

DELAWARE DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT

Nationwide Life and Annuity Insurance Company
NAIC # 92657

One Nationwide Blvd
Columbus, OH 43215-2220

As of

June 30, 2023

TRINIDAD NAVARRO
COMMISSIONER



STATE OF 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 June 30, 2023 on

Nationwide Life and Annuity Insurance Company

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

Attest By:

A handwritten signature in blue ink, appearing to read "Angelina Jettie", written over a horizontal line.



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover, this 23rd day of August, 2024.

A handwritten signature in blue ink, appearing to read "Trinidad Navarro", written over a horizontal line.

Trinidad Navarro
Insurance Commissioner

TRINIDAD NAVARRO
COMMISSIONER



STATE OF DELAWARE
DEPARTMENT OF INSURANCE

REPORT ON EXAMINATION

OF THE

Nationwide Life and Annuity Insurance Company

AS OF

June 30, 2023

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 23rd day of August, 2024.

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

Trinidad Navarro
Insurance Commissioner

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Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
1351 West North St., Suite 101
Dover, DE 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Examination Authority Number 92657-23-634, and pursuant to statutory provisions including 18 Delaware Code §§ 318-322, a market conduct examination has been conducted of the affairs and practices of:

Nationwide Life and Annuity Insurance Company
NAIC # 92657

The examination was performed as of June 30, 2023.

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

The main administrative offices of Nationwide Life and Annuity Insurance Company (Nationwide or the Company) are located in Columbus, Ohio. The Company's 2022 annual statement filed with the Department reported total premiums written for all states of \$9,415,736,047, of which Delaware has a market share of .5% or approximately \$46,334,192.

This examination focused on Nationwide's life insurance business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Policyholder Services, Underwriting and Rating, and Claims. The following exceptions were noted and the details for the cited code references are included:

The following exceptions were noted:

- **2 Exceptions**

18 Del. Admin. C. § 1210-9.1.2 Delivery of Illustration and Record Retention.
9.1.2 If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

Nationwide failed to provide a revised illustration by the time the policy was delivered.

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, 2021 through June 30, 2023, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware insurance laws and regulations related to the individual life, line of business.

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 the errors found in individual files, the examiners also focus on general business practices of the Company.

Nationwide 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 or 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 to review written summaries provided on the exceptions found.

COMPANY HISTORY AND PROFILE

Nationwide Life and Annuity Insurance Company was organized as Financial Horizons Life Insurance Company on February 9, 1981, in the State of Ohio. The company changed its name from “Financial Horizons Life Insurance Company” to “Nationwide Life and Annuity Insurance Company” on January 30, 1995. Nationwide Mutual Insurance Company controlled Nationwide Life and Annuity Insurance Company through ownership of all of Nationwide Life and Annuity’s outstanding common shares, from the time of its organization until April 7, 1988. On April 7, 1988, Nationwide Mutual Insurance Company transferred ownership of its shares of Nationwide Life and Annuity Insurance Company to Nationwide Life Insurance Company.

On December 31, 2009, pursuant to the prior approval of the Delaware, Ohio and California Departments of Insurance, Nationwide Life and Annuity Company of America merged with and into Nationwide Life and Annuity Insurance Company, with Nationwide Life and Annuity Insurance Company being the survivor of the merger.

On January 1, 2022, pursuant to the prior approval of the Ohio Department of Insurance, Harleysville Life Insurance Company merged with and into Nationwide Life and Annuity Insurance Company, with Nationwide Life and Annuity Insurance Company being the survivor of the merger.

The Company is licensed in 49 states and the District of Columbia. The Company is not licensed in New York. In 2021, Nationwide reported \$ 5,960,126,190 premium of which \$27,647,574 was written in Delaware. In 2022, Nationwide reported \$9,415,736,047 premium of which \$ 46,334,192 was written in Delaware.

COMPANY OPERATIONS AND MANAGEMENT

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

- The Company History and Profile
- The Company Organizational Charts
- A list of internal audits conducted in the last three (3) years and a statement that the audits identified were closed/complete and up to date as of the examination period under review
- A copy of the Company's anti-fraud procedures
- A copy of the Company's record retention policy
- Copies of the Annual Reports for 2021 and 2022.

The documents were reviewed to ensure compliance with applicable state statutes and regulations.

There were no exceptions noted.

COMPLAINT HANDLING

The Company was requested to provide a listing of all complaints filed with the Company during the exam period of January 1, 2021, through June 30, 2023. The Company provided a listing of one complaint. In addition, the Company's policies and procedures related to the handling and processing of complaints were provided. During the examination period, there were no complaints filed with the Delaware Department of Insurance.

The complaint file and the policies and procedures were reviewed for compliance with applicable statutes and regulations.

There were no exceptions noted.

MARKETING AND SALES

A. Marketing and Sales Policies and Procedures

The Company was requested to provide a copy of the Company's marketing and sales policies and procedures during the exam period of January 1, 2021, through June 30, 2023. The policies and procedures were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

B. VUL Advertisings and Sales Material Review

The Company was requested to provide a listing of all advertising materials, whether printed or audio/visual, and approved for use by field personnel during the exam period of January 1, 2021, through June 30, 2023. The Company was also requested to segregate this material into two sections, Company generated advertising and Producer generated advertising, showing which policy form was associated with the identified piece of advertising material. The Company provided a universe of 420 pieces of Variable Universal Life (VUL) advertisements of which a sample of 84 was selected for review. The advertisements were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

C. Fixed Life Advertisings and Sales Material Review

The Company was requested to provide a listing of all advertising materials, whether printed or audio/visual, and approved for use by field personnel during the exam period of January 1, 2021, through June 30, 2023. The Company was also requested to segregate this material into two sections, Company generated advertising and Producer generated advertising, showing which policy form was associated with the identified piece of advertising material. The Company provided a universe of 1,321 Fixed Life pieces of advertisements of which a sample of 113 was selected for review. The advertisements were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

D. General Advertisings and Sales Material Review

The Company was requested to provide a listing of all advertising materials, whether printed or audio/visual, and approved for use by field personnel during the exam period of January 1, 2021, through June 30, 2023. The Company was also requested to segregate this material into two sections, Company generated advertising and Producer generated advertising, showing which policy form was associated with the identified piece of advertising material. The Company provided a universe of 2,112 General pieces of advertisements of which a sample of 114 was selected for review. The advertisements were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

POLICYHOLDER SERVICES

A. Policyholder Services Policies and Procedures

The Company was requested to provide its policies and procedures for locating missing policyholders or beneficiaries, handling orphaned policies and how they are assigned, and

for handling unearned premium calculations and refunds. In addition, the Company was requested to provide documentation that nonforfeiture options are communicated to the policyholder, that the Company provides each policy owner with an annual report of policy values, and that policy surrender requests are processed timely and accurately. The policies and procedures were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

B. Individual Life Policies Surrendered

The Company was requested to provide a listing of all Life Insurance Policies surrendered during the exam period January 1, 2021 through June 30, 2023. The Company was also requested to provide documentation that non-forfeiture options are communicated to the policyholder and contract holder and correctly applied in accordance with the policy contract, that each policy owner is provided an annual report of policy values, and to provide a copy of the procedures for handling the unearned premium calculation and refund. The Company provided a listing of 213 Surrenders of which a sample of 79 was selected for review. The surrenders were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

UNDERWRITING AND RATING

A. Underwriting Policies and Procedures

The Company was requested to provide copies of the rates approved for use in Delaware during the examination period of January 1, 2021 through June 30, 2023 and a copy of the Company's underwriting guidelines. The underwriting guidelines were to include the Company's accelerated underwriting and predictive modeling and a detailed description of the processes, including, a copy of the application, DNA requirements, the application denial process, along with a copy of a denial letter, and the application denial appeal process. The Company was also requested to provide a copy of the Replacement Register, cross indexed, by replacing agent and existing insurer to be replaced.

During the course of the examination, the examiners reviewed the Company's Individual Life New Issues and Denied, Replacements and Replacements Denied, and Individual Life New Business Not Taken. Within each of these sample groups, applications, denial letters, as well as appeals were reviewed. Based upon the review, the Company's applications, denial letters, as well as the appeals were consistent with the walkthrough the Company provided on May 22, 2024. The rates and underwriting guidelines were reviewed for compliance with applicable Statutes and Regulations.

The Company indicated that its Intelligent Underwriting is the Company's branded accelerated underwriting process which utilizes Prescription history, Health insurance claims history, Medical Lab history, Medical Information Bureau (MIB), Motor Vehicle

Report (MVR) and the application to determine if an individual is a standard or preferred risk class. The Company does not use DNA as part of its underwriting process. An underwriter reviews each decision that is made through Intelligent Underwriting. The Company's Intelligent Underwriting consists of four (4) models to assist with the accelerated underwriting process; Nationwide Model, Underwriting Rules, Milliman Irix and a disclosed third party. If an application cannot be verified via the accelerated underwriting process, the application processes through traditional underwriting. The Nationwide Model partners with the aforementioned third party to use de-identified data, to help assess clinical laboratory values. The Underwriting Model is an added layer of protection that is not only for specific risk class approval, but also identifies risks that do not have enough data. The Milliman Irix Model assesses for mortality risk with a combination of an individual prescription drug history and medical claims records.

The Company also uses a digital session recorder that interprets telephonic data versus face-to-face, with a digital part two interview process. The applicant's movements are monitored and recorded. If significantly abnormal behavior is observed throughout the interview process, it may indicate the applicant may not have read all the questions or is potentially committing fraud. It could also indicate potential issue(s) with the digital interview process.

There were no exceptions noted.

B. Forms

The Company was requested to provide a listing of all Forms available for use in Delaware, and to include the form type, form number, description, filing approval date and the SERFF filing number during the exam period of January 1, 2021, through June 30, 2023. The Company provided a listing of 688 Forms, of which a sample of 86 forms were reviewed. The forms were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

C. Individual Life New Issue

The Company was requested to provide a listing of all Individual Life Insurance Applications that were approved during the examination period of January 1, 2021, through June 30, 2023, by line of business. The Company provided a listing of 658 Life New-Issues, of which a sample of 86 New-Issues were reviewed. The Life New-Issues were reviewed for compliance with applicable Statutes and Regulations.

The following exception was noted:

1 Exception – 18 Del. Admin. C. § 1210-9.1.2 Delivery of Illustration and Record Retention.

Nationwide failed to provide a revised illustration by the time the policy was delivered.

Recommendation: It is recommended that the Company provide a revised basic illustration conforming to the policy as issued no later than the time the policy is delivered as required by 18 *Del. Admin. C.* § 1210-9.1.2.

D. Individual Life Replacements

The Company was requested to provide a listing of all Individual Life Insurance Replacements that were approved during the examination period of January 1, 2021, through June 30, 2023, by line of business. The Company provided a listing of 71 Life Replacements. All 71 Life Replacements were reviewed. The Life Replacements were reviewed for compliance with applicable Statutes and Regulations.

The following exception was noted:

1 Exception – 18 *Del. Admin. C.* § 1210-9.1.2 Delivery of Illustration and Record Retention.

Nationwide failed to provide a revised illustration by the time the policy was delivered.

Recommendation: It is recommended that the Company provide a revised basic illustration conforming to the policy as issued no later than the time the policy is delivered as required by 18 *Del. Admin. C.* § 1210-9.1.2.

E. Individual Life New Business Denied

The Company was requested to provide a listing of all Individual Life Insurance Applications that were denied by the Company during the exam period January 1, 2021 through June 30, 2023. The Company provided a listing of 104 denied applications. A random sample of 79 denied applications was reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

F. Individual Life Replacements Denied

The Company was requested to provide a listing of all Individual Life Insurance Applications that were denied by the Company during the examination period of January 1, 2021, through June 30, 2023. The Company provided a listing of 3 Individual Life Replacements denied applications. All 3 denied applications were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

G. Individual Life New Business Not Taken

The Company was requested to provide a listing of all Individual Life Insurance Applications that were not accepted or returned by the Consumer during the free look period, during the examination period of January 1, 2021, through June 30, 2023. The Company provided a listing of 3 Individual Life New Business applications that were not accepted or not taken. All 3 applications not taken applications were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

CLAIMS

The Company was requested to provide a listing of all claims received and paid during the exam period of January 1, 2021, through June 30, 2023. The Company was also requested to provide all claim manuals, procedures, processing reports, and how the Company determines if interest is due on claim payments. The Company is paying interest from the date of death to the date of the claim payment. The Company provided a listing of 23 paid claims and no denied claims. All 23 paid claims were reviewed for compliance with applicable Statutes and Regulations.

There were no exceptions noted.

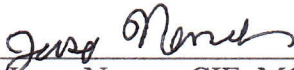
CONCLUSION

The recommendations made below identify 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 that the Company provide a revised basic illustration conforming to the policy as issued no later than the time the policy is delivered as required by 18 *Del. Admin. C.* § 1210-9.1.2. (Underwriting and Rating).

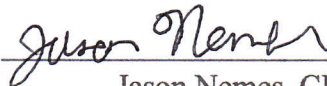
**Delaware Market Conduct Examination Report
Nationwide Life and Annuity Insurance Company**

The examination conducted by Joseph Krug, Jason Nemes, Gwendolyn Douglas, Michael Vogel, and Peter Salvatore is respectfully submitted.



Jason Nemes, CIE, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance

I, Jason Nemes, hereby verify and attest, under penalty of perjury, that the above is a true and correct copy of the examination report and findings submitted to the Delaware Department of Insurance pursuant to examination authority 92657-23-634.



Jason Nemes, CIE, MCM