



Transmitted via e-mail

May 11, 2017

Mr. David E. Wilson, Chief Executive Officer  
Conservation & Liquidation Office  
100 Pine Street, 12<sup>th</sup> Floor  
San Francisco, CA 94111

Dear Mr. Wilson:

**Final Report—Executive Life Insurance Company Opt-Out Trust Financial Statement Review, December 2016**

The California Department of Finance, Office of State Audits and Evaluations, has completed its review of the Executive Life Insurance Company Opt-Out Trust assigned to the Conservation & Liquidation Office (CLO) for the period January 1, 2016 through December 31, 2016.

The enclosed report is for your information and use. We appreciate the assistance and cooperation of CLO. If you have any questions regarding this report, please contact Marilyn Santiago, Supervisor, at (916) 322-2985.

Sincerely,

Cheryl L. McCormick, CPA  
Assistant Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Ray Minehan, Chief Financial Officer, Conservation & Liquidation Office  
Ms. Regina Alava, Vice President, Finance, Conservation & Liquidation Office  
Mr. Joel Laucher, Chief Deputy Insurance Commissioner, California Department of Insurance

# FINANCIAL STATEMENT REVIEW

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## Executive Life Insurance Company Opt-Out Trust Conservation & Liquidation Office For the Period January 1, 2016 through December 31, 2016

Prepared By:  
Office of State Audits and Evaluations  
California Department of Finance

## **MEMBERS OF THE TEAM**

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# INDEPENDENT ACCOUNTANT'S REVIEW REPORT

Mr. David E. Wilson, Chief Executive Officer  
Conservation & Liquidation Office  
100 Pine Street, 12<sup>th</sup> Floor  
San Francisco, CA 94111

We have reviewed the accompanying financial statements of the Executive Life Insurance Company (ELIC) Opt-Out Trust, which comprise the Statement of Assets and Liabilities as of December 31, 2016, Statement of Operations, and Statement of Cash Flows for the period then ended; and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of Conservation & Liquidation Office (CLO) management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

## **CLO's Responsibility for the Financial Statements**

CLO, as assigned conservator/liquidator, is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

## **Accountant's Responsibility**

Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial statements for them to be in accordance with accounting principles generally accepted in the United States of America. We believe that the results of our procedures provide a reasonable basis for our conclusion.

## **Accountant's Conclusion**

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements and the related notes to the financial statements of the Executive Life Insurance Company Opt-Out Trust for the year ended December 31, 2016, in order for them to be in accordance with accounting principles generally accepted in the United States of America.

**Restriction on Use**

This report is intended solely for the information and use of the California Department of Insurance, CLO, and the courts, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.



Cheryl L. McCormick, CPA  
Assistant Chief, Office of State Audits and Evaluations

April 22, 2017

STATEMENT OF  
ASSETS AND LIABILITIES

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**Executive Life Insurance Company Opt-Out Trust**  
**Statement of Assets and Liabilities**  
**As of December 31, 2016**

	<u>Balance</u>
<b>Assets</b>	
Participation in Pooled Investments, at Market	\$ 18,027,641
Accrued Investment Income	<u>54,901</u>
Total Assets	<u>\$ 18,082,542</u>
<b>Liabilities</b>	
Secured Claims	\$ 16,736,218
Unclaimed Funds Payable	2,236,549
Payable to Executive Life Insurance Company Estate	590,041
Reserve for Administrative Expenses	<u>(1,480,266)</u>
Total Liabilities	<u>\$ 18,082,542</u>

The notes are an integral part of the financial statements.

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# STATEMENT OF OPERATIONS

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## Executive Life Insurance Company Opt-Out Trust Statement of Operations For the Year Ended December 31, 2016

### Investments

Investment Income	\$ 205,309
Investment Expenses	(15,913)
Gain (Loss) on Securities	<u>(71,333)</u>
Net Investment Income	118,063

### Expenses

Consultants and Temps	494,519
Office Expenses	1,440
Allocated Overhead Expenses	<u>308,796</u>
Total Administrative Expenses	804,755
Loss Expenses	<u>(624)</u>
Total Expenses	804,131

**Net Income (Loss)** **\$ (686,068)**

The notes are an integral part of the financial statements.

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STATEMENT OF  
CASH FLOWS

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Executive Life Insurance Company Opt-Out Trust  
Statement of Cash Flows  
For the Year Ended December 31, 2016

<b>Cash Flows from Operating Activities</b>	
Net Income (Loss)	\$ (686,068)
Increase (Decrease) in Secured Claim Liabilities	10,780,669
Increase (Decrease) in Accrued Administrative Expenses	<u>5</u>
Net Cash Flows from Operating Activities	10,094,606
<b>Cash Flows from Investing Activities</b>	
Decrease (Increase) in Accrued Investment Income	(32,572)
<b>Cash Flows from Financing Activities</b>	
	<u>0</u>
<b>Net Increase (Decrease) in Cash</b>	<b>10,062,034</b>
Cash at Beginning of Period	<u>7,965,607</u>
<b>Cash at End of Period</b>	<b><u>\$ 18,027,641</u></b>

The notes are an integral part of the financial statements.

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# NOTES TO THE STATEMENTS

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## 1. Organization

The California Insurance Commissioner (Commissioner), an elected official of the State of California, acts under the supervision of the Superior Court (Court) when conserving and liquidating insurance enterprises. In this capacity, the Commissioner is responsible for taking possession (conservation) of the assets of financially troubled insurance enterprises domiciled or incorporated in California. An enterprise subject to a conservation or liquidation order is referred to as an estate.

ELIC was placed in conservation by order of the Los Angeles County Superior Court on April 11, 1991. At the time, ELIC, which had more than 350,000 policyholders, was the largest life insurance insolvency in United States history. In the summer and fall of 1991, the Commissioner conducted an auction seeking bids to acquire the junk bond portfolio and insurance assets of ELIC. In December 1991, the Commissioner's selection of a group of French and European investors (the Altus/MAAF group) as the winning bidders was approved by the Superior Court.

In March 1992, ELIC's junk bond portfolio was transferred to Altus Finance S.A. for a total purchase price of approximately \$3 billion. In August 1993, the Superior Court approved a final Rehabilitation Plan under which the majority of ELIC's assets and its restructured insurance policies were transferred to a new California insurance company created by the European consortium that had won the 1991 bid. The Rehabilitation Plan became effective in September 1993. Under the terms of the Rehabilitation Plan, former ELIC policyholders were given a choice either to accept new coverage (opt in) from Aurora National Life Assurance Company (Aurora) or to terminate their ELIC policies (opt-out) in return for a pro rata share of ELIC's assets. The Rehabilitation Plan also provided for the establishment of various trusts, collectively known as the Enhancement Trusts, to marshal and distribute assets for the benefit of former ELIC policyholders.

The ELIC Opt-Out Trust (Trust) was created in 1994 to hold assets to be disbursed to policyholders who opted out. It is also a cost center for charging expenses that apply only to opt-out policyholders. The Trust received funds from the Enhancement Trusts, and with those trusts being closed, it now receives funds from the ELIC Estate. Specific processes for how ELIC funds are distributed to opt-in and opt-out policyholders are determined by the provisions of the ELIC Rehabilitation Plan and the ELIC Enhancement Agreement.

## 2. Basis of Presentation

The accompanying financial statements of the Trust have been prepared in conformity with generally accepted accounting principles. These financial statements reflect the financial position and activities of the Trust.

### **3. Summary of Significant Accounting Policies**

#### **ASSETS:**

##### **Pooled Investments**

The invested assets of the Trust are combined for investment purposes into an investment pool, divided equally between two investment management firms. Each of the participating trusts owns a percentage of the pool based on its proportionate share of the fair value of the pool's net assets. The net assets are valued at fair value on a monthly basis and ownership is computed monthly based on contributions and withdrawals by participating trusts. Realized and unrealized gains and losses are allocated monthly based on the Trust's ownership percentage in the pool at month-end.

Pooled investments may be considered restricted. However, the Trust held no restricted pooled investments as of December 31, 2016.

##### **Accrued Investment Income**

Accrued Investment Income represents monthly estimates of interest and dividends earned on cash and investments held by the Trust. For pooled investments, interest accruals are allocated based on the Trust's percentage of ownership in the pool. Each month interest and dividends are accrued and posted to the Trust's account. Upon receipt of the earnings, the accruals are reversed and actual amounts received are posted.

#### **LIABILITIES:**

##### **Secured Claims**

Secured Claims represents amounts due to opt-out policyholders, which have not yet been disbursed.

##### **Unclaimed Funds Payable**

Unclaimed Funds Payable are funds distributed to claimants that were returned as undeliverable and/or an accurate address could not be located. Unclaimed funds are eventually escheated to the California State Controller's Office or the state treasurer of the claimants' last known address.

##### **Reserve for Administrative Expenses**

The Reserve for Administrative Expenses is used to offset expenses to be incurred in closing the Trust. The current negative balance will be replenished through future ELIC Estate distributions as they occur.

#### **INVESTMENTS:**

##### **Investment Income**

Investment Income is comprised of interest and dividends earned on cash and investments held by the Trust. For trusts with investments in the pool, income is allocated based on the trust's proportional share in the pool.

##### **Investment Expenses**

Investment Expenses is comprised of investment and interest expenses related to cash and investments held by the Trust. For trusts with investments in the pool, the expenses are allocated based on the trust's proportional share in the pool.

**Gain (Loss) on Securities**

Gain (Loss) on Securities consists of long and short-term gains and losses incurred as part of the investment pool, mark to market adjustments, gains and losses on non-pooled reappraisals of securities, and gains and losses incurred on the transfer of non-pooled securities into the pool. The long and short-term gains and losses and mark to market adjustments are allocated based on the Trust's proportional share in the pool.

Unrealized and realized gains and losses are included as a component of net investment income. The cost of securities sold is based on specific identification and realized gains (losses) are computed based on the securities' original cost. Transfers of non-pooled investments to a pool are a sale resulting in non-pooled realized gains and losses and a non-cash transfer. Transfers from one pool to the other are a sale resulting in pooled realized gains and losses and a non-cash transfer.

**EXPENSES:****Administrative Expenses**

Administrative Expenses consists of both direct and indirect expenses.

Direct expenses are directly charged to the Trust whenever individually attributable. These expenses consist of legal costs, consultants and contractors, and office expenses. Administrative expenses not directly charged to an individual trust are allocated on a proportional basis. Allocated expenses include CLO employee compensation and benefits, payroll taxes, indirect legal expenses, rent, utilities, and other general overhead costs. These shared expenses are allocated to each trust based on factors derived from the direct CLO labor hours charged to each trust, and in some instances direct contractor hours charged.

**4. Litigation**

The Commissioner, on behalf of the ELIC Estate settled its litigation with Artemis S.A. for \$200 million. Of this amount, the ELIC estate distributed \$110.8 million. The Trust received 33.9 percent equaling \$37,550,932; \$35 million of which was distributed to the Trust in September 2016.

**5. Subsequent Events**

There are no reportable subsequent events for this Trust.