



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

AS OF

JANUARY 7, 2010

**NAIC COMPANY CODE: 91596
NAIC GROUP CODE: 0826**

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EXECUTIVE SUMMARY

In June 2006, the Florida Legislature enacted the Freedom to Travel Act, which modified Florida's Unfair Trade Practices Act by placing prohibitions on life insurance limitations upon an individual based solely on the individual's past lawful foreign travel or future lawful travel plans. The Florida Unfair Trade Practices Act also prohibits the refusal to insure, or continue to insure, based on the individual's race, color, creed, marital status, sex, or national origin.

Rule 69D-2 Florida Administrative Code became effective in October 2006 to implement the provisions of Section 626.9891, Florida Statutes. This rule requires a higher level of detail and accountability for Insurer Anti-Fraud Special Investigative Unit (SIU) Description filings and Insurer Anti-Fraud Plan filings.

A target market conduct examination of New York Life Insurance and Annuity Corporation was performed to determine compliance with Sections 626.9541(1)(g), 626.9541(1)(x), 626.9541(1)(dd) and Section 626.9891, Florida Statutes and Rules 69O-125.003 and 69D-2, Florida Administrative Code.

No violations were found during the examination.

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of New York Life Insurance and Annuity Corporation pursuant to Section 624.3161, Florida Statutes. The examination was performed by Examination Resources, LLC. The scope period of this examination was July 1, 2007 through June 30, 2009. The onsite examination began November 16, 2009 and ended January 7, 2010.

The purpose of this examination was to review compliance with Sections 626.9541(1)(g), 626.9541(1)(x), 626.9541(1)(dd) and 626.9891, Florida Statutes and Rules 69O-125.003 and 69D-2, Florida Administrative Code.

The examination included the following procedures:

- Review policy applications to determine if applications were denied, issued in a manner other than applied for, had benefit changes or canceled solely on the individual's past lawful foreign travel experiences, or future lawful foreign travel plans, and compliance with Section 626.9541(1)(dd), Florida Statutes and Rule 69O-125.003, Florida Administration Code.
- Review policy applications to determine if applications were denied, issued in a manner other than applied for, had benefit changes or canceled based on national origin in compliance with Section 626.9541(1)(g) and (x), Florida Statutes.

- Review reinsurance agreements to verify if any of the agreements place any limitations as a result of the applicant's past and/or future foreign travel or the applicant's place of birth.
- Review Anti-Fraud Plan to ensure it has been filed and implemented as required by Rule 69D-2 Florida Administrative Code and Section 626.9891, Florida Statutes..

In reviewing materials for this draft report, the examiner relied on records 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

New York Life Insurance and Annuity Corporation is a foreign Life and Health insurer licensed to conduct business in the State of Florida on May 13, 1981. The Company provides individual variable and universal life; fixed, single premium and variable annuities; and COLI and BOLI. Guaranteed lifetime income annuities are offered to members of a large membership association group.

Total Direct Premiums Written in Florida for Life Insurance was as follows:

Year	Total Written Premium In Florida (Per Schedule T of the Annual Statement)
2007	\$393,358,686
2008	\$746,113,140

LIFE APPLICATION REVIEW

I. FILE REVIEW

The examiners reviewed information contained in the Company's individual life and group life underwriting files, which could have included but not limited to the application, field underwriting guidelines, telephone interviews, questionnaires, underwriting notes, correspondence with agents and consumers, medical records, financial information, and the Company's Agent training materials.

The Company's Individual policy applications contained travel related questions and used travel questionnaires.

The Company received 7,372 applications for life insurance coverage during the scope period.

Declined Applications:

The examiners reviewed 372 declined applications. There were no violations found.

Policy Issued With Limitations or Policy Benefit Change:

The examiners reviewed 350 policies issued with limitations or with policy benefit changes. There were no violations found.

Canceled Policies:

The examiners reviewed 181 canceled policies. There were no violations found.

II. **COMPLETENESS AND ACCURACY TEST**

A sample of 114 applications submitted during the scope of the examination were reviewed to verify that declinations, applications issued in a manner other than applied for, benefit changes, and cancelations were included on the respective listings provided by the Company. No violations were found.

A sample of 114 of canceled policies which were not selected for detailed review were reviewed to verify that the reason for cancelation was as reported by the Company in the data files. No violations were found.

REINSURANCE AGREEMENTS REVIEW

The Company's reinsurance agreements that were in place during the scope of the examination were reviewed to verify if any of the agreements place limitations on coverage as a result of an applicant's past lawful foreign travel, future lawful travel plans or the applicant's place of birth.

There were 43 reinsurance contracts reviewed. The contracts do not have any limitations to insured's past of future travel or place of origin.

ANTI-FRAUD PLAN REVIEW

The Company has submitted a description of its SIU in form DFS-L1-1689 as required by Rule 69D-2.003, Florida Administrative Code.

The Company has implemented its Anti-Fraud Plan as required by Section 626.9891, Florida Statutes.

No violations were found.

EXAMINATION FINAL REPORT SUBMISSION

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



OFFICE OF INSURANCE REGULATION

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COMMISSIONER OF
AGRICULTURE

VIA CERTIFIED MAIL/RETURN RECEIPT and E-MAIL

May 25, 2010

Theodore A. Mathas
Chairman of the Board and President
New York Life Insurance and Annuity Corporation
51 Madison Avenue
New York, NY 10010

Re: Florida Market Conduct Examination –SBS #8565
Scope of Examination: July 1, 2007 through June 30, 2009
Line of Business: Life
Compliance with Section 626.9541(1)(dd), Florida Statutes

Dear Mr. Mathas,

Enclosed is a copy of the 2009 Market Conduct Final Examination Report for your Company. Also enclosed is Form 118 to be executed and returned pursuant to Section 624.319(5), Florida Statutes. Failure to return the executed form pursuant to this statute may subject your Company to a penalty.

We now consider this examination finalized.

Sincerely,

Karen Isch
Senior Management Analyst II

Cc: Nancy Eng, Compliance via email nancy_eng@newyorklife.com

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