



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
FIRST SYMETRA NATIONAL LIFE INSURANCE COMPANY
OF NEW YORK

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

SEPTEMBER 5, 2008

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
FIRST SYMETRA NATIONAL LIFE INSURANCE COMPANY OF NEW YORK
AS OF
DECEMBER 31, 2007

DATE OF REPORT:

JUNE 2, 2010

EXAMINER:

HENRY WONG

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

David Paterson
Governor

James J Wrynn
Superintendent

June 2, 2010

Honorable James R. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22741, dated January 15, 2008 and annexed hereto, an examination has been made into the condition and affairs of First Symetra National Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 330 Madison Avenue, 9th Floor, New York, NY 10017.

Wherever “Department” appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material findings and violations contained in this report are summarized below.

- The Company violated Section 51.6(b)(3) of the Department Regulation No. 60 by failing to provide complete and accurate Disclosure Statements: to all applicants by incorrectly or not showing the applicable surrender charges on existing or proposed contracts, by not providing a composite Disclosure Statement in situations involving multiple policies and by incomplete responses in the Agent Statement Section of the Disclosure Form. The Company also violated Section 51.6(b)(7) of Department Regulation No. 60, because where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore.
- The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to file its principal underwriting agreement, and subsequent amendment thereto, as well as amendments to its investment advisory agreement.

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2004. This examination covers the period from January 1, 2005 through December 31, 2007. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2007 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2007 to determine whether the Company's 2007 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the violations, recommendations and comments contained in the prior report on examination. The results of the examiner's review are contained in item 7 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of the State of New York on April 23, 1987, was licensed and commenced business on January 2, 1990. The Company was originally incorporated as First Safeco National Life Insurance Company of New York (“First Safeco”). The present name was adopted in August 2004 after it was acquired by an investor group led by White Mountains Insurance Group, Ltd. (“WMIG”) and Berkshire Hathaway Incorporated (“BHI”).

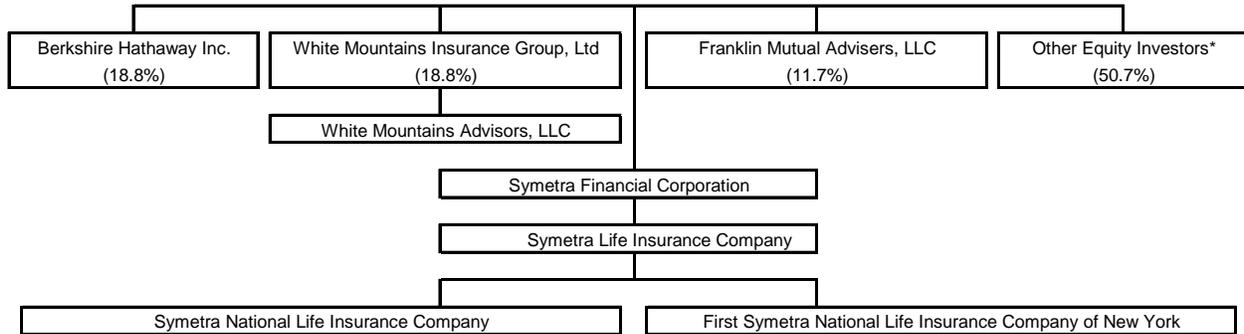
Initial resources of \$8,500,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$6,500,000, were provided through the sale of 20,000 shares of common stock for \$425 per share. The Company received contributions to paid in surplus of \$4,500,000 in 2003 and \$3,000,000 in 2004 resulting in capital and paid in and contributed surplus of \$2,000,000 and \$14,000,000, respectively, as of December 31, 2004.

During the examination period, the Company’s parent, Symetra Life Insurance Company (“Symetra”), contributed \$6,000,000 in gross paid in and contributed surplus to the Company. At December 31, 2007, the Company’s capital and paid in and contributed surplus were \$2,000,000 and \$20,000,000, respectively.

B. Holding Company

The Company is a wholly owned subsidiary of Symetra, a Washington domiciled life insurer. Symetra is in turn a wholly owned subsidiary of Symetra Financial Corporation, a Delaware corporation.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2007 follows:



*No one Equity Investor purchased 10% or more of the voting securities of Symetra Financial Corporation.

The Company had 3 service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination	
Administrative Services 25868	3/17/99 amended 7/09/02	Symetra	Company	All services other than investment advisory services	2005 2006 2007	(\$1,555,372) (\$1,652,566) (\$2,130,223)
Principal Underwriting Agreement	2/ 1/97 amended 9/30/05	Symetra Securities, Inc.	Company	Underwriting for distribution of variable insurance products of the Company.	2005 2006 2007	(269) (358) (528)
Investment Advisory Agreement	8/02/04	White Mountains Advisors, LLC ("WMA")	Company	Advice and services regarding the purchase, sale or other disposition of securities.	2005 2006 2007	(\$157,724) (\$141,055) (\$81,647)

* Amount of Income or (Expense) Incurred by the Company

Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period . . .

(1) sales, purchases, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end . . .

(3) rendering of services on a regular systematic basis . . . ”

The Company entered into a principal underwriting agreement with its affiliate, Symetra Securities, Inc. (formerly SAFECO Securities, Inc.) on February 1, 1997. The Agreement calls for the Company to issue and sell certain variable annuities and use Symetra Securities, Inc. as

its principal underwriter for such contracts. The agreement was amended on September 30, 2005. The Company has not submitted the original nor the amended agreement for the Department for review.

In August 2004, the Company entered into an investment advisory agreement with White Mountain Advisor LLC, an affiliate. Subsequent amendments to the agreement were made on September 30, 2004, August 1, 2005, October 1, 2005 and March 9, 2007. The Company did not submit the October 1, 2005 and March 9, 2007 amendments to the Department for its review.

The Company violated Section 1505(d)(3) of the New York Insurance Law when it; failed to file its principal underwriting agreement, and subsequent amendment thereto, as well as amendments to its investment advisory agreement with the Department for its review.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 9 and not more than 21 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2007, the board of directors consisted of 10 members. Regular meetings of the board are held at such time as may from time to time be fixed by the board.

The 10 board members and their principal business affiliation, as of December 31, 2007, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Allyn D. Close Bellevue, WA	Senior Vice President First Symetra National Life Insurance Company of New York	2004
Jennifer V. Davies Kirkland, WA	Senior Vice President First Symetra National Life Insurance Company of New York	2004
Lois W. Grady* Burlington, CT	Director OneBeacon Insurance Group, Ltd.	2004

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Roger F. Harbin Redmond, WA	Executive Vice President First Symetra National Life Insurance Company of New York	2001
Sander M. Levy* New York, NY	Private Equity Investor Vestar Capital Partners	2004
Margaret A. Meister Kirkland, WA	Executive Vice President and Chief Financial Officer First Symetra National Life Insurance Company of New York	2004
George C. Pagos Seattle, WA	Secretary First Symetra National Life Insurance Company of New York	2004
David I. Schamis* New York, NY	Private Equity Investor J.C. Flowers & Co., LLC	2004
Lowndes A Smith* Westbrook, CT	Chairman OneBeacon Insurance Group, Ltd.	2007
Randall H. Talbot Medina, WA	Chairman and President First Symetra National Life Insurance Company of New York	1998

* Not affiliated with the Company or any other company in the holding company system

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2007:

<u>Name</u>	<u>Title</u>
Randall H. Talbot	Chairman and President
Roger F. Harbin	Executive Vice President
Margaret A. Meister	Executive Vice President, Chief Financial Officer
Colleen M. Murphy	Treasurer
Allyn D. Close	Senior Vice President
Jennifer V. Davies	Senior Vice President
Michele M. Kemper*	Vice President, Chief Compliance Officer
Thomas D. Brooks	Chief Actuary
George C. Pagos	Secretary

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in New York only. The Company's main product line is individual single premium deferred annuities. The Company began issuing term life insurance during 2005 and group excess loss health insurance in 2006. During the 4th quarter meeting held with the Company in February 2005, the company indicated that it has discontinued sales of variable annuities due to a lack of sales. Although the Company submitted and received approval of a new variable annuity contract in 2007, no new variable products were issued during the examination period.

The Company markets its annuities, life products, and stop loss insurance through financial institutions, employee benefit brokers, third-party administrators, worksite specialists and independent insurance agents. The Company uses financial institutions to distribute a significant portion of its annuity products, as well as a small portion of its life insurance policies. The employee benefit brokers and third party administrators distribute most of the Company's group segment products. The Company also uses independent agents to distribute its life and annuities products.

E. Reinsurance

As of December 31, 2007, the Company had reinsurance treaties in effect with seven companies, six of which were authorized or accredited. The Company's life, accident and health business is reinsured on a coinsurance, excess loss, and/or yearly renewable term basis. Reinsurance is provided on an automatic and/or facultative basis. No reserve credit was taken for reinsurance ceded to the unauthorized reinsurer.

The maximum retention limit for individual life contracts is \$500,000. The total face amount of life insurance ceded as of December 31, 2007, was \$20,404,950, which represents 75.5% of the total face amount of life insurance in force. The Company did not assume any reinsurance business during the examination period.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

	December 31, <u>2004</u>	December 31, <u>2007</u>	Increase (Decrease)
Admitted assets	<u>\$174,146,522</u>	<u>\$123,377,224</u>	<u>\$(50,769,298)</u>
Liabilities	<u>\$154,618,789</u>	<u>\$ 98,291,975</u>	<u>\$(56,326,814)</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$0
Gross paid in and contributed surplus	14,000,000	20,000,000	6,000,000
Unassigned funds (surplus)	<u>3,527,733</u>	<u>3,085,249</u>	<u>(442,484)</u>
Total capital and surplus	<u>\$ 19,527,733</u>	<u>\$ 25,085,249</u>	<u>\$ 5,557,516</u>
Total liabilities, capital and surplus	<u>\$174,146,522</u>	<u>\$123,377,224</u>	<u>\$(50,769,298)</u>

High annuity lapse rates for contracts coming off of surrender charges was the major factor contributing to the decrease in assets and liabilities during the examination period.

The increase in gross paid in and contributed surplus was due to a \$6,000,000 capital contribution received from the Company's parent.

The Company's invested assets as of December 31, 2007, exclusive of separate accounts, were mainly comprised of bonds (94.2%) and cash and short-term investments (5.3%).

The majority (96.3%) of the Company's bond portfolio, as of December 31, 2007, was comprised of investment grade obligations (NAIC Class 1 and 2). The remaining 3.6% of the Company's securities was designated NAIC Class 3 and 4. The total amount invested in these lower grade securities was \$4.4 million in 2007 which represents 19.1% of the Company's surplus. The Company's separate account assets are less than 1% of total admitted assets.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

	<u>Ordinary Annuities</u>		
	<u>2005</u>	<u>2006</u>	<u>2007</u>
Outstanding, end of previous year	3,192	2,867	2,465
Issued during the year	127	152	138
Other net changes during the year	<u>(452)</u>	<u>(554)</u>	<u>(836)</u>
Outstanding, end of current year	<u>2,867</u>	<u>2,465</u>	<u>1,767</u>

High annuity lapses rates for contracts coming off of surrender charges was the primary cause for the decrease in annuity contracts.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Ordinary:			
Life insurance	\$ (343,539)	\$(116,065)	\$ (421,451)
Individual annuities	<u>(2,526,137)</u>	<u>(87,182)</u>	<u>2,091,799</u>
Total ordinary	<u>\$(2,869,676)</u>	<u>\$(203,247)</u>	<u>\$1,670,348</u>
Group annuities	\$ <u>5,699</u>	\$ <u>19,595</u>	\$ <u>19,353</u>
Group accident and health	\$ <u>0</u>	\$ <u>603,446</u>	\$ <u>741,154</u>
Total	<u>\$(2,863,977)</u>	<u>\$419,794</u>	<u>\$2,430,855</u>

The Company began writing term life insurance in 2005. The establishment of reserves and expenses associated with new policy sales and underwriting were the reasons for the net losses for ordinary life insurance during the examination period.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2007, as contained in the Company's 2007 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2007 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2007

Admitted Assets

Bonds	\$113,618,769
Preferred stocks	536,098
Cash, cash equivalents and short term investments	6,336,996
Contract loans	44,704
Receivable for securities	13,972
Investment income due and accrued	1,669,945
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	357,852
Deferred premiums, agents' balances and installments booked but deferred and not yet due	9,931
Other amounts receivable under reinsurance contracts	1,121
Net deferred tax asset	608,911
From separate accounts, segregated accounts and protected cell accounts	<u>178,925</u>
 Total admitted assets	 <u>\$123,377,224</u>

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$ 88,196,350
Aggregate reserve for accident and health contracts	85,046
Liability for deposit-type contracts	6,141,898
Contract claims:	
Life	1,547
Accident and health	1,486,808
Premiums and annuity considerations for life and accident and health contracts received in advance	40,102
Commissions to agents due or accrued	65,786
General expenses due or accrued	1,360
Current federal and foreign income taxes	257,282
Amounts withheld or retained by company as agent or trustee	11,140
Remittances and items not allocated	671,167
Miscellaneous liabilities:	
Asset valuation reserve	600,138
Payable to parent, subsidiaries and affiliates	554,416
Aggregate write-ins for liabilities	10
From Separate Accounts statement	<u>178,925</u>
 Total liabilities	 \$ <u>98,291,975</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	20,000,000
Unassigned funds (surplus)	<u>3,085,249</u>
Surplus	\$ <u>23,085,249</u>
Total capital and surplus	\$ <u>25,085,249</u>
 Total liabilities, capital and surplus	 \$ <u>123,377,224</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Premiums and considerations	\$ 4,742,866	\$11,506,178	\$16,431,723
Investment income	8,205,294	7,751,140	6,741,274
Commissions and reserve adjustments on reinsurance ceded	27,102	11,361	20,762
Miscellaneous income	<u>19,223</u>	<u>169,554</u>	<u>85,041</u>
 Total income	 <u>\$13,094,485</u>	 <u>\$19,438,233</u>	 <u>\$23,278,800</u>
Benefit payments	\$22,606,280	\$35,271,435	\$52,691,388
Increase in reserves	(8,828,769)	(19,171,710)	(35,912,568)
Commissions	434,486	716,596	1,172,771
General expenses and taxes	2,089,770	1,579,641	2,491,700
Increase in loading on deferred and uncollected premium	6,037	(12,871)	37,686
Net transfers to (from) Separate Accounts	<u>(135,302)</u>	<u>(41,799)</u>	<u>(81,207)</u>
 Total deductions	 <u>\$16,172,502</u>	 <u>\$18,341,292</u>	 <u>\$20,399,770</u>
 Net gain (loss)	 \$ (3,078,017)	 \$ 1,096,941	 \$ 2,879,030
Federal and foreign income taxes incurred	<u>(214,042)</u>	<u>677,145</u>	<u>448,176</u>
 Net gain (loss) from operations before net realized capital gains	 \$ (2,863,975)	 \$ 419,796	 \$ 2,430,854
Net realized capital gains (losses)	<u>(151,970)</u>	<u>(385,475)</u>	<u>(59,658)</u>
 Net income	 <u>\$ (3,015,945)</u>	 <u>\$ 34,321</u>	 <u>\$ 2,371,196</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Capital and surplus, December 31, prior year	\$ <u>19,527,733</u>	\$ <u>22,216,488</u>	\$ <u>22,966,961</u>
Net income	\$ (3,015,946)	\$ 34,321	\$ 2,371,196
Change in net deferred income tax	761,309	422,894	(572,160)
Change in non-admitted assets and related items	(1,009,766)	162,246	414,843
Change in asset valuation reserve	(46,842)	131,012	(95,592)
Surplus adjustments: Paid in	<u>6,000,000</u>	<u>0</u>	<u>0</u>
Net change in capital and surplus for the year	\$ <u>2,688,755</u>	\$ <u>750,473</u>	\$ <u>2,118,287</u>
Capital and surplus, December 31, current year	\$ <u>22,216,488</u>	\$ <u>22,966,961</u>	\$ <u>25,085,248</u>

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

1. Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the “Disclosure Statement”, and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part;

(7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this Part or are not accurate, within ten days from the date of receipt of the application either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of Section 51.6(b)(6) herein; ...”

The examiner reviewed 32 of the 34 immediate annuity replacements issued by the Company during the examination period. The examiner also reviewed a sample of 32 of the 97 deferred annuity replacements issued during the examination period. The replacements were reviewed for compliance with Department Regulation Number 60. The examiner noted the following deviations from Department Regulation Number 60.

- a) In ten of the immediate annuity disclosure statements reviewed (31.3%), and six of deferred annuity disclosure statements reviewed (18.8%) the agents response contained in the agent's statement section indicated “none” to the question regarding “the advantages of continuing the existing life insurance policy or annuity contract without changes ”In each case a more appropriate response existed.

- b) In six of the deferred annuity replacements reviewed (18.8%), the Disclosure Statements did not show surrender percentages for the proposed contract; and
- c) In five of the immediate annuity replacements reviewed (15.6%) and one of the deferred annuity replacements (3.1%), the Company either did not state or incorrectly stated the percentage of the applicable surrender charges on the replaced contracts in the Disclosure Statement.
- d) In four immediate annuity replacements (12.5 %) and two deferred annuity replacements reviewed (6.2%) involved multiple policies being replaced, but a composite comparison was not completed as part of the Disclosure Statement. The instructions for completing Disclosure Statements which relate to replacement transactions involving multiple policies, located at the bottom of Appendix 10B of Department Regulation No. 60, indicate that, "...a composite comparison shall be completed of all existing life insurance policies or annuity contracts to all proposed life insurance policies and annuity contracts.";

The Company violated Section 51.6(b)(3) of the Department Regulation No. 60 by failing to provide complete and accurate Disclosure Statements: to all applicants by incorrectly or not showing the applicable surrender charges on existing or proposed contracts, by not providing a composite Disclosure Statement in situations involving multiple policies and by incomplete responses in the Agent Statement Section of the Disclosure Form. The Company also violated Section 51.6(b)(7) of Department Regulation No. 60, because where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore.

2. Section 2112(d) of the New York Insurance Law states in part:

"Every insurer . . . or insurance producer or the authorized representative of the insurer . . . or insurance producer doing business in this state shall, upon termination of the certificate of appointment as set forth in subsection (a) of this section of any insurance agent licensed in this state, or upon termination for cause for activities as set forth in subsection (a) of section two thousand one hundred ten of this article, of the certificate of appointment, of employment, of a contract or other insurance business relationship with any insurance producer, file with the

superintendent within thirty days a statement, in such form as the superintendent may prescribe... ”

A review of the Company agency records revealed 8 instances where the Company terminated an agent and did not notify the Department within thirty days of the termination.

The Company violated Section 2112(d) of the New York Insurance Law by not notifying the Superintendent within thirty days upon termination of an agent’s certificate of appointment.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

Based upon the sample reviewed, no significant findings were noted.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that in the future the Company provide notice to the Superintendent at least thirty days prior to accepting investments of surplus contributions from its parent or from any other affiliate.</p> <p>A review indicated that Company provided notice to the Superintendent at least thirty days prior to accepting investments of surplus contributions from its parent.</p>
B	<p>The Company violated Section 1505(d)(3) of the New York Insurance Law for failing to notify the Superintendent of its intention to receive investment advisory and accounting and recordkeeping services from WMA.</p> <p>A similar violation appears in this report on examination.</p>
C	<p>The Company violated Section 1202(a)(2) of the New York Insurance Law and its by-laws by failing to maintain the minimum number of 13 directors.</p> <p>The Company received Department's approval to revise its by-laws reducing the required minimum number of directors to nine. The Company complied with its by-laws by maintaining the minimum number of directors during the examination period.</p>
D	<p>Comment that three of the four independent directors serving on the board are affiliated with three institutional investors that acquired an interest in the Company from Safeco; two of which serve on the Company's independent committee.</p> <p>The Company continues to have independent directors serving on the board which are affiliated with institutional investors that acquired an interest in the Company from Safeco; but one of the directors resigned during the examination period. Two of which continue to serve on the Company's independent committee.</p>
E	<p>The examiner recommends that the Company institute procedures to obtain at least annually, conflict of interest statements from its board of directors and "key employees".</p>

<u>Item</u>	<u>Description</u>
	A review indicated that the Company obtained conflict of interest statements from its board of directors and “key employees” annually.
F	The Company violated Section 1411(a) of the New York Insurance Law by engaging in security lending activities without the authorization or approval of its board of directors or a committee thereof, responsible for making such loans.
	A review of the board minutes indicated that the Company’s board of directors approved all security lending activities.
G	The examiner recommends that the Company fully comply with SSAP No. 18 and that the Company execute security lending agreements containing contractual clauses that are consistent with the collateral requirement of Paragraph 25 of SSAP No. 18.
	The Company revised its security lending agreement to contain contractual clauses that are consistent with the collateral requirement of Paragraph 25 of SSAP No. 18.
H	The Company violated Section 4232(a)(2) of the New York Insurance Law for crediting additional amounts on annuity contracts without written criteria approved by the board of directors of the Company.
	A review of the board minutes indicated that the Company’s board of directors approved any change in the interest rate credited on the Company’s annuity contracts.
I	The Company violated Section 51.1(b) of Department Regulation No. 60 by allowing the applicants to sign the application and the disclosure statement before obtaining the information necessary to complete the disclosure statement from the replaced company, thereby failing to make available full and clear information on which an applicant for annuity contracts can make a decision in his own best interest.
	The examination did not reveal any instances where the applicants signed the application and the disclosure statement before obtaining the information necessary to complete the disclosure statement from the replaced company,
J	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 for failing to examine the Disclosure Statements to ascertain that they met the requirements of the Regulation.
	A similar violation appears in this report on examination.

<u>Item</u>	<u>Description</u>
K	<p>The Company violated Section 51.5(c)(3) of Department Regulation No. 60 for presenting the important notices and the completed Disclosure Statements to the applicants after the applicants had already signed the applications.</p> <p>The examination did not reveal any instances where the Company presented the important notices and the completed Disclosure Statements to the applicants after the applicants had already signed the applications.</p>
L	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 for failing to furnish the replaced insurer with a copy of any proposal, including the sales material used in the sale of the proposed annuity contract and the completed disclosure statement within ten days of receipt of the application.</p> <p>A review indicated that the Company furnished the replaced insurer with a copy of any proposal, including the sales material used in the sale of the proposed annuity contract and the completed disclosure statement within ten days of receipt of the application.</p>
M	<p>The Company violated Section 51.6(a)(3) of Department Regulation No. 60 for failing to maintain signed and completed copies of the “definition of replacement”.</p> <p>The examination did not reveal any instances where the Company failed to maintain signed and completed copies of the “definition of replacement”.</p>
N	<p>The Company violated Section 51.6(b)(6) of Department Regulation No. 60 for failing to maintain copies of proof of receipt by the applicant of the important notices, the signed and completed Disclosure Statements, and the notification of replacement to the insurer whose annuity contract is to be replaced, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the Department, whichever is later.</p> <p>A review indicated that the Company maintained copies of the important notices, the signed and completed Disclosure Statements, and the notification of replacement to the insurer whose annuity contract is to be replaced in all underwriting files.</p>
O	<p>The Company violated Section 51.6(a)(1) of Department Regulation No. 60 for failing to adequately inform and train its agents and brokers with respect to the requirements of Department Regulation No. 60.</p> <p>The Company provided revised agent training materials and evidence of informing its agents and brokers with respect to the requirements of Department Regulation No. 60.</p>

<u>Item</u>	<u>Description</u>
P	<p>The examiner recommends that the Company submit quarterly replacement reports to the Superintendent within thirty days of the end of each quarter, indicating which insurers, if any, have failed to provide the information as required by Section 51.6(c)(2) of the Regulation.</p> <p>The Company submitted replacement reports as required by Section 51.6(c)(2) of the Regulation</p>
Q	<p>The Company violated Section 51.7(b) of Department Regulation No. 60 by failing to fully comply with the orderly working of the Regulation in accomplishing its intended purpose in the protection of contract holders.</p> <p>The Company has implemented replacement procedural changes, employee and agent training, and instituted audit programs designed to address compliance with the intended purpose of Regulation 60. Although the Company improved its replacement practice, it still had some violations of Regulation 60.</p>
R	<p>The examiner recommends that the Company implement a training program to inform and train its employees, agents and brokers with respect to the requirements of Department Regulation No. 60.</p> <p>A review indicated that training program was implemented to inform and train its employees, agents and brokers with respect to the requirements of Department Regulation No. 60.</p>
S	<p>The examiner recommends that the Company develop and implement an audit plan designed to review, test and monitor compliance with Department Regulation No. 60.</p> <p>The Company has implemented an audit plan designed to review, test and monitor compliance with Department Regulation No. 60.</p>
T	<p>The examiner recommends that the Company file an amended Separate Account S Plan of Operation to include the eight separate account sub-accounts not included in the plan previously filed with the Superintendent.</p> <p>The Company amended its Separate Account S Plan of Operation. The examination did not revealed any separate account sub-accounts not included in the plan of operation.</p>
U	<p>The Company violated Section 216.11 of Department Regulation No. 64 for failing to maintain claim files so that events relating to a claim can be reconstructed by the Department examiner.</p>

<u>Item</u>	<u>Description</u>
	<p>The Company has implemented a revision to procedures regarding records management. The examination did not revealed any instances that the Company failed to maintain claim files so that events relating to a claim can be reconstructed by the Department examiner.</p>
V	<p>The examiner recommends that the Company revise its records retention plan to comply with the record retention timeframes specified in Department Regulation No. 152.</p> <p>The Company revised its records retention plan to comply with the record retention timeframes specified in Department Regulation No. 152.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1505(d)(3) of the New York Insurance Law when it; failed to file its principal underwriting agreement, and subsequent amendment thereto, as well as amendments to its investment advisory agreement with the Department for its review.	7
B	The Company violated Section 51.6(b)(3) of the Department Regulation No. 60 by failing to provide complete and accurate Disclosure Statements: to all applicants by incorrectly or not showing the applicable surrender charges on existing or proposed contracts, by not providing a composite Disclosure Statement in situations involving multiple policies and by incomplete responses in the Agent Statement Section of the Disclosure Form. The Company also violated Section 51.6(b)(7) of Department Regulation No. 60, because where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore.	18
C	The Company violated Section 2112(d) of the New York Insurance Law by not notifying the Superintendent within thirty days upon termination of the certificate of appointment.	19

Respectfully submitted,

Henry Wong
Senior Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Henry Wong, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

Henry Wong

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 22741

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

HENRY WONG

as a proper person to examine into the affairs of the

FIRST SYMETRA NATIONAL LIFE INSURANCE COMPANY OF NEW YORK

and to make a report to me in writing of the condition of the said

COMPANY

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York*

this 15th day of January, 2008



ERIC R. DINALLO
Superintendent of Insurance

A handwritten signature in black ink, appearing to read "Eric Dinallo".

Superintendent