

DELAWARE DEPARTMENT OF INSURANCE  
MARKET CONDUCT EXAMINATION REPORT  
Teachers Insurance and Annuity Association (TIAA)

NAIC #69345  
Examination Authority # 11.ANN.7  
730 Third Avenue  
New York, NY 10017

As of

June 30, 2011

Karen Weldin Stewart, CIR-ML  
Commissioner



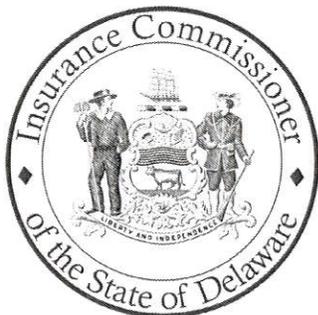
Delaware Department of Insurance

I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of June 30, 2011 on

**TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA**

is a true and correct copy of the document filed with this Department.

Attest By: 



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this (today's date).

  
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Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

Karen Weldin Stewart, CIR-ML  
Commissioner



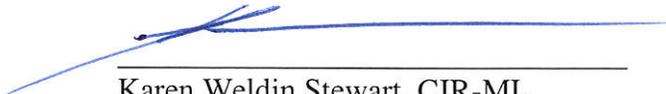
Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
**TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA**  
AS OF  
June 30, 2011

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



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Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

## **Table of Contents**

EXECUTIVE SUMMARY .....	2
SCOPE OF EXAMINATION.....	2
METHODOLOGY .....	3
COMPANY HISTORY AND PROFILE .....	3
COMPANY OPERATIONS AND MANAGEMENT .....	4
Internal Audit and Compliance Procedures .....	4
POLICY FORMS.....	5
CONSUMER COMPLAINTS.....	5
PRODUCER LICENSING & OVERSIGHT .....	5
MARKETING AND SALES.....	6
BUSINESS LISTINGS.....	7
A. Annuity Contracts Issued .....	7
B. Annuity Contracts Issued As Replacements .....	7
C. Annuity Contracts Terminated .....	8
D. Annuity Contracts Surrendered .....	8
CONCLUSION.....	9

Honorable Karen Weldin Stewart CIR-ML  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 11.ANN.7, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

**Teachers Insurance and Annuity Association of America**

The examination was performed as of June 30, 2011. Teachers Insurance and Annuity Association of America hereinafter referred to as the "Company" or as "TIAA" was incorporated under the laws New York. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

730 Third Avenue  
New York, NY 10017

The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

## **EXECUTIVE SUMMARY**

Teachers Insurance and Annuity Association of America (the "Company") was incorporated as a stock life insurance company under the laws of New York on March 4, 1918 and commenced business on May 17, 1918, as TIAA Life Insurance Company. The Company's main administrative offices are located in New York, NY.

On their 2010 annual statement filed with the Department, TIAA reported direct premium for annuity considerations, in the State of Delaware, in the amount of \$33,534,308.

The examination was announced as part of an examination series on companies in the Annuity marketplace in Delaware. The examination focused on the Company's annuity business in the following areas of operation: Company Operations/Management; Complaint Handling, Marketing/Sales, Producer Licensing, Producer Oversight, Terminations, Surrenders, Replacements and Underwriting. This effort is being conducted to ensure compliance with 18 Del. Admin. Code 1214 Senior Protection in Annuity Transactions, 18 Del. Admin. Code 1204 Replacements, 18 Del. C. §1716 Notification to Insurance Commissioner of termination.

The following exceptions were noted in the areas of operation reviewed:

Issued Annuities as Replacements: 3 Exceptions - 18 Del. Admin. Code 1204 §7.1 Replacement of Life Insurance

- Failure by the Company to send notifications to existing insurers of a pending replacement within 7 days.

Producer Licensing: 1 Exception - 18 Del. C. §1716. Notification to Insurance Commissioner of termination.

- Failure by the Company to timely notify the Insurance Commissioner of a producer termination.

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §§318-322 and covered the experience period of January 1, 2010 through June 30, 2011, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Delaware insurance laws and regulations related to the annuity market place.

The examination was a target market conduct examination of the Company's Senior Annuity business in the following areas of operation: Company Operations/Management; Complaint Handling, Marketing/Sales, Producer Licensing, Producer Oversight, Underwriting and Policyholder Service.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiners' report on the errors found in individual files, the examination also focuses on general business practices of the Company.

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and review written summaries provided on the exceptions found.

## **COMPANY HISTORY AND PROFILE**

In 1917, the Carnegie Foundation for the Advancement of Teaching ("the Foundation") initiated the formation of an organization to provide pensions and insurance for teachers and employees of private educational institutions. The Foundation organized the Teacher Insurance and Annuity Association of America as a legal reserve stock life insurance company under Section 70 of the New York Insurance Law (now Section 1113). The Association was incorporated on March 4, 1918 and commenced business on May 17, 1918. A plan was initiated to make the Association independent of the Foundation with respect to its finances in 1935. An act of the New York State Legislature creating the "Trustees of T.I.A.A. Stock" ("the Trustees") became law on June 3, 1937, and the Foundation transferred the Association stock to the Trustees in 1938. Effective November 17, 1989, the name of the Trustees of T.I.A.A. Stock was changed to "TIAA Board of Overseers."

**Delaware Market Conduct Examination Report  
Teachers Insurance and Annuity Association of America**

As a companion nonprofit organization to TIAA, College Retirement Equities Fund (“CREF”) was founded in 1952 to provide retirement annuities based on investment in common stock. It was created through an act of the New York State legislature, under which it was organized as a nonprofit company controlled by specified members who generally have a legal function similar to that of shareholders. In the 1980s, CREF registered with the Securities and Exchange Commission (SEC) as an investment company under the Investment Company Act of 1940.

TIAA-CREF Life Insurance Company, a wholly owned subsidiary of the Association, was incorporated on November 20, 1996, as a New York domiciled stock life insurance company and commenced operation in that year by assuming a small block of life insurance business from the Association. TIAA-CREF Life was originally established for the purpose of retaining the Association’s taxable life insurance and other non-pension business.

TIAA provides record keeping services and funding vehicles, fixed annuities and variable annuities, for employer sponsored retirement plans, the majority of which are 403(b) plans. TIAA no longer sells life insurance.

According to their December 31, 2010 annual statement filed with the Department, TIAA reported individual annuity considerations earned in Delaware in the amount of \$27,148,974 and group annuity considerations earned in Delaware in the amount of \$6,385,334.

## **COMPANY OPERATIONS AND MANAGEMENT**

### **Internal Audit and Compliance Procedures**

The Company provided: (a) A narrative statement explaining the internal control methods and audits used to assure compliance with Delaware Insurance Laws and the Company’s established policies and procedures; (b) A list of all internal audits performed in the last five years; (d) A statement that there were no regulatory and court actions related to the sales and marketing of annuity contracts taken against the Company during the exam period; (e) Copies of all market conduct reports completed in the last three years by other States; and (f) A brief history of the Company.

The information was reviewed. The internal audit procedures were reviewed to verify that internal control methods and audits were in place to ensure compliance with Delaware Insurance Laws and the Company’s established policies and procedures.

No Exceptions were noted.

## **POLICY FORMS**

The Company provided copies of all annuity contracts marketed in Delaware. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with 18 Del. C. §2712, Filing, approval of forms.

No exceptions were noted.

## **CONSUMER COMPLAINTS**

The Company provided a list of 46 consumer complaints received from Delaware consumers, claimants and complaints referred to the Department of insurance during the experience period of January 1, 2010 through June 30, 2011. All 46 complaint files were requested, received and reviewed.

The complaint files and the complaint log were reviewed for compliance with 18 Del. C. §2304 (17). This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Any written complaint files involving claims were reviewed for compliance with 18 Del. Admin. Code 902 §1.2.1.2.

No exceptions were noted.

## **PRODUCER LICENSING & OVERSIGHT**

The Company provided a list of all producers active and terminated during the experience period, in addition to the Company's oversight policies and procedures regarding the following activities:

- Producer Appointment Procedures & Reference Background Checks
- Producer Complaint Monitoring
- Allegations of Misconduct Reports
- Producer Terminations
- Producer Termination for Cause Procedures & Lists
- Monitoring Producer Replacement Activity

The policies and procedures were received and reviewed. The Company also provided a list of 1,485 active producers, and 363 terminated producers. A random sample of 109 active producers and 50 terminated producers was compared to departmental records of producers to verify licensing, appointments and terminations. In addition, a comparison was made on the producers identified on applications reviewed in the policy issued sections of the exam. Verification of appointments, terminations and licensing was

**Delaware Market Conduct Examination Report  
Teachers Insurance and Annuity Association of America**

performed to ensure compliance with the following statutes and regulations:

- 18 Del. C. §1703. License required.
- 18 Del. C. §1715. Appointments.
- 18 Del. C. §1716. Notification to Insurance Commissioner of termination.

The following exception to 18 Del. C. §1716 was noted:

**1 Exception - 18 Del. C. §1716. Notification to Insurance Commissioner of Termination.**

*(a) Termination for cause. -- An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the Insurance Commissioner within 30 days following the effective date of the termination, using a format prescribed by the Insurance Commissioner, if the reason for termination is 1 of the reasons set forth in § 1712 of this title or the insurer has knowledge the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in § 1712 of this title. Upon the written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.*

*(b) Termination without cause. -- An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in § 1712 of this title shall notify the Insurance Commissioner within 30 days following the effective date of the termination, using a format prescribed by the Insurance Commissioner. Upon written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.*

The Company terminated the appointment of one producer but did not notify the Insurance Commissioner within 30 days of the effective date of the termination.

**Recommendation:** The Company should review its producer licensing and appointment verification procedures to ensure the Insurance Commissioner is notified within 30 days following the effective date of the termination of a producer.

## **MARKETING AND SALES**

The Company provided a list of 1,150 pieces of advertising utilized in Delaware during the experience period. The advertising materials consisted of: Letter Templates, Welcome Kits, Guides, eNewsletters, Seminar Information, Web Information Pages, Fact Sheets, Emails, Brochures, Presentations, Banners, Flyers, and the Company's web page. A random sample of 57 pieces of advertising material was selected, received and reviewed. The advertising materials and the Company's web site, [www.tiaa-cref.org](http://www.tiaa-cref.org), were reviewed

**Delaware Market Conduct Examination Report  
Teachers Insurance and Annuity Association of America**

to ensure compliance with 18 Del. C. §2303, Unfair Methods of Competition and Unfair or Deceptive Acts or Practices.

No exceptions were noted.

## **BUSINESS LISTINGS**

### **A. Annuity Contracts Issued**

The Company identified a universe of 383 annuity contracts issued during the experience period. A random sample of 109 annuity contract files was requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations.

No exceptions were noted.

### **B. Annuity Contracts Issued As Replacements**

The Company identified a universe of 383 annuity contracts issued during the experience period. Of the 383 contracts, 10 were annuity contracts issued as replacements. All 10 annuity contracts issued as replacement files were requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations.

The following exceptions to 18 Del. Admin. Code 1204 §7.1 Replacement of Life Insurance were noted:

#### **3 Exceptions - 18 Del. Admin. Code 1204 §7.1 Replacement of Life Insurance**

*Each insurer that uses an agent or broker in a life insurance or annuity sale shall:*

*7.1.2 Where a replacement is involved:*

*7.1.2.2 Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity contract is issued, whichever is sooner.*

The written communication advising of the replacement of the contract to the existing insurer was not made within 7 working days in the noted three files.

**Recommendation:** The Company should implement procedures to ensure that the written communication advising of the replacement or proposed replacement of the annuity contract is made within 7 working days.

**C. Annuity Contracts Terminated**

The Company identified a universe of 62 annuity contracts terminated. A random sample of 10 annuity contract files was requested, received, and reviewed. The files were reviewed to ensure that terminations were not the result of any discriminatory underwriting practice. The files terminated due to death were reviewed for compliance with 18 Del. Admin. Code 902.

No exceptions were noted.

**D. Annuity Contracts Surrendered**

The Company identified a universe of 1,351 annuity contracts surrendered. A random sample of 109 contract files was requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions and pertinent Delaware laws and regulations.

No exceptions were noted.

**Delaware Market Conduct Examination Report  
Teachers Insurance and Annuity Association of America**

**CONCLUSION**

The recommendations made below identify corrective measures the Department finds necessary as a result of the Exceptions and Concerns noted in the Report. Location in the Report is referenced in parenthesis.

1. The Company should review its producer licensing and appointment verification procedures to ensure the Insurance Commissioner is notified within 30 days following the effective date of the termination of a producer in compliance with 18 Del. C. §1716. Notification to Insurance Commissioner of Termination. (Producer Licensing & Oversight)
2. The Company must review and revise internal control procedures to ensure compliance with replacement of annuity requirements of 18 Del. Admin. Code 1204 §7.1 Replacement of Life Insurance. (B. Annuity Contracts Issued As Replacements)

The examination conducted by Shelly Schuman, Frank Kyazze, Sean Connolly and Jack Rucidlo is respectfully submitted.

*Frank Kyazze*

Frank W. Kyazze, CIE, MCM, FLMI, ALHC  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance