

DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

Of

**New York Life
Insurance and Annuity Corporation**

AS OF

DECEMBER 31, 2007

Karen Weldin Stewart, CIR-ML
Commissioner



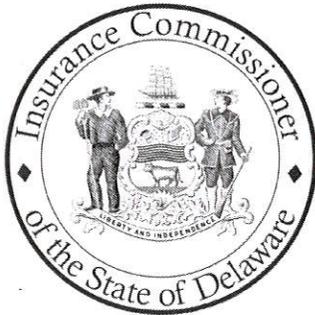
Delaware Department of Insurance

I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2007 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.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

Karen Weldin Stewart, CIR-ML
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION
AS OF
December 31, 2007

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.

A handwritten signature in black ink, appearing to read "Karen Weldin Stewart", written over a horizontal line.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

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SALUTATION

January 6, 2010

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 07-702, 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

The examination was performed as of December 31, 2007. New York Life Insurance and Annuity Corporation, hereinafter referred to as the "Company" or as "NYLIAC," is incorporated under the laws of the State of Delaware. 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:

51 Madison Avenue New York, New York 10010-1603

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

New York Life Insurance and Annuity Corporation (“NYLIAC” or “Company”) offers life insurance and annuities through both captive and independent agents. A Baseline Market Conduct examination was conducted and no material exceptions were noted.

SCOPE OF EXAMINATION

The basic business areas that are subject to a Delaware Market Conduct Examination vary depending on the type of insurer. For all insurers these areas include:

- Company Operations/Management
- Complaint Handling
- Marketing and Sales
- Producer Licensing
- Policyholder Service
- Underwriting and Rating
- Claims

This examination is a Delaware Baseline Market Conduct Examination. It is comprised of two components. The first is a review of the Company’s countrywide complaint patterns. This is not a pass/fail test. It is aimed at determining if there is a detectable pattern to the complaints the Company receives from all sources.

The second component is an analysis of the management of the various business areas subject to a Market Conduct examination through a review of the written procedures and operating processes of the Company. This includes an analysis of how the Company communicates its instructions and intentions to its operational echelons, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine if this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas where review indicators suggest that the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance.

All business areas noted above are addressed to some extent by one or more of the procedures reviewed, thus providing a comprehensive view of the Company and its component operations.

This examination report is a report by exception rather than a report by test. This means that only those areas where recommendations for improvement were noted are detailed in this report.

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.

METHODOLOGY

This examination is based on the Standards and Tests for a Market Conduct Examination of the Delaware Market Conduct Examiners' Handbook. This chapter is derived from applicable Delaware Statutes, Rules and Regulations as referenced herein and the *NAIC's Market Conduct Examiners' Handbook* (2004 edition).

The types of review used in this examination fall into three general categories: generic, sample, and electronic.

A "generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "sample" review indicates that a standard was tested through direct review of a random sample of files using a sampling methodology described in the Delaware Market Conduct Examiners' Handbook and the *NAIC's Market Conduct Examiners' Handbook*. Samples of complaint files, underwriting files and claim files were reviewed to determine that the processes described by the Company are actually used by the Company.

An "electronic" review indicates that a standard was tested through the use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically reviews one hundred percent (100%) of the records of a particular type.

In this examination only two standards were directly tested. Standards and procedures were tested through a combination of "generic" review and direct observation of the processes used.

Each Standard contains a brief description of the purpose or reason for the Standard. The Procedure review does not include this feature. The examiners' "Observations" are noted following each Standard or Procedure tested. While each Standard is summarized and "Observations" are noted here, only those Procedures where exceptions were noted will be highlighted.

A. COMPANY OPERATIONS/MANAGEMENT

This examination report is not designed to be a pass/fail report, with the exception of the following two standards dealing with appropriate licensure and cooperation with the examination process.

Standard A 08

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| <p style="text-align: center;"><i>NAIC's Market Conduct Examiners' Handbook - Chapter VIII, §A, Standard 8</i> The Company is licensed for the lines of business that are being written. 18 Del. C. §318(a), §505(b)</p> |
|---|

The review methodology for this standard is "generic." This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company's operations are in conformance with the Company's Certificate of Authority.

New York Life Insurance and Annuity Corporation

Results: Pass

Observations: The Company is licensed for the lines of business being written based upon a review of premium schedules and the Company's Delaware Certificate of Authority.

Recommendations: None

Standard A 09

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| <p><i>NAIC's Market Conduct Examiners' Handbook - Chapter VIII. §A, Standard 9</i></p> <p>The Company cooperates on a timely basis with the examiners performing the examination.</p> <p style="text-align: right;">18 Del. C. §318(a), §320(c), §520(b) 3</p> |
|---|

The review methodology for this standard is "generic." This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is cooperating with the state in the completion of an open and cogent review of the Company's operations. Cooperation with the examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely manner thereby minimizing cost.

Results: Pass

Observations: The Company contacts were cooperative during the examination. Most of the requested information was delivered timely. When information could not be provided timely, a reasonable explanation was provided for the delay along with an expected delivery date.

Recommendations: None

B. COMPLAINTS

The evaluation of the Standards in this business area is based on the Company's response to various information requests (IRs) and complaint files at the Company. Delaware statute 18 Del. C. §2304(17) requires the Company to "...maintain a complete record of all complaints received." The statute also requires that "this record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." Delaware's definition of a complaint is: "...any written communication primarily expressing a grievance."

Observations: The Company provided a listing of 1,494 national complaints issued during the period of examination. The NAIC's listing of complaints for the same period reflected 120 complaints. The NAIC's complaint database includes complaints reported by state Departments of Insurance; the Company's database includes both these types of complaints and complaints sent directly to the Company.

REVIEW OF PROCEDURES

The management of well-run companies generally has some processes that are similar in structure. These processes usually take the form of written procedures. While these procedures vary in effectiveness from company to company, the absence of them or the ineffective application of them is often reflected in the failure of the various Standards that follow this section of the report. The processes usually include:

- a planning function where direction, policy, objectives and goals are formulated;
- an execution or implementation of the planning function elements;
- a measurement function that considers the results of the planning and execution; and
- a reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

The absence of written procedures that provide direction for company staff in its various operational areas tends to produce an inconsistent application of the intended process. The same is generally true of the absence of a means to measure the results of the application of procedures and a means to determine that the process is performing as intended.

The reviews in this section are not pass/fail measurements. Rather, they are intended to reflect those management strengths and weaknesses that have a bearing on regulatory compliance issues.

The following areas were reviewed but no concerns or recommendations were noted.

No Recommendations:

Procedure 01 – Audit
Procedure 02 – Assertions of Privilege
Procedure 05 – Anti-Fraud
Procedure 07 – Managing General Agent (MGA) Oversight and Control
Procedure 08 – Vendor Oversight and Control
Procedure 09 – Customer and Consumer Privacy Protection
Procedure 10 – Production of Business
Procedure 11 – Complaint Handling
Procedure 13 – Advertising Sales & Marketing
Procedure 14 – Agent Produced Advertising
Procedure 15 – Producer Training
Procedure 16 – Replacements
Procedure 17 – Illustrations
Procedure 20 – Producer Selection, Appointment & Termination
Procedure 21 – Producer Defalcation
Procedure 22 – Prevention of Use of Persons with Felony Convictions
Procedure 24 – Premium Billing
Procedure 26 – Policy Issuance

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- Procedure 27 - Reinstatements
- Procedure 28 – Requesting Claim History
- Procedure 30 – Premium Determination
- Procedure 31 – Policyholder Disclosures
- Procedure 32 – Underwriting & Selection
- Procedure 33 - Rate & Form Filing
- Procedure 34 – Terminations
- Procedure 35 – Underwriting File Documentation
- Procedure 36 – Suitability (Annuity)
- Procedure 40 – Staff Training
- Procedure 43 – Claim Handling
- Procedure 44 – Internal Claim Audit
- Procedure 45 – Claim File Documentation
- Procedure 48 – Catastrophe Claim Handling

Procedures Reviewed with Recommendations:

None

CONCLUSION

The examination was conducted by Derek Stepp, Jack Rucidlo, Parker WB Stevens, Sean Connolly, and Shelly Schuman and is respectfully submitted.



Derek Stepp, CIE, MCM
Market Conduct Examiner-in-Charge
Insurance Department
State of Delaware