

# **FINANCIAL SERVICES COMMISSION**

**OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS**

**TARGET MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.)**

**AS OF**

**August 4, 2006**

**NAIC COMPANY CODE: 79065**



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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 Sun Life Assurance Company of Canada (U.S.) (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 July 24, 2006 and ended August 4, 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

Sun Life Assurance Company of Canada (U.S.) is a foreign Life and Health insurer licensed to conduct business in the State of Florida on July 8, 1974. 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	\$309,143,361
2005	\$244,531,240

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	1,411	59%	226	57%	1,637
Other Consumers	962	41%	289	43%	1,251
Totals	2,373	100%	515	100%	2,888

### **SUITABILITY DETERMINATION PROCESS REVIEW**

#### **Supervisory System of Annuity Recommendations**

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

The Company provided its agents selling fixed annuities with a Client Profile sheet (Profile). The Profile is used to obtain suitability related information for making a recommendation. The use of the Profile is optional. The Company does not require its agents, selling either fixed or variable annuities, to provide them with suitability documentation, other than the policy application and disclosure forms. Both policy applications and the product disclosure forms include a general statement by which the agent and applicant certify in writing that a suitability review was either performed, or offered but declined.

For variable policies, the Company relies on its broker-dealer firms to review suitability documentation submitted by agents, and to only submit to the Company applications for which they have made a favorable suitability determination.

The Company internally performs the supervisory review of annuity recommendations made by its agents. In January 2005, the Company began issuing surveys to all new fixed annuity insureds and to a small group of new variable annuity insureds who were sold their policies through a particular agency. The surveys include a question as to whether the agent offered or performed a suitability review. The Company does have a follow-up procedure for those responses that indicate a concern.

The Company also uses a cross-functional Annuity Complaint Committee that reviews, among other types, suitability related complaints. Included in this process is an Operational Recommendation Meeting in which complaints are analyzed for "root causes", with the goal of making any changes in procedures that would be necessary to prevent such complaints in the future.

The Company's supervisory system appears to comply with the requirements of Section 627.4554(4)(d), Florida Statutes. No violations were noted.

## Policy Review

A 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 exceptions, the sample size was increased to 100. The findings are as follows:

- 20 files for policies sold to senior consumers did not include evidence that the agent had made reasonable efforts to obtain 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 48 complaints requested for review. The Department of Financial Services, Division of Consumer Services (DFS), received 20 complaints and 28 complaints were filed directly with the Company. Twenty-five (25) complaints related to matters outside the examination scope. The review of the remaining 23 complaints revealed the following:

- 7 complaints 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.

## REPORT SUMMARIZATION

A review was conducted of the Company's supervisory system over annuity suitability recommendations, in addition to a sample of 123 files. Twenty-seven (27) errors were found. The following represents general findings, however, specific details are found in each section of the report.

### Sample Files Reviewed – 123 Files

- Policies – 100 files
- Complaints – 23 files

## **Findings**

- Supervisory System of Annuity Recommendations – 0 errors – page 2 of the report
- Policy Review – 20 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 – 7 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.