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## ARKANSAS SECURITIES DEPARTMENT

November 29, 2000

Graceann McKeon  
Sullivan & Cromwell  
125 Broad Street  
New York, NY 10004-2498

RE: The Prudential Insurance Company of America  
No. 00-013

Dear Ms. McKeon:

This Department is in receipt of your letter dated November 22, 2000, requesting that the staff recommend that no enforcement action be recommended if the transaction contemplated therein takes place without registration of the Prudential Associates (as defined in your letter) or Call Center Personnel (as defined in your letter) as agents under the Arkansas Securities Act, codified as Ark Code Ann. § 23-42-101, *et seq.*, (the "Act"). The facts set forth in your letter describe the demutualization of a mutual life insurance company to be achieved by a reorganization incident to a class vote of all policyholders, subject to approval by the Commissioner of Banking and Insurance of the State of New Jersey.

Rule 504.01(A)(12)(g) of the Rules of the Arkansas Securities Commissioner ("Rules") promulgated under Ark. Code Ann. § 23-42-504(a)(12) provides that any transaction incident to a class vote by security holders or members, pursuant to the certificate of incorporation, organizational document or the applicable statute on a merger, consolidation, reclassification of securities, sale of assets in consideration of the issuance of securities of another entity, or reorganization is exempt from the registration requirements of the Act as not necessary or appropriate in the public interest or for the protection of investors. It is the opinion of the staff that the transaction as described in your letter constitutes a "reorganization" as that term is defined in Rule 102.01(29) of the Rules.

Ark. Code Ann. § 23-42-102(2)(B)(i)(e) excludes from the definition of "agent" an individual representing an issuer in effecting transactions involving a reorganization so long as the person is not employed for the primary purpose of obtaining the required means of approval from the security holders and receives no compensation other than his regular salary and actual expenses. Therefore, Prudential Associates and Call Center Personnel identified in your letter are not required to register under the Act as agents in order to effect the transaction as described provided no commission or compensation is paid for effecting the transaction.

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In conclusion, the staff will not recommend enforcement action to the Commissioner if the transaction identified in your letter is effected without registration under the Act of the securities or employees offering them. Please note that the Department's position is based entirely on the representations made in your letter and applies only to the transaction identified therein. Different facts might well result in a different conclusion. The position expressed does not constitute a legal opinion, and deals only with anticipated enforcement action, not with civil liabilities under the Act.

Should you have any questions regarding this letter or the position expressed herein, please feel free to contact me.

Yours truly,

A handwritten signature in cursive script that reads "Ann McDougal".

Ann McDougal  
Deputy Commissioner