

DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

New York Life Insurance and Annuity Corporation

NAIC #91596

51 Madison Ave
New York, NY, USA 10010

As of

December 31, 2016

Trinidad Navarro
Commissioner



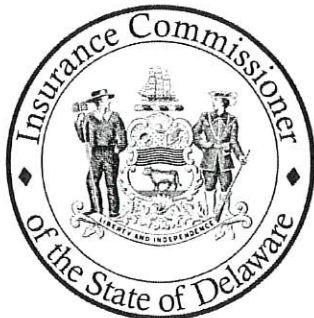
Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2016 on

New York Life Insurance and Annuity Corporation

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 13 day of June, 2018.

Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION

OF THE

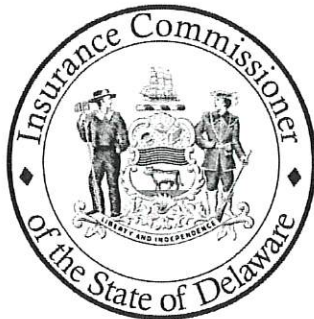
New York Life Insurance and Annuity Corporation
AS OF

December 31, 2016

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.



In Witness Whereof, I have hereunto set my hand
and affixed the official seal of this Department at the
City of Dover, this 13 day of June, 2018.

A handwritten signature in blue ink that reads "Trinidad Navarro".

Trinidad Navarro
Insurance Commissioner

Table of Contents

EXECUTIVE SUMMARY	2
SCOPE OF EXAMINATION.....	3
METHODOLOGY	3
COMPANY OPERATIONS AND MANAGEMENT	4
COMPLAINT HANDLING	5
MARKETING AND SALES.....	5
PRODUCER LICENSING	5
POLICYHOLDER SERVICES	6
UNDERWRITING AND RATING.....	6
CONCLUSION.....	8

Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Exam Authority Number 91596-ANN-16-587, and pursuant to statutory provisions including 18 *Del. C.* §§ 318-322, a market conduct examination has been conducted of the affairs and practices of:

New York Life Insurance and Annuity Corporation NAIC #91596

The examination was performed as of December 31, 2016.

The examination consisted of an off-site phase which 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

According to the 2016 Annual Statement for the State of Delaware, New York Life and Annuity Corporation reported direct business life insurance premiums in the amount of \$6,516,491 and annuity considerations in the amount of \$42,176,286. As of the 2016 Annual Statement, New York Life and Annuity Corporation reported direct business life insurance premiums in the amount of \$2,049,172,251 and annuity considerations in the amount of \$11,299,230,102 for all states, territories, and Canada.

The examination was announced as part of a series of examinations of companies in the Annuity marketplace in Delaware. The examination focused on the Company's annuity and life insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, and Underwriting and Rating. This effort was conducted to gauge the Company's practices related to suitability, replacement, and surrender transactions.

All the exceptions noted were in relation to the Underwriting and Rating area.

The following exceptions were noted:

- 5 Exceptions:
 - 3 - Individual Fixed Annuities - Replacements
 - 2 - Individual Variable Annuities - Replacements
- 18 *Del. Admin. C.* §1204 - 7.1.2.2 - Duties of Insurers that Use Agents or Brokers
For failure to send the existing insurer a written communication advising of the replacement or proposed replacement of the policy within seven (7) working days of the date the application was received in the replacing insurer's home office.

DETAILS OF CODES IN VIOLATION:

The full text of the legal citation noted in the report is shown below for reference.

18 *Del. Admin. C.* §1204 - 7.1.2.2 - Duties of Insurers That Use Agents or Brokers

Each insurer that uses an agent of 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 Policy is issued, whichever is sooner.*

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, 2014, through December 31, 2016, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware life and annuity suitability, replacement, and surrender laws and regulations related to the sale and marketing of individual cash value life insurance, individual fixed annuities, and individual variable annuities.

The examination was a targeted market conduct examination of the Company's life insurance and annuity business in the following areas of operation: Company Operations and Management; Complaint Handling; Marketing and Sales; Producer Licensing; Policyholder Services; and Underwriting and Rating.

METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on errors found in individual files, the examiners also focus 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 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, and files reviewed by Department examiners during the course of an examination may not be referenced 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 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 to review written summaries of the exceptions noted.

COMPANY HISTORY AND PROFILE

The Company was incorporated on November 3, 1980, under the laws of the State of Delaware. A Certificate of Authority, issued by the Insurance Commissioner on December 26, 1980, and amended on September 12, 1983, authorized the Company to transact the business of life, including annuities, variable annuities, credit life, health, credit health, and variable life.

The Company is licensed in all states, the District of Columbia, and the U.S. Virgin Islands. Since commencing operations, the Company has engaged in the variable life insurance and annuities business.

According to the 2016 Annual Statement for the State of Delaware, New York Life and Annuity Corporation reported direct business life insurance premiums in the amount of \$6,516,491 and annuity considerations in the amount of \$42,176,286. As of the 2016 Annual Statement, New York Life and Annuity Corporation reported direct business life insurance premiums in the amount of \$2,049,172,251 and annuity considerations in the amount of \$11,299,230,102 for all states, territories, and Canada.

COMPANY OPERATIONS AND MANAGEMENT

The Company provided the requested information documenting its management and operational procedures in areas for which it conducts business for the State of Delaware, including:

- Company History and Profile
- Company Organization
- Internal Audit & Compliance
- Antifraud Program Compliance
- Managing General Agent (MGA), General Agents (GA), and Third-Party Administrator (TPA) Oversight
- Company Records and Records Retention Policies and Procedures
- A statement that the Company's records are adequate, accessible, consistent, and orderly and comply with Delaware record retention requirements.
- Copies of Annual Reports for 2014, 2015, and 2016

The documents were reviewed to determine compliance with Delaware laws and regulations and NAIC Standards.

No exceptions were noted.

COMPLAINT HANDLING

The Company provided a list of ten (10) consumer complaints received during the experience period of January 1, 2014 through December 31, 2016. Of the ten (10) complaints, one (1) was forwarded from the Delaware Department of Insurance. All ten (10) complaint files were requested, received and reviewed. The Company also provided the complaint logs as requested. The Department's list of written consumer complaints forwarded to the Company was compared to the Company's complaint log.

The complaint files and complaint logs were reviewed to determine compliance with Delaware statutes and regulations including, but not limited to, 18 *Del. Admin. C.* § 2304 (17) and 18 *Del. Admin. C.* § 2304 (26).

No exceptions were noted.

MARKETING AND SALES

The Company provided a list of 752 pieces of advertising materials utilized in Delaware during the examination period. The advertising materials consisted of: Letters, Direct Mailers, Brochures, Presentations, Radio and Television Scripts, Cards, Illustrations, Product Guides, Product Manuals and the Company's web page. A sample of 86 pieces of advertising materials was requested, received, and reviewed. The advertising materials were reviewed to ascertain compliance with 18 *Del. C.* § 2303 - Unfair Methods of Competition, and Unfair or Deceptive Acts or Practices and 18 *Del. C.* § 2304 - Unfair methods of competition and unfair or deceptive acts or practices defined.

No exceptions were noted.

PRODUCER LICENSING

The Company provided a list of 1,166 active producers authorized to conduct business in Delaware at any time during the experience period of January 1, 2014 through December 31, 2016. A random sample of 113 producers was selected and compared to producers on record with the Delaware Department of Insurance to verify compliance with Delaware licensing and appointment statutes and regulations.

No exceptions were noted.

POLICYHOLDER SERVICES

A) Individual Cash Value Life Contracts Surrendered

The Company provided a list of 51 individual fixed annuity contracts surrendered during the experience period. All 51 contract files were requested, received, and reviewed. The files were reviewed to determine compliance with contract provisions; Delaware surrender laws and regulations, and the proper processing of any cash surrender value payments.

No exceptions were noted.

B) Individual Fixed Annuity Contracts Surrendered

The Company provided a list of 62 individual fixed annuity contracts surrendered during the experience period. A random sample of 50 contract files was requested, received, and reviewed. The files were reviewed to determine compliance with contract provisions, Delaware surrender laws and regulations, and the proper processing of any cash surrender value payments.

No exceptions were noted.

C) Individual Variable Annuity Contracts Surrendered

The Company provided a list of 97 individual Variable annuity contracts surrendered during the experience period. A random sample of 50 contract files was requested, received, and reviewed. The files were reviewed to determine compliance with contract provisions; Delaware surrender laws and regulations, and the proper processing of any cash surrender value payments.

No exceptions were noted.

UNDERWRITING AND RATING

A) Individual Cash Value Life Policies Issued – Non-Replacement

The Company provided a list of 193 cash value life insurance policies issued during the examination period. A random sample of 25 policy files was requested, received, and reviewed. The files were reviewed to determine compliance with Delaware underwriting and issuance statutes and regulations.

No exceptions were noted.

B) Individual Cash Value Life Policies Issued – Replacements

The Company provided a list of 16 cash value life policies issued as replacements during the examination period. All 16 policy files were requested, received and reviewed. The files were reviewed to determine compliance with the Delaware underwriting, issuance, and replacement statutes and regulations.

No exceptions were noted.

C) Individual Fixed Annuities – New Issue

The Company provided a list of 108 individual fixed annuity contracts issued, not including replacements, during the examination period. A random sample of 50 annuity contract files was requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware underwriting and issuance statutes and regulations.

No exceptions were noted.

D) Individual Fixed Annuities - Replacements

The Company identified a universe of 69 fixed annuity contracts issued as replacements during the examination period. A random sample of 50 annuity contract files was requested, received, and reviewed. The files were reviewed to determine compliance with Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

3 Exceptions - 18 *Del. Admin. C.* §1204 - 7.1.2.2 – Duties of Insurers That Use Agents or Brokers

There was no evidence of a written communication advising the existing insurer of the replacement within seven (7) working days of the date the application was received in the replacing insurer’s home office.

Recommendation: It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven (7) working days of the date the application is received in the replacing insurer’s home office in compliance with 18 *Del. Admin. C.* §1204 - 7.1.2.2.

E) Individual Variable Annuities - Replacements

The Company identified a universe of 32 variable annuity contracts issued as replacements during the examination period. All 32 annuity contract files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

The following exceptions were noted:

2 Exceptions - 18 Del. Admin. C. §1204 - 7.1.2.2 – Duties of Insurers That Use Agents or Brokers

There was no evidence of a written communication advising the existing insurer of the replacement within seven (7) working days of the date the application was received in the replacing insurer's home office.

Recommendation: It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven working days of the date the application is received in the replacing insurer's home office in compliance with 18 Del. Admin. C. §1204 - 7.1.2.2.

CONCLUSION

The recommendation made below identifies corrective measures the Department finds necessary as a result of the Exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended the Company review its procedures to ensure the written communication advising the existing insurer of the replacement is made within seven (7) working days of the date the application is received in the replacing insurer's home office in compliance with 18 Del. Admin. C. §1204 - 7.1.2.2. (Underwriting and Rating - Individual Fixed Annuity – Replacements)
(Underwriting and Rating - Individual Variable Annuity - Replacements)

The examination was conducted by Shelly Schuman, Joseph Krug, Steve Misenheimer, Ray Hartsfield, Pete Salvatore, and Linda Armstrong. This report is respectfully submitted.



Linda Armstrong, JD, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance