

FINANCIAL SERVICES COMMISSION

**OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

TARGET MARKET CONDUCT FINAL EXAMINATION REPORT

OF

**GENWORTH LIFE & ANNUITY INSURANCE COMPANY
(f/k/a GE LIFE AND ANNUITY ASSURANCE COMPANY)**

AS OF

May 19, 2006

NAIC COMPANY CODE: 65536



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PURPOSE AND SCOPE OF EXAMINATION

Under authorization of the Financial Services Commission, Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of Genworth Life & Annuity Insurance Company (Company), formerly known as GE Life and Annuity Assurance Company, was performed by Examination Resources, LLC. The scope of this examination was July 1, 2004 through June 30, 2005; however, the complaint review was expanded to March 1, 2006. The examination began May 15, 2006 and ended May 19, 2006.

The purpose of this examination was to verify the Company's compliance with suitability determination requirements in marketing annuities to senior consumers, persons 65 years of age and older, as required by Section 627.4554, Florida Statutes. The examination included the following procedures:

- Verify the documents utilized by the Company or its agents to determine suitability comply with Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.
- Review the Company's system to supervise recommendations to determine its compliance with Section 627.4554(4)(d), Florida Statutes.
- Verify the Company maintains or makes available records of information collected from the senior consumer in compliance with Section 627.4554(6)(a), Florida Statutes.
- Review a sample of 50 files for policies sold to senior consumers during the scope period to verify the Company is complying with the suitability determination process required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company. Procedures and conduct of the examination were in accordance with the Market Regulation Handbook produced by the National Association of Insurance Commissioners.

COMPANY OPERATIONS

The Company is a foreign Life and Health insurer licensed to conduct business in the state of Florida on May 24, 1944. The Company provides life insurance and annuities in the state of Florida.

Total Direct Premiums Written in Florida for annuities was as follows:

Year	Total Written Annuity Premium In Florida (Per Schedule T of the Annual Statement)
2004	\$121,906,138
2005	\$127,552,042

The number of annuities sold by the Company during the period of July 1, 2004 through June 30, 2005 is shown in the following table:

	Number of Fixed Annuities	% of Fixed Annuities	Number of Variable Annuities	% of Variable Annuities	Totals
Senior Consumers	1	100%	378	40%	379
Other Consumers	0	0%	577	60%	577
Totals	1	100%	955	100%	956

SUITABILITY DETERMINATION PROCESS REVIEW

Supervisory System of Annuity Recommendations

The Company maintains written guidelines of procedures and forms to be utilized by agents for making recommendations to senior consumers to purchase or exchange an annuity product.

All annuities are marketed through third party broker-dealers having contracts with the Company. Third party broker-dealers are required to ensure that all sales comply with all applicable federal, state, and local laws and regulations, and to keep complete and accurate records of all transactions as set forth in the General Agent Selling Agreement and/or Broker-Dealer Sales Agreement. With respect to the sale of variable annuities, the Broker-Dealer Sales Agreement requires adherence to the NASD Rules of Conduct and specifically requires that a determination of suitability include a reasonable inquiry of each applicant concerning the applicant's financial status, tax status, and insurance and investment needs and objectives. The Company has delegated the responsibility to maintain a supervisory system of annuity recommendations to its third party broker-dealer firms. The Broker-Dealer Sales Agreement requires the third party broker-dealer firms to take reasonable steps to ensure its brokers-dealers are properly marketing and assessing the suitability of products to all applicants. No annual certifications are received from the third party broker-dealer firms as required by Section 627.4554(4)(d)4.a., Florida Statutes.

The Company's supervisory system mainly consists of a policyholder survey, allowing for additional detail reviews based on responses. The survey program is referred to as the LIMRA Customer Assurance Program for Annuities Survey, and is sent to every senior consumer purchasing an annuity from the Company in states which have adopted the NAIC model rule. The customer satisfaction survey is used to determine whether the necessary information was collected and used to make a suitability recommendation.

The surveys are returned to LIMRA International, a statistical research firm, which compiles the consumer responses to several questions regarding their purchase. The survey is designed to elicit responses that indicate whether the consumer understands the product purchased, and whether the broker/agent reviewed the applicant's financial status, tax status, investment objectives, and other pertinent information. The results are presented in monthly and quarterly

reports to the Company. Individual surveys with negative responses to critical issues are reviewed in more detail by the Company. Procedures are in place defining the extent of the detail review, based on the area of concern identified in each survey. The LIMRA survey is not used to determine suitability, but to determine customer understanding and satisfaction.

Additionally, the Company monitors: free look activity to identify contracts returned by owners age 65 and older; consumer complaints to identify issues of contract owners age 65 and older; replacement activity to identify trends including issue age, and to identify undisclosed replacements and/or missing forms; agent investigations to identify questionable activity; and, trade activity to identify potential trends.

Based on its use of the LIMRA Customer Assurance Program for Annuities, in conjunction with the other monitoring programs named above, the Company feels it is in compliance with Section 627.4554, Florida Statutes. However, the Company is not performing periodic reviews of its third parties as required by Section 627.4554(4)(d)4.b., Florida Statutes.

Corrective Action: The Company should ensure all third parties submit annual certifications of compliance and should ensure a supervisory system, utilizing reasonable selection criteria, to periodically select third parties for review to determine whether the third parties are performing the required supervisory functions in conducting reviews of suitability recommendations for senior consumers to assist in detecting and preventing violations.

Policy Review

A sample of 50 files for policies sold to senior consumers during the scope period was reviewed to determine that the Company or its agents were complying with the suitability determination requirements of Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes. However, due to the number of noted exceptions, the sample size was increased to 70. The findings are as follows:

Three (3) files did not include evidence that the agent had made reasonable efforts to obtain the suitability related information from the senior consumer at the time of the sale as required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

Corrective Action: The Company should ensure its records provide evidence that a reasonable effort was made to obtain suitability related information from the senior consumer at the time of the sale.

COMPLAINT ANALYSIS

There were 10 complaints requested for review. The Department of Financial Services, Division of Consumer Services (DFS) received 2 complaints and 8 were filed directly with the Company. Eight (8) complaints related to matters outside the examination scope. All complaints filed with DFS were included in the Company's complaint register. The findings are as follows:

The review of the 2 remaining complaints did not reveal any exceptions..

REPORT SUMMARIZATION

A review was made of the Company's supervisory system over annuity suitability recommendations, in addition to a sample of 72 files. Five (5) errors were found. The following represents general findings, however, specific details are found in each section of the report.

Sample Files Reviewed – 72 Files

- Policies – 70 files
- Suitability Related Complaints – 2 files

Findings

- Supervisory System of Annuity Recommendations – 2 errors – pages 2-3 of the report
 - Failure to ensure a supervisory system that requires all third parties submit annual certifications of compliance
 - Failure to periodically review third parties to ensure the third parties are performing the required supervisory functions
- Policy Review – 3 errors – page 3 of the report
 - Failure to provide evidence that a reasonable effort was made to obtain the suitability related information from the senior consumer at the time of the sale

EXAMINATION FINAL REPORT

The Office hereby issues this report as the Final Report, based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company in response to the draft report.