



# By-Laws

## The Guardian Life Insurance Company of America

10 Hudson Yards  
New York, New York 10001

As Amended to March 14, 2012

## Article I: Board Of Directors

### General Powers

**Section 1.** The corporate powers of The Guardian Life Insurance Company of America (the "Company") shall be vested in the Company's Board of Directors (the "Board") and, to the extent the Board may empower, by such Officers, Committees and agents as the Board may elect or appoint from time to time.

### Annual Meetings

**Section 2.** An annual meeting of the Board shall be held on the second Wednesday in November of each year, or if a legal holiday, on the next business day, or on such other date as the Board by resolution may determine from time to time, and shall be held for the purpose of electing Committees and Committee chairs, electing and appointing Officers, acting upon other organizational matters pertaining to the Company, and transacting any other business.

### Regular Meetings

**Section 3.** Regular meetings of the Board shall be held at least four times per year. Any additional regular meeting may be held on such other dates as the Board by resolution may determine from time to time. In addition to the foregoing meetings, there shall be one meeting held each year devoted to discussion and review of the major plans of the Company, the date of which will be set by the Board.

### Special Meetings

**Section 4.** A special meeting of the Board may be called by the Chairman, the President, the Chief Executive Officer or the Lead Director at his discretion. A special meeting shall also be called by the Corporate Secretary at the written request of five Directors, and in that event shall then be held within ten days after such request has been received.

### Lead Director, Independent Directors

**Section 5.** The Independent Directors shall elect annually an Independent Director as Lead Director, who shall have the responsibilities delineated in these By-Laws and such other responsibilities as the Board may from time to time specify. The term "Independent Directors" includes only those Directors who are not Officers or employees of the Company or of any entity controlled by or under common control with the Company. No Director shall qualify as an Independent Director unless the Board affirmatively determines that the Director has no material relationship with the Company. In addition, a Director is not independent if:

- a. the Director is, or has been within the last three years, an employee of the Company, or an immediate family member is, or has been within the last three years, an executive officer of the Company;
- b. the Director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than \$120,000 in direct compensation from the Company, other than Director and Committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service)
- c. (i) the Director is a current partner or employee of a firm that is the Company's internal or external auditor; (ii) the Director has an immediate family member who is a current partner of such a firm; (iii) the Director has an immediate family member who is a current employee of such a firm and personally works on the Company's audit; (iv) or the Director or an immediate family member was within the last three years a partner or employee of such a firm and personally worked on the Company's audit within that time;

- d. the Director or an immediate family member is, or has been with the last three years, employed as an executive officer of another company where any of the Company's present executive officers at the same time serves or served on that company's compensation committee; or
- e. the Director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company's consolidated gross revenues.

For the purposes of this Section 5, an "immediate family member" includes a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. In addition, references to the Company include subsidiaries and other affiliates of the Company.

### **Independent Director Executive Sessions**

**Section 6.** The Independent Directors shall meet at least annually in an Independent Director Executive Session of the Board. Independent Director Executive Sessions may be convened in connection with any regularly scheduled meeting of the Board by any Independent Director and shall be chaired by the Lead Director. An Independent Director or the Corporate Secretary may be invited to act as the Secretary for such executive sessions.

### **Notice of Meetings**

**Section 7.** Notice of the time and place of each meeting shall be delivered to each Director at least ten days in advance of the meeting, either personally, by mail, by facsimile transmission or by electronic mail. Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him.

### **Place of Meetings**

**Section 8.** All meetings of the Board shall be held at such place or places within the State of New York or outside the State of New York as may from time to time be fixed by the Board or by the Officer calling the meeting and stated in the notice of meeting. At least one regular meeting must be held within the State of New York each year. If no place of meeting is designated, the place of meeting shall be the Principal Office of the Company.

### **Telephone or Video Conference Meetings**

**Section 9.** The members of the Board, or any Committee thereof, may participate in a meeting of the Board or such Committee, as the case may be, by means of telephone or video conference or similar communications equipment during which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at such meeting. Compensation may differ between Directors who participate in a meeting by means of telephone or video conference or similar communications and Directors who are physically present at such meeting.

### **Record of Proceedings**

**Section 10.** The proceedings of the Board shall be recorded and reported to the Board not later than at the second succeeding meeting of the Board.

### Number and Qualification

**Section 11.** The number of Directors on the Board shall be fixed as specified in the Charter of the Company. In order to maintain the independence of the Board from the management of the Company (see Article I, Section 5), not less than two-thirds of the total membership of the Board shall be comprised of Directors who are not present or former Officers of the Company. At least one Director shall be an Officer of the Company. Any Director who was elected while he was an Officer of the Company at the time of his election or re-election shall resign as a member of the Board simultaneously when he ceases to be an Officer of the Company.

### Quorum

**Section 12.** A majority of the Directors then in office shall constitute a quorum of the Board for the transaction of business (provided such quorum does not consist exclusively of Officers of the Company). Except as otherwise provided by law or these By-Laws, the vote of the majority of the Directors present at any meeting of the Board at which a quorum is present shall be the act of the Board. If at any meeting of the Board there is less than a quorum, a majority of the Directors present may adjourn the meeting from time to time.

### Vacancies and Newly Created Directorships

**Section 13.** A candidate to fill any vacancy in the membership of the Board for the unexpired term of the previous incumbent or for any newly created directorship shall be elected upon a majority vote in favor of such candidate of all Directors then holding office, provided the nomination has been made at a previous meeting of the Board, held at least one week before the proposed election, and notice of such election has been given to all Directors.

### Retirement

**Section 14.** Each Independent Director shall retire from service on the Board at the end of the calendar year in which he attains the age of 75.

### Action by Unanimous Consent

**Section 15.** Any action required or permitted to be taken at any meeting of the Board, or of any Committee thereof, may be taken without a meeting if all members of the Board or Committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board or such Committee.

## Article II: Officers

### Election and Appointment

**Section 1.** The Officers of the Company shall consist of a Chairman of the Board (the "Chairman"), if the Board in its discretion elects such Officer, a Chief Executive Officer, a President, one or more Vice Presidents, a Corporate Secretary, a Treasurer, a Chief Financial Officer, a Chief Investment Officer, a Chief Actuary, a Director of Internal Audit, a General Counsel and such other Officers as may be appointed by the Board. All Officers shall hold office at the discretion of the Board, the term of office being for twelve months, or until their successors are elected or appointed, unless they be removed or suspended. One person may hold more than one office (except that neither the Chief Executive Officer nor the President shall hold the office of Corporate Secretary).

### **Chief Executive Officer**

**Section 2.** The Board shall designate the Chief Executive Officer. The Chief Executive Officer, subject to the authority of the Board, and to the extent not otherwise prescribed by these By-Laws shall have the general control and management of the Company's business and affairs, supervision of all Officers and custody of all property of the Company. The Chief Executive Officer, at his discretion subject to the authority of the Board, shall delegate to the other Officers and employees of the Company such duties, responsibilities, and authority not inconsistent with any which may be vested in them by the By-Laws, the Board or any appropriate Committee.

### **Role of Chairman, President and Chief Executive Officer**

**Section 3.** The Chairman shall preside at all meetings of the Board unless none has been elected or he is absent or unable to act. In such cases, the President (or the Chief Executive Officer if he is not also the President and the President is absent or unable to act) shall preside at all meetings of the Board. If the Chairman, President or Chief Executive Officer is not available to preside at meetings, the Lead Director shall preside at all meetings.

### **Absence or Inability to Act**

**Section 4.** In the event of the prolonged absence of the Chief Executive Officer, or his inability to act, or on the vacancy in the office, the Board or the Executive Committee shall determine who shall assume the responsibilities of the Chief Executive Officer

### **Chief Audit Executive**

**Section 5.** The Chief Audit Executive shall perform operational and financial audits of the Company and its subsidiaries, consisting of review and verification of their records, evaluation of operating procedures and internal controls, exceptions and recommendations for improvements based on findings, and such other duties as may be assigned to him by the Committee responsible for reviewing the scope and results of any internal audit. The Chief Audit Executive shall report to such Committee, and for administrative purposes, to the Chief Executive Officer or to any Officer whom the Chief Executive Officer or such Committee may designate from time to time.

## **Article III: Committees**

### **Establishment and Responsibilities of Committees**

**Section 1.** The Board may establish such Standing and Special Committees as required by law or as it otherwise may from time to time determine, which Committees shall serve for such term and shall have and may exercise such duties, functions and powers as permitted by law as the Board may from time to time prescribe. As required by New York law, the Board shall establish one or more Committees comprised solely of Directors who are not Officers or employees of the Company or of any entity controlled by or under common control with the Company. Such Committee or Committees shall have responsibility for recommending the selection of independent certified public accountants, reviewing the Company's financial condition, the scope and results of the independent audit and any internal audit, nominating candidates for Director for election by shareholders or policyholders, evaluating the performance of Officers deemed by such Committee or Committees to be principal Officers of the Company and recommending to the Board the selection and compensation of such principal Officers. All completed actions taken by any Committee shall be reported to the Board at the next succeeding Board meeting.

## **Method of Election, Terms of Office and Qualification of Committees**

**Section 2.** The membership of the Company's Standing Committees shall be comprised solely of Independent Directors, who shall be elected at the annual meeting of the Board, and who shall hold office for one year or until their successors are elected. Subject to Section 1 of this Article III, the number of regular members of each such Standing Committee shall be as determined by the Board, but shall be composed of not fewer than three Independent Directors. Additional members of any Standing Committee may be elected at any meeting of the Board for terms of office of one year or for any shorter period as the Board may determine. Special Committees may be elected at any meeting of the Board. In electing Special Committees, the Board shall specify the purpose for which they are established with appropriate names for each, the number of members thereof, and the limitations within which the powers vested in them may be exercised. The members of Special Committees shall hold office for such period as the Board may determine, or until their successors shall be elected. The Board shall elect a chair for each Committee other than the Executive Committee.

## **Membership of Executive Committee**

**Section 3.** The Executive Committee shall consist of the Chair of each Standing Committee, the Lead Director and any other Independent Directors the Board may choose to elect at the annual meeting of the Board, which Directors shall hold office for a term of one year, subject to re-election. The chair of the Executive Committee shall be the Lead Director.

## **Standing Committees**

**Section 4.** The Standing Committees shall include an Executive Committee and such other Committees as the Board may establish. Each Standing Committee shall have all the powers and responsibilities and shall perform the functions specified in the Charter of such Committee, as approved by the Board of Directors, and in any supplemental guidelines or statements that the Board of Directors may adopt with regards to the functions of such Committee. To the extent permitted by law, the Executive Committee shall have any and all powers of the Board during the intervals between Board meetings. The Board may at any meeting adopt such resolutions restricting the power of Committees as the Board may deem wise and prudent.

## **Notice of Committee Meetings**

**Section 5.** Notices of all Committee meetings shall be furnished at such times and in such manner as the respective Committees may determine

## **Quorum**

**Section 6.** A majority of the Directors then in office of a Committee shall constitute a quorum of such Committee for the transaction of business (provided such quorum includes only Independent Directors). Except as otherwise provided by law or these By-Laws, the vote of the majority of the Directors present at any meeting of such Committee at which a quorum is present shall be the act of such Committee. If at any meeting of such Committee there is less than a quorum, a majority of the Directors present may adjourn the meeting from time to time.

## **Record of Proceedings**

**Section 7.** The proceedings of each Committee shall be recorded and reported to the Board not later than at the second succeeding meeting of the Board. The written report of each Committee shall be supplemented at the Board meeting with an oral report by the Committee Chair.

## Vacancies and Absences

**Section 8.** Vacancies occurring in the membership of any Committee shall be filled by the Board. In the event of the absence of a member at a meeting of any Committee, the Chief Executive Officer, with the concurrence of a majority of the members thereof, may designate from the membership of the Board a substitute with the same status and voting rights as any regular member of the Committee in order to achieve a quorum.

## Article IV: General

### Execution of Documents

**Section 1.** Except to the extent otherwise provided in these By-Laws, documents necessary or desirable in the transaction and management of the business and affairs of the Company shall be executed on behalf of the Company by Officers or employees duly authorized by the Board, or otherwise when so required by law as follows: any Executive Vice President, Senior Vice President, or Vice President may act for the Chairman of the Board, the Chief Executive Officer, the President or the Corporate Secretary, and the Treasurer or any Assistant Secretary or Secretary pro tem may act for the Corporate Secretary. Any Officer or employee so authorized by the Board may affix the Corporate Seal of the Company to any document when required, and acknowledge execution thereof on behalf of the Company.

### Disbursements

**Section 2.** All instruments of payment drawn upon the funds of the Company, in whatever bank or other financial institution they may be deposited, shall be executed on behalf of the Company by such person or persons as may be designated by the Chief Executive Officer or the Board or in such other manner as the Board, the Executive Committee or the Committee responsible for the authorization and approval of investments may authorize from time to time.

### Report on Legal Affairs

**Section 3.** The General Counsel shall annually report to the Board on the legal affairs of the Company. The General Counsel shall also report to the Board on the legal affairs of the Company in the interval between regularly scheduled reports whenever there is a reason to do so.

### Conflict of Interest

**Section 4.** No Director, Officer or responsible employee shall have a substantial or pecuniary interest, or hold an office or position in any other business entity which might result in a conflict of interest between such entity, the individual and this Company without full and timely disclosure thereof to the Board. No Director, Officer or responsible employee shall receive in addition to his fixed salary or compensation, any money or valuable thing, either directly or indirectly or through any substantial interest in any other business entity, for negotiating, procuring, recommending or aiding in any purchase or sale of property, any loan, any underwriting action, or any claim or settlement of any nature made by the Company; nor shall he have a pecuniary interest, whether as principal, co-principal, agent or beneficiary, either directly or indirectly or through any substantial interest in any other business entity in any such purchase, sale, loan, underwriting action, or claim or settlement. No Director or Officer, or any firm or corporation in which a Director or Officer has a direct or indirect pecuniary interest, may enter into an agreement with the Company for the payment by the Company of a commission or other compensation for the acquisition of business where the

commission or other compensation is increased or diminished by the amount of such business or by the Company's earnings on such business.

#### **Indemnification**

**Section 5.** The Company shall indemnify, to the fullest extent permitted by applicable law from time to time in effect, each person made or threatened to be made a party to any action, suit or proceeding, whether or not by or in the right of the Company, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that he, his testator or his intestate, is or was a Director, Officer or employee of the Company or, while a Director, Officer or employee of the Company, served any other corporation or organization of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, in any capacity at the request of the Company. The Company shall indemnify each person identified above if and only if he acted in good faith and for a purpose which he reasonably believed to be in or not opposed to the best interest of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful or willfully negligent. To the fullest extent permitted by law, such indemnification shall include judgments, fines, amounts paid in settlement, and expenses, including reasonable attorney's fees. Expenses incurred in defending a civil or criminal action or proceeding may be paid by the Company in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the Officer or Director to repay such amount as and to the extent required by law.

No payment of indemnification, advance or allowance under the foregoing provisions shall be made unless a notice shall have been filed with the Superintendent of Insurance of the State of New York not less than thirty days prior to such payment specifying the Directors, Officers or employees to be paid, the amounts to be paid, the manner in which payment is authorized and the nature and status, at the time of such notice, of the litigation or threatened litigation.

#### **Amendment of By-Laws**

**Section 6.** These By-Laws may be amended at any meeting of the Board by the vote of a majority of all the Directors then in office, provided the subject matter of the proposed amendment is stated in a notice given at least thirty days in advance of such meeting. No By-Law or amendment or repeal of a By-Law shall be effective until approved by the Superintendent of Insurance of the State of New York.

#### **Corporate Seal**

**Section 7.** The Board of Directors shall provide a suitable seal bearing the name of the Company, its state of domicile and the year of its incorporation, which seal shall be kept in the custody of the Corporate Secretary of the Company.

#### **Masculine Pronoun**

**Section 8.** As used throughout these By-Laws, the masculine pronoun includes the feminine.

## **Article V: Emergency By-Laws**

#### **Emergency By-Laws**

**Section 1.** This Article V shall be operative during any Acute Emergency. To the extent not inconsistent with the provisions of this Article V, the By-Laws provided in the preceding Articles and the provisions of the Certificate of

Incorporation of the Company shall remain in effect during such Acute Emergency, and upon termination of such Acute Emergency the provisions of this Article V shall cease to be operative.

"Acute Emergency" means a period in which, by reason of loss of life, epidemic disease, destruction or damage of property, contamination of property by radiological, chemical or bacteriological means, or disruption of the means of transportation and communication, resulting from an Attack, it is impossible or impracticable for the Company to carry on its normal business activities in strict accordance with the provisions of its Charter and applicable law, and any such other conditions as may constitute an "Acute Emergency" under the New York State Defense Emergency Act of 1951, Chapter 784 of the Laws of 1951, as amended from time to time (the "Defense Emergency Act").

"Attack" means any attack, actual or imminent, or series of attacks by an enemy or a foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or nuclear, radiological, chemical, bacteriological, or biological means or other weapons or processes, and such other actions as may constitute an "Attack" under the Defense Emergency Act.

### **Designation of Officers as Directors**

**Section 2.** The Board or the Committees thereof, as the case may be, shall, from time to time, but in any event prior to such time or times as an Acute Emergency may have occurred, select certain Officers of the Company who shall be deemed Directors of the Company for all purposes including obtaining a quorum and voting as a Director during an Acute Emergency, if a quorum of Directors cannot otherwise be obtained. The number of selected Officers shall be designated by the Board prior to such times as an Acute Emergency may have occurred.

### **Meetings**

**Section 3.** During any Acute Emergency, a meeting of the Board, or any Committee thereof, as the case may be, may be called by the Chief Executive Officer or Corporate Secretary, if available, or, if the Chief Executive Officer or Corporate Secretary is not available, by any Officer or Director of the Company. Notice of the time and place of meeting shall be given by any available means of communication by the person calling the meeting to such of the Directors and/or Officers referred to in Section 2 of this Article V, as it may be feasible to reach. Such notice shall be given at such time in advance of the meeting as, in the judgment of the person calling the meeting, circumstances permit.

### **Quorum**

**Section 4.** At any meeting of the Board, or any Committee thereof, as the case may be, called in accordance with Section 3 of this Article V, the presence or participation of three Directors, two Directors and an Officer referred to in Section 2 of this Article V or three Officers referred to in Section 2 of this Article V shall constitute a quorum for the transaction of business.

### **By-Laws**

**Section 5.** At any meeting called in accordance with Section 3 of this Article V, the Board or the Committees thereof, as the case may be, may modify, amend or add to the provisions of this Article V so as to make any provision that may be necessary to accommodate the circumstances of the Acute Emergency.

### **Liability**

**Section 6.** No Officer or Director of the Company acting in accordance with the provisions of this Article V shall be liable with the exception of willful misconduct.

### Repeal or Change

**Section 7.** The provisions of this Article V shall be subject to repeal or change by further action of the Board, but no such repeal or change shall modify the provisions of Section 6 of this Article V with regard to action taken prior to the time of such repeal or change.