CALIFORNIA STATE AUDITOR
Elaine M. Howle, State Auditor
FACT SHEET

Date: **January 31, 2008** **Report:** **2005-115.2**

The California State Auditor released the following report today:

Department of Insurance

Former Executive Life Insurance Company Policyholders Have Incurred Significant Economic Losses, and Distributions of Funds Have Been Inconsistently Monitored and Reported

BACKGROUND

In 1991 the Insurance Commissioner (commissioner) took over the operations of an insolvent company that operated in California since 1962— the Executive Life Insurance Company (ELIC). The commissioner rehabilitated and partially liquidated ELIC and developed a rehabilitation plan that outlined the sale of the estate's assets, and that planned for restructuring ELIC's policy obligations and how policyholders would share in any distributions. The commissioner eventually assumed responsibility for managing the ELIC estate, initially through the appointment of special deputy commissioners and, as of August 1997, through his Conservation and Liquidation Office (CLO).

KEY FINDINGS

In our review of the Department of Insurance's (department) management of the ELIC estate, we reported the following:

- The commissioner used the ELIC assets to continue insurance, reduce policyholder losses, and pay administrative costs. It transferred $6.7 billion to Aurora National Life Assurance Company (Aurora) for use in its role as successor insurer to ELIC. The commissioner paid policyholders and other beneficiaries of the estate a total of $2.7 billion and has used $528 million to administer the ELIC estate.
- Policyholders have experienced significant economic losses as a result of the ELIC insolvency. We estimate the economic losses to be $3.1 billion as of August 2005–$2.2 billion more than the department's estimated losses related to original policy rights. The department used a different method to measure losses. In its calculation:
  - The department did not include the time value of money.
  - The department did not include the financial impact caused by changes to policy terms.
- The commissioner has not consistently ensured that Aurora complies with key ELIC agreements.
  - While the commissioner reviewed distributions that occurred prior to 1998 and those occurring in 2007, he did not monitor distributions that occurred from 1998 through 2006. Thus, policyholders have less assurance that the $225 million distributed during this time period was distributed in accordance with key ELIC agreements.
  - According to the department's legal counsel, under the ELIC agreements the commissioner does not have general rights to review or audit Aurora's records.
- Some reports authorized by the California Insurance Code or required by trust agreements were not produced, and inconsistent accounting practices and varying availability of supporting documents hinder a complete accounting of the ELIC estate.

KEY RECOMMENDATIONS

We recommended that the commissioner seek the right to review Aurora's future distributions of ELIC estate funds to ensure that the distributions are appropriate. We also recommended that the CLO strengthen its controls and practices to ensure financial information is accurate and that the commissioner continues to periodically audit the ELIC estate.