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- [meet the staff](#)
- [contact us](#)

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[Back to Table of Contents](#)

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MassMutual Agrees To Settle Suits For More Than \$130 Million

By Allison Bell

Massachusetts Mutual Life Insurance Company says it has agreed to pay at least \$130 million to settle a group of suits that attack its sales practices.

MassMutual has agreed to the settlement to put the litigation behind it and continues to deny all of the allegations in the suits, the company says.

A judge in the U.S. District Court in Newark, N.J., has given the agreement preliminary approval and scheduled a fairness hearing for Nov. 22.

The proposed settlement would end a group of cases consolidated under the caption *Varacallo et al. vs. Massachusetts Mutual Life Insurance Company et al.* under the jurisdiction of the U.S. District Court in Newark, N.J. The cases concern complaints about permanent life policies and some term life and disability income policies issued by MassMutual affiliates from Jan. 1, 1983, to Dec. 31, 2003.

The affiliates are Connecticut Mutual Life Insurance Company, C.M. Life Insurance Company, Massachusetts Mutual Life Insurance Company and MML Bay State Life Insurance Company.

The permanent life allegations focus on charges that MassMutual misrepresented the likely performance of whole life, universal life, variable life and variable universal life policies. Plaintiffs also have accused MassMutual of misleading prospects about the merits of replacing existing life policies with new MassMutual permanent life policies.

Allegations about other products include charges that MassMutual may have charged

IN THE CLASS

WHO'S AFFECTED BY THE SETTLEMENT?

The class includes the following customers who, between Jan. 1, 1983, and Dec. 31, 2003:

- ▶ Bought MassMutual permanent life policies. (Including whole, universal, variable and variable universal life.)
- ▶ Bought MassMutual term life or disability income policies and can show that the company charged premiums for periods of time when insurance coverage was not provided under the policies.
- ▶ Bought MassMutual juvenile life policies and can show that the company applied smokerrates to insured children who were not smokers.

initial premiums on term life and disability policies after the policy issue date, may have charged premiums for periods of time when insurance coverage was not provided under term life and disability policies, and used smoker rates to price juvenile insurance policies that covered nonsmoking children.

Under the proposed settlement, most customers who bought permanent life policies could choose between accepting an automatic award of extra, temporary life insurance death benefits and going through an alternative dispute resolution process.

The settlement death benefits would range from 2.8% of the policy face amount for 24 months for insureds over age 60 and 10% of the face amount for 58 months for insureds under age 31.

Customers who believe they can prove that they suffered from serious permanent life marketing problems, juvenile life smoker pricing problems, or term life or disability coverage delays could go through the ADR process and try to qualify to split the \$130 million set aside for recipients of ADR relief awards.

The proposed settlement also calls for MassMutual to provide additional written disclosures and make changes in policy administration procedures.

"MassMutual has denied and continues to deny all the allegations in the action and believes that the allegations have no basis in law or fact," MassMutual says in a statement about the settlement. "Further, MassMutual believes that it has complied with all existing laws that relate to its sale, administration and servicing of policies. MassMutual has settled the litigation to avoid the uncertainty, expense and burden of protracted litigation."

The settlement of the Varacallo litigation "will not have a material impact on the consolidated financial position of the company," MassMutual says.

Bruce Greenberg, a partner at Lite DePalma Greenberg & Rivas L.L.C., Newark, N.J., who helped represent the plaintiffs, has welcomed the agreement with MassMutual.

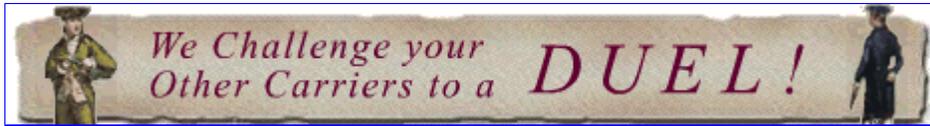
"We're very pleased with the settlement," Greenberg says.

Moody's Investors Service, New York, reacted to the settlement announcement by affirming the Aa1 insurance financial strength rating that it has assigned Massachusetts Mutual Life and other major MassMutual insurance units.

The final total cost of the proposed settlement is difficult to assess, but "MassMutual is one of the few major life insurance companies that has not already agreed to settle these class-action lawsuits, so the decision of MassMutual to settle these cases at this time comes as not a great surprise," the rating agency says in a comment about the settlement announcement. "While the cost of settling these lawsuits is a substantial amount of money, in the view of Moody's the cost of this settlement will not adversely affect the company's financial strength to a measurable degree."

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