



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
ALLIANZ LIFE INSURANCE COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

JANUARY 23, 2009

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
ALLIANZ LIFE INSURANCE COMPANY OF NEW YORK
AS OF
DECEMBER 31, 2007

DATE OF REPORT:

JANUARY 23, 2009

EXAMINER:

BIBI S. ISHAK

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Territory and plan of operation	4
4. Market conduct activities	5
A. Advertising and sales activities	5
B. Underwriting and policy forms	8
C. Treatment of policyholders	8
5. Agency operations	9
6. Agent compensation	10
7. Prior report summary and conclusions	11
8. Summary and conclusions	16



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

Andrew M. Cuomo
Governor

James J. Wrynn
Superintendent

February 14, 2011

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

Sir:

In accordance with instructions contained in Appointment No. 30294, dated February 4, 2009 and annexed hereto, an examination has been made into the affairs of Allianz Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at One Chase Manhattan Plaza, New York, NY 10005.

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, comments, violations and recommendations contained in this report are summarized below.

- The Company violated Section 2112(d) of the New York Insurance Law when it failed to notify the Superintendent in a timely manner that agents had been terminated. This is a repeat violation. (See item 5 of this report)
- The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by failing to file changes to agent compensation arrangements or plans with the Department in a timely manner. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2005 through December 31, 2007. As necessary, the examiner reviewed matters 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 review of market conduct activities and utilized the National Association of Insurance Commissioners' Market Regulation Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations 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 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 New York under the name Preferred Life Insurance Company of New York on September 21, 1982. The Company was licensed on April 11, 1984 and commenced business on September 1, 1984.

The Company changed its name to Allianz Life Insurance Company of New York effective January 1, 2003.

In 2006, the Company ceded 100% of the business of, and subsequently sold, its group accident and health line of business to Houston Casualty Company.

B. 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 six states, namely Connecticut, Illinois, Minnesota, Missouri, New York and North Dakota, and the District of Columbia. In 2007, 77% of life premiums, 69% of health premiums, and 99% of annuity considerations were received from New York. Policies are written on a non-participating basis.

The Company distributes its fixed products through Field Marketing Organizations (“FMOs”) and its variable products through broker dealers. FMOs are responsible for recruiting independent agents who in turn sell the Company’s products. The Company pays commissions directly to the agent with an override going to the FMOs. Broker dealers have the fiduciary responsibility for agents in their organization. Each broker dealer receives commissions directly from the Company.

During the examination period, the Company’s primary lines of business were individual life, individual variable annuities, individual fixed annuities, and long term care. In 2006, the Company received approval from the Department for the sale of GenDex 11 and started to sell this product in 2007. GenDex 11 is an individual fixed index universal life insurance product.

4. 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. Advertising

Section 215.17(b) of Department Regulation No. 34 states, in part:

"Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this Part must file with this department with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this state as implemented and interpreted by this Part."

Section 219.5(b) of Department Regulation No. 34-A states, in part:

"Each insurer which now or hereafter becomes subject to these rules, must file with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by or on behalf of the insurer in this state during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this state as implemented and interpreted by this Part."

The examiner's review revealed that the certificate of compliance filed as part of the New York Supplement to the 2006 annual statement was not signed and notarized by the Company. In addition, the certificate of compliance filed as part of the New York Supplement to the 2007 annual statement was not notarized and completed in the form and language required by the instructions to the Supplement.

The examiner recommends that, going forward, the Company complete the Certificate of Compliance in a manner that conforms with Section 215.17(b) of Department Regulation No. 34

and Section 219.5(b) of Department Regulation No. 34-A and the instructions to the New York Supplement.

Section 219.4(p) of Department Regulation No. 34-A, states, in part:

“In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States. . . .”

The examiner reviewed a sample of 19 life and 20 fixed annuity policies. Only three life policies contained illustrations identifying the city, town or village of the home office of the Company. Sixteen life policies contained the address of the parent, not that of Allianz Life Insurance Company of New York.

Of the 20 fixed annuities, only one contained a complete illustration, albeit with the address of the Company’s non-New York parent, Allianz Life Insurance Company of North America. Because the remaining 19 annuity illustrations were incomplete, the examiner was unable to verify whether the correct address was used in those illustrations. The illustrations were incomplete in that they were missing pages, including the first page where the address is usually written. Not having this information, the examiner could not determine whether the address on the first page was that of the Company or the parent.

The Company violated Section 219.4(p) of Department Regulation No. 34-A by providing 17 applicants with illustrations that did not clearly identify the name of the city, town or village in which the Company has its home office in the United States.

2. Sales Illustrations

Section 53-3.2(a) of Department Regulation No. 74 states, in part:

“An illustration used in the sale of a life insurance policy and subject to this Subpart shall . . . contain the following basic information:

(2) Name and business address of producer or insurer’s authorized representative
”

Based upon the review of a sample of 19 universal life policies, the examiner found that all 19 policies used illustrations not containing the address of the selling agent. The Company violated Section 53-3.2(a) of Department Regulation No. 74 by using illustrations that do not identify the address of the selling agent.

3. Replacements

Based on the findings arising from the prior examination for the period ended December 31, 2004, the examiner recommended to the Company that it develop and implement an audit plan designed to review, test and monitor compliance with Department Regulation No. 60. Such plan should have been approved by the Company's board of directors and its audit committee and the results of audits performed should also have been reviewed by the board of directors and audit committee. The Company has implemented an audit plan. However, the audit plan was not presented to the board of directors for approval.

The examiner recommends that the audit plan be presented to the board of directors for approval.

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.

Section 3227 of the New York Insurance Law states in part:

“(a) Interest . . . shall be payable by life insurers . . . upon: (1) the value of policies surrendered by policyholders for cash values, including the rollover of annuity funds to other entities, and (2) the funds disbursed as policy loans. Such interest payment shall be added to and be a part of the total sum paid or be paid separately at the option of the insurer.

(b) The interest calculated on amounts described in paragraphs one and two of subsection (a) hereof shall be calculated from the date the documentation necessary to complete the transaction is received by the insurer and shall be payable if the funds are not mailed or delivered by the insurer within ten working days of said receipt. . . .”

The examiner selected a sample of 27 full and partial surrender transactions for review. As indicated by the Company, the interest rate to be paid on the proceeds of a surrendered policy was 3.25% in 2005, 4% in 2006, and 4.25% in 2007. For two policies, the Company erroneously used a 3% interest rate resulting in underpayments of \$71.40 and \$40.17 for the respective policies.

When brought to the Company’s attention, the Company reimbursed the underpayments on the two policies. However, as part of its review, the Company identified an additional nine instances where it underpaid interest on surrendered policies.

The examiner recommends that the Company exercise greater care in applying the correct rate in the payment of interest to policyholders.

5. AGENCY OPERATIONS

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

“(d) Every insurer . . . 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, of the facts relative to such termination for cause. . . .”

The examiner reviewed a sample of terminated and appointed agents to determine whether the Company filed with the Superintendent all terminations as required, and whether such notices were transmitted in a timely manner. For five of 15 terminations reviewed, the Company failed to file in a timely manner.

The Company violated Section 2112(d) of the New York Insurance Law when it failed to notify the Superintendent in a timely manner that agents had been terminated. This is a repeat violation.

6. AGENT COMPENSATION

Section 4228(f)(1)(A) of the New York Insurance Law states, in part:

“(f)(1) Filing requirements for agent and broker compensation plans are as follows:

(A) A company shall make annual information filings with respect to any newly-introduced plans or changes under which the company makes payments to agents or brokers if such plans are commission plans for which the commission percentages are, in all policy or contract years, no greater than the commission percentages set forth in paragraphs one, two, three and four of subsection (d) of this section, expense allowance plans other than those meeting the definition of a compensation arrangement, plans subject to the provisions of paragraph one of subsection (e) of this section under which compensation is not in excess of two percent of the fund annually in any of the first four policy or contract years, or plans subject to the provisions of paragraph four of subsection (e) of this section. These filings shall consist of a summary of information in enough detail to generally describe the filing content, and shall be made not later than the last day of February next following the year in which such plans were placed in use or changed. The first such filing shall be due not later than the last day of February following the end of the year which includes the effective date of this section.”

In November, 2009, the Company submitted an annual information filing of changes in the Company’s agent compensation plans for its Opportunity variable deferred annuity product. Since the agent compensation plan for this product was effective October 4, 2002 this filing was due on February 28, 2003.

In November, 2009, the Company submitted an annual information filing of changes in the Company’s agent compensation plans for its Charter II variable deferred annuity product. Since the agent compensation plan for this product was effective April 30, 2004 this filing was due on February 28, 2005.

The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by failing to file changes to agent compensation arrangements or plans with the Department in a timely manner.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the market conduct 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 Company violated Section 219.5(a) of Department Regulation No. 34-A and Section 215.17(a) of Department Regulation No. 34 by not maintaining a complete advertising file, and not maintaining such file at its home office.</p> <p>The review of advertising indicated that the Company maintains an advertising file in its home office.</p>
B	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to verify the accuracy of the information contained in the Disclosure Statement given to the contract applicant.</p> <p>The examiner's review of the information contained in Disclosure Statements revealed that the Company verifies the accuracy of the information.</p>
C	<p>The examiner recommends that the Company immediately implement procedures to verify the accuracy of the information contained in the Disclosure Statement given to the applicant.</p> <p>The Company has implemented procedures to verify the accuracy of information contained in the Disclosure Statement given to the applicant.</p>
D	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60 when it issued contracts without receiving the required Regulation 60 forms, and when it issued contracts without correcting the deficiencies in the forms that did not meet Regulation 60 requirements.</p> <p>The review did not indicate any cases where the Company issued contracts without receiving the required Regulation 60 forms.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 51.7(a)(1) of Department Regulation No. 60 by accepting from its agents Disclosure Statements that contained potentially deceptive or misleading information.</p> <p>The review did not indicate any cases where the Company accepted from its agents Disclosure Statements that contained potentially deceptive or misleading information.</p>
F	<p>The Company violated Section 51.6(b)(6) of Department Regulation No. 60 when it did not maintain copies of the sales material used in the sale of the proposed annuity contract.</p> <p>The review indicated that the Company maintains copies of the sales material used in the sale of the proposed annuity contract.</p>
G	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 when it failed to furnish any sales material used in the replacement transaction to the insurer whose coverage was replaced.</p> <p>The review indicated that the Company furnishes sales material used in the replacement transaction to the insurer whose coverage was replaced.</p>
H	<p>The Company violated Section 51.7(b) of Department Regulation No. 60 when it failed to implement procedures to ensure compliance with the requirements of Department Regulation No. 60.</p> <p>The Company has implemented procedures to ensure compliance with the requirements of Department Regulation No. 60. It was noted however, that there were still some deficiencies in Regulation No. 60 compliance.</p>
I	<p>The examiner recommends that the Company implement a remediation plan acceptable to the Department to mitigate the deficiencies noted and provide relief to all contractholders that did not receive complete, accurate and timely disclosure prior to completing an application to replace their existing annuity contracts.</p> <p>The Company implemented a remediation plan that was completed in 2007.</p>

<u>Item</u>	<u>Description</u>
J	<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. Such plan should be approved by the Company's board of directors and its audit committee and the results of audits performed should also be reviewed by the board of directors and audit committee.</p> <p>The Company has complied with this recommendation by implementing an audit plan. However, the audit plan was not presented to the board of directors for approval. The examiner recommends that the audit plan be presented to the board of directors for approval.</p>
K	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law when it used policy forms that were not approved by the Superintendent.</p> <p>The review of policy forms indicated that the Company's policy forms were approved by the Superintendent.</p>
L	<p>The Company violated Section 243.2(b)(4) of Department Regulation No. 152 and Section 216.11 of Department Regulation No. 64 when it did not maintain surrender files.</p> <p>The review indicated that the Company maintains surrender files.</p>
M	<p>The Company violated Section 243.2(b)(4) of Department Regulation No. 152 and Section 216.11 of Department Regulation No. 64 when it failed to maintain all documentation relating to the denied claims in its files.</p> <p>The review of denied claims indicated that the Company maintains all documentation relating to the denied claims.</p>
N	<p>The Company violated Section 219.4(p) of Department Regulation No. 34A when it used the name of the parent company (Allianz) on correspondence in connection with settling claims. This practice has the tendency to mislead or deceive the insured as to the true identity of the insurer.</p> <p>The Company did not use the name of the parent company in settling claims.</p>

<u>Item</u>	<u>Description</u>
O	<p>The Company failed to comply with Department Circular Letter No. 15 (2001) and also violated Sections 2601(a)(3) and 2403 of the New York Insurance Law by failing to search for additional coverage on a decedent's life upon notification of death.</p> <p>The Company implemented procedures to search for additional coverage on a decedent's life upon notification of death.</p>
P	<p>The examiner recommends that the Company immediately implement procedures to ensure that multiple policy searches are conducted upon receipt of a death claim.</p> <p>The Company has implemented procedures to ensure that multiple searches are conducted upon receipt of a death claim.</p>
Q	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law when it used forms that were not approved by the Superintendent in the sale of individual medical insurance.</p> <p>The forms were subsequently approved by the Superintendent.</p>
R	<p>Comment that the Company is advised that its Agreement with Celtic can be considered an attempt to assist an unauthorized insurer in doing an insurance business in this State, and acting as an agent by effectuating insurance for the unauthorized insurer in violation of Section 2117(a) of the New York Insurance Law. The examiner recommends that the Company avoid entering into such agreements in the future.</p> <p>The Company subsequently terminated the agreement.</p>
S	<p>The Company violated Section 2112(a) of the New York Insurance Law when it failed to appoint agents who sold insurance for the Company.</p> <p>The Company appoints its agents.</p>

<u>Item</u>	<u>Description</u>
T	<p>The Company violated Section 2112(d) of the New York Insurance Law when it failed to notify the Superintendent that agents had been terminated.</p> <p>The examiner's review revealed that during the current examination period the Company continued to violate Section 2112(d) of the New York Insurance Law by failing to file with the Superintendent the proper notification of an agent termination. This is a repeat violation. (See item 5 of this report)</p>

8. SUMMARY AND CONCLUSIONS

Following are the market conduct violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that, going forward, the Company complete the Certificate of Compliance in a manner that conforms with Section 215.17(b) of Department Regulation No. 34 and Section 219.5(b) of Department Regulation No. 34-A and the instructions to the New York Supplement to the annual statement.	5
B	The Company violated Section 219.4(p) of Department Regulation No. 34-A by providing 17 applicants with illustrations that did not clearly identify the name of the city, town or village in which it has its home office in the United States.	6
C	The Company violated Section 53-3.2(a) of Department Regulation No. 74 by using illustrations that do not identify the address of the selling agent.	7
D	The examiner recommends that the audit plan for compliance with Department Regulation No. 60 be presented to the board of directors for approval.	7
E	The examiner recommends that the Company exercise greater care in applying the correct rate in the payment of interest to policyholders.	8
F	The Company violated Section 2112(d) of the New York Insurance Law when it failed to notify the Superintendent in a timely manner that agents had been terminated. This is a repeat violation.	9
G	The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by failing to file changes to agent compensation arrangements or plans with the Department in a timely manner.	10

Respectfully submitted,

Bibi S. Ishak
Senior Examiner

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

Bibi S. Ishak, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

Bibi S. Ishak

Subscribed and sworn to before me

this _____ day of _____ 2011.

APPOINTMENT NO. 30294

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:

BIBI ISHAK

as a proper person to examine into the affairs of the

ALLIANZ 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 she 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 4th day of February, 2009



ERIC R. DINALLO
Superintendent of Insurance

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

Superintendent