

FINANCIAL SERVICES COMMISSION

**OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

TARGET MARKET CONDUCT FINAL EXAMINATION REPORT

OF

ING USA ANNUITY AND LIFE INSURANCE COMPANY

AS OF

May 12, 2006

NAIC COMPANY CODE: 80942



TABLE OF CONTENTS

PURPOSE AND SCOPE OF EXAMINATION.....	1
COMPANY OPERATIONS	1
SUITABILITY DETERMINATION PROCESS REVIEW	2
COMPLAINT ANALYSIS	3
REPORT SUMMARIZATION	3
EXAMINATION FINAL REPORT	4

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 ING USA Annuity and Life Insurance Company (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 1, 2006 and ended May 12, 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

ING USA Annuity and Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on October 4, 1973. 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	\$844,152,083
2005	\$722,074,571

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	1,634	50%	1,736	30%	3,370
Other Consumers	1,649	50%	4,138	70%	5,787
Totals	3,283	100%	5,874	100%	9,157

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 a fixed annuity product. For variable annuities, or any products sold through broker-dealers, the Company considers the suitability review to be delegated to the broker-dealers.

During the scope of the examination, the Company required the submission of a suitability acknowledgement form for the sale of all fixed annuities in Florida. Additionally, while not required, the Company made available two optional forms, a Needs Analysis Profile form and a Suitability Considerations form to assist agents in obtaining the annuitant's information for determining whether to make a suitability recommendation. The suitability acknowledgement form requires a signature by the agent, which certifies that the fixed annuity met the needs of the customer and that the agent had reasonable grounds for believing that the recommendation for the customer to purchase/exchange an annuity was suitable on the basis of the facts disclosed by the customer. The Company's supervisory system for reviewing suitability recommendations made by its agents for the sale of fixed annuities is performed internally. The supervisory system consists of reviewing each application file, which includes the acknowledgement form.

Effective in April 2007, the Company implemented an enhanced process for the sales of fixed annuities by replacing the suitability acknowledgment form with a Suitability Profile that must be submitted with each fixed annuity. This form, along with the application, is reviewed by the Company's new business personnel. Based on the answers provided in these documents, further review may be conducted by a Suitability Review Team. The role of this Suitability Review Team is to collect any additional information that may be needed to establish suitability, evaluate that information and to decide whether the contract is suitable for the customer. It also should be noted that the Suitability Review Team reviews all applications received from Florida customers age 65 and over. The Company has also implemented an enhanced tracking system that allows for the review of trends based upon a risk based approach, using a combination of the agent and client information and the results of the internal suitability review.

With regards to variable annuities, the Company has selling agreements in place with its broker-dealers in which they agree to perform suitability reviews and evaluate the suitability of each

annuity purchase. The Company's supervisory system for reviewing recommendations being made by broker-dealers for the sale of variable annuities consists of obtaining annual certifications from the broker-dealers. The Company is currently developing a supervisory system that periodically selects broker-dealers to review their processes and procedures with the NASD Conduct Rules concerning suitability of sales of variable annuities. This process is expected to be implemented in the third quarter of 2007.

Policy Review

An original sample of 50 files for policies sold to senior consumers during the scope period was reviewed to determine that the Company was 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 100. The review of the 100 files revealed the following:

Four (4) files for policies sold to senior consumers 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 Section 627.4554(4)(a) and (b), 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 26 complaints requested for review. The Department of Financial Services, Division of Consumer Services (DFS), received 14 complaints and 12 complaints were filed with the Company. Twenty-four (24) complaints related to matters outside the examination scope for review purposes. The remaining 2 complaints were reviewed with the following noted:

Two (2) complaint files did not include evidence that the agent had made reasonable efforts to obtain all of the suitability related information from the senior consumer at the time of the sale as required by Section 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.

All complaints filed with DFS were included in the Company's complaint register.

REPORT SUMMARIZATION

A review was conducted of the Company's supervisory system over annuity suitability recommendations, in addition to a sample of 102 files. Six (6) errors were found. The following represents general findings, however, specific details are found in each section of the report.

Sample Files Reviewed –102 Files

- Policies – 100 files
- Suitability Related Complaints – 2 files

Findings

- Complaint Review – 4 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
- Complaint Review – 2 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.