

FINANCIAL SERVICES COMMISSION

**OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

AS OF

JUNE 16, 2006

NAIC COMPANY CODE: 91596



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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 New York Life Insurance and Annuity Corporation (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 June 1, 2006. The examination began June 12, 2006 and ended June 16, 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 compliance with Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.
- Review the Company's system to supervise recommendations to determine compliance with Section 627.4554(4)(d), Florida Statutes.
- Verify the Company maintains or is able to make 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 627.8554(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

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 life insurance and annuities in the State of Florida.

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

Year	Total Written Annuity Premium In Florida (Per Schedule T of the Annual Statement)
2004	\$293,871,958
2005	\$296,987,761

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	2,147	90%	145	14%	2,292
Other Consumers	236	10%	860	86%	1,096
Totals	2,383	100%	1,005	100%	3,388

Note: The numbers reported above are not exact, as it was determined that the policy data files producing these figures included some policies that were issued to annuitants that were not Florida policyholders.

SUITABILITY DETERMINATION PROCESS REVIEW

Supervisory System of Annuity Recommendations

The Company markets its fixed and variable annuity products through two sales channels: 1) the Agency Distribution Channel, consisting of New York Life career agents and trainees; and 2) the Supplemental Distribution Channel, consisting primarily of unaffiliated banks and broker-dealers and their respective insurance agencies, whose agents are appointed with the Company.

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. The Company provides its agents a suitability worksheet that is to be submitted to the Company with every annuity application. The suitability worksheet is used for obtaining the necessary information for determining whether to make a suitability recommendation, as required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes. The form required signatures by both the agent and senior consumer.

In October 1998, the Company's Agency Distribution Channel employed a front-end automated suitability system known as SmartMatch, to assist in conducting suitability reviews of all individual variable annuity purchases solicited by the Company's agents. A similar front-end transaction suitability review process was implemented to all individual fixed annuity purchases effective February 23, 2007. Prior to this date, Company procedures required agents to complete a client profile form with the senior consumer's requisite suitability information. Qualified Company personnel reviewed each form to ensure that the required suitability information was obtained. During the examination period and currently, on a periodic basis, the Company conducts back-end monitoring of various annuity sales practice issues, including but not limited to reviews of exception reports designed to identify potential sales practice concerns that meet or exceed pre-determined criteria. The Company also conducts sample client file reviews for every agent on an annual basis, as well as other special reviews as needed.

For the Company's Supplemental Distribution Channel (banks and broker-dealers), the primary responsibility for suitability, training, and supervision of representatives is delegated to the firms that sell the Company's products in accordance with the terms of the selling agreement. The Company also requires annual certifications to be submitted for each broker-dealer. The Company conducts back-end monitoring of firm activity via trend and exception reports designed to identify potential sales practice concerns subject to certain predetermined criteria. In June 2007, the Company began to periodically select a sampling of client files, including seniors, for review to further ensure that outside firms are performing the required functions. No violations were noted.

Policy Review

The original sample of 50 files for policies sold to senior consumers 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. The sample size was increased to 100 files when it was determined that the original sample included 8 files issued to non-Florida policyholders. Therefore, 92 files were reviewed. No violations were noted:

COMPLAINT ANALYSIS

There were 11 complaints requested for review. The Department of Financial Services, Division of Consumer Services (DFS) received 4 complaints and 7 complaints were filed with the Company. All complaints involved policies issued prior to the examination period. No violations were noted.

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 92 files. No violations were noted. The following represents general findings; however, specific details are found in each section of the report.

Sample Files Reviewed – 92 Files

- Policies – 92 files

Findings

- No findings.

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.