\$4,492	(\$2,519,137)	\$232,007	(\$230,670)	\$504,795	\$274,125

	Annuity	Unallocated Annuity	Life	Health	Other Companies	Admin Account	Total
Revenue Assessments Premiums Interest Income Other/Refund/Distributions	\$0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$ 0 0 0 162	\$847,000 0 2,557 0	\$847,000 0 2,557 162
Total Revenue	\$0	\$0	\$0	\$0	\$162	\$849,557	\$849,719
Expense Claims Administration Legal General Exam Expense Other/Refunds NOLHGA Dues/Expenses	\$ 0 38 0 0 0 0 121	\$0 0 0 0 0 0	\$ 909 290 0 0 0 0	\$502,859 1,693 0 0 0 0 13,358	\$ 0 1,474 0 0 0 0 0 9,323	\$ 0 54,460 0 41,111 0 0 58,027	\$503,768 57,954 0 41,111 0 0 80,961
Total Expense	\$159	\$0	\$1331	\$517,910	\$10,797	\$153,599	\$683,795
Excess (Deficit)	(159)	0	(1,331)	(517,910)	(10,635)	695,958	165,923
Cash Beginning of the Year	459,540	4,492	1,593,917	(2,003,155)	244,570	(191,163)	108,202
Inter-Fund Transfers	0	0	0	1,928	(1,928)	0	0
Cash End of the Year	\$459,381	\$4,492	\$1,592,587	(\$2,519,137)	\$232,007	\$504,795	\$274,125

			LIF	E		
	Executive Life	Executive Life/KCL	Lincoln Memorial	Midwest International	National States	Total Life
Revenue	×					
Assessments Premiums	\$0 0	\$0 0	\$0 0	\$0 0	\$0 0	\$0 0
Interest Income Oth/Refund/Distributions	0	0	0	0	0	0
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0
Expense						
Claims Administration Legal General	\$ 909 25 0	\$ 0 0 0	\$ 0 264 0 0	\$0 0 0	\$0 0 0	\$ 909 290 0
Exam Expense Other/Refunds NOLHGA Dues/Exp	0 0 69	0 0 36	0 0 27	0 0 0	0 0 0	0 0 132_
Total Expense	\$1,004	\$36	\$291	\$0	\$0	\$1,331
Increase/Decrease in Cash	(1,004)	(36)	(291)	0	0	(1,331)
Cash Beginning of Year	22,062	1,287,851	(9,557)	303,230	(9,668)	1,593,917
Inter-Fund Transfers	0	0	0	0	0	0
Cash End of the Year	\$21,058	\$1,287,815	(\$9,849)	\$303,230	(\$9,668)	\$1,592,587

			ANNU	JITY			UNALLOCA	TED ANNUITY
	Executive Life	Executive Life / KCL	London Pacific	Midwest Internat'l	National Heritage	Total Annuity	Executive Life	Total Unallocated
Revenue								
Assessments	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Premiums	0	0	0	0	0	0	0	0
Interest Income	0	0	0	0	0	0	0	0
Oth/Refund/Distributions	0	0	0	0	0	0	0	0
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Expense								
Claims	\$ 0	\$0	\$0	\$0	\$ 0	\$ 0	\$0	\$0
Administration	38	0	0	0	0	38	0	0
Legal	0	0	0	0	0	0	0	0
General	0	0	0	0	0	0	0	0
Other/Refunds	0	0	0	0	0	0	0	0
NOLHGA Dues/Expenses	104	7	0	0	10	121	0	0
Total Expense	\$142	\$7	\$0	\$0	\$10	\$159	\$0	\$0
Change in Cash	(142)	(7)	0	0	(10)	(159)	0	0
Cash Beginning of the Year	23,414	(38)	37,904	287,292	110,969	459,540	4,492	4,492
Inter-Fund Transfers	0	0	0	0	0	0	0	0_
Cash End of the Year	\$23,272	(\$45)	\$37,904	\$287,292	\$110,959	\$459,381	\$4,492	\$4,492

		HEALTH									
	American Integrity	Legion Ins Co	Life & Health Ins Co of Am	Medical Savings	Midwest Life	Nat'l State	Penn Treaty	Vilanova Ins	Total Health		
Revenue	.,										
Assessments Premiums Interest Income Oth/Refund/Distributions	\$0 0 0	\$0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0	\$0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0		
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
Expense											
Claims Administration Legal General Exam Expense Other/Refunds NOLHGA Dues/Exp	\$0 0 0 0 0	\$0 0 0 0 0	\$155,977 127 0 0 0 0 0	\$0 0 0 0 0	\$0 0 0 0 0	\$ 0 114 0 0 0 0	\$346,882 1,451 0 0 0 0 1,933	\$0 0 0 0 0	\$502,859 1,693 0 0 0 0 13,358		
Total Expense	\$0	\$0	\$167,529	\$0	\$0	\$114	\$350,266	\$0	\$517,910		
Change in Cash	0	0	(167,529)	0	0	(114)	(350,266)	0	(517,910)		
Cash Beginning of Year	1,191,779	163	(1,238,878)	(1,894)	22,728	(7,347)	(1,969,509)	(198)	(2,003,155)		
Inter-Fund Transfers	0	(163)	0	1,894	0	0	0	198	1,929		
Cash End of Year	\$1,191,779	\$0	(\$1,406,407)	\$0	\$22,728	(\$7,461)	(\$2,319,775)	\$0	(\$2,519,137)		

		OTHER COMPANIES											
	American Community Mutual	AF& L	American Med & Life	CoOportunity Health	Executive Life of NY	Freestone Insurance	Global Bankers	Golden State Mutual Life	Imerica Life & Health	Imperial Casualty	Lincoln General	LTC Re	
Revenue	-												
Assessments Premiums Interest Income Oth/Refund/Distrib	\$0 0 0	\$0 0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0 0	\$0 0 0 0	
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Expense													
Claims Administration Legal General Exam Expense Other/Refunds	\$0 0 0 0 0	\$0 0 0 0	\$ 0 51 0 0	\$0 0 0 0	\$ 0 106 0 0	\$0 0 0 0	\$ 0 251 0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0 0	\$0 0 0 0	\$ 0 44 0 0 0	
NOLHGA Dues/Exp Total Expense	\$0	<u> </u>	102 \$153	\$0	\$106	\$0	3,605 \$3,856	<u>0</u> \$0	\$0	<u> </u>	<u> </u>	<u> </u>	
Change in Cash	0	0	(153)	0	(106)	0	(3,856)	0	0	0	0	(44)	
Cash Beginning of Yr	(152)	(128)	(651)	(81)	(2,664)	(11)	0	(100)	(212)	(37)	(9)	0	
Inter-Fund Transfers	152	128	0	81	2,664	11	0	100	0	37	9	0	
Cash End of Year	\$0	\$0	(\$804)	\$0	(\$106)	\$0	(\$3,856)	\$0	(\$212)	\$0	\$0	(\$44)	

		OTHER COMPANIES											
	Lumber- man Mutual Cas	Metro- politan Group	Monarch Life	NC Mutual	See Change Health	Senior Am/ AF & L	Senior Health	Standard Life	Tower National	Universal Health Care	93-96 Reass	Class B Close- outs	Total Other Co
Revenue													
Assessments Premiums Interest Income Oth/Refund/Distrib	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0	\$0 0 0 0	\$ 0 0 0 162	\$ 0 0 0
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$162	\$162
Expense													
Claims Administration Legal General Exam Expense	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$ 0 618 0 0	\$ 0 275 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0	\$0 0 0 0	\$ 0 129 0 0	\$ 0 1,474 0 0
Other/Refunds NOLHGA Dues/Exp	0	0 0	0 0	0	0	0 297	0 5,310	0	0	0	0	0	0 9,323
Total Expense	\$0	\$0	\$0	\$0	\$0	\$915	\$5,585	\$9	\$0	\$0	\$0	\$129	\$10,797
Change in Cash	0	0	0	0	0	(915)	(5,585)	(9)	0	0	0	32	(10,635)
Cash Beginning of Yr	(154)	(18,213)	(876)	(37)	(332)	(24)	0	(11,555)	(34)	(71)	195,953	83,960	244,570
Inter-Fund Transfers	154	18,213	0	0	0	(100)	0	0	34	0	0	(23,413)	(1,928)
Cash End of Year	\$0	\$0	(\$876)	(\$37)	(\$332)	(\$1,039)	(\$5,585)	(\$11,564)	\$0	(\$71)	\$195,953	\$60,579	\$232,007

CONCLUSION

The financial condition of the North Dakota Life and Health Insurance Guaranty Association, Fargo, North Dakota, as of June 30, 2020, as determined by this examination is summarized as follows:

Total Assets \$274,125 Total Fund Balance \$274,125

The foregoing amounts are the same as that reported by the Association on its June 30, 2020 financial statements.

The examiners express their appreciation for the courteous cooperation and assistance given to them by the officers and employees of the Association during the course of this examination.

Respectfully submitted,

Colton Schulz, CFE, CFE (Fraud)

Supervising Examiner

N.D. Insurance Department