NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON MARKET CONDUCT EXAMINATION

OF THE

SUN LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

CONDITION: DECEMBER 31, 2006

DATE OF REPORT: NOVEMBER 13, 2009

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EXAMINER: HENRY WONG

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Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

July 24, 2013

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30204, dated September 24, 2008 and annexed hereto, an examination has been made into the affairs of Sun Life Insurance and Annuity Company of New York, hereinafter referred to as "the Company," at its home office located at 60 East 42nd Street, New York, New York 10165.

Wherever "Department" appears in this report, it refers to the New York State Department of Financial Services.

On October 3, 2011, the Insurance Department merged with the Banking Department to create the New York State Department of Financial Services.

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 several sections of Department Regulation No. 60 by failing to: examine Disclosure Statements used in life and annuity replacements and correct inaccurate surrender charges or add missing surrender charges; examine the Disclosure Statements and ascertain that they are accurate and meet the requirements of the Regulation; provide the applicant with a revised Disclosure Statement when the insurance policy issued differed from the policy applied for; maintain proposals including sales materials and the "Important Notice;" correct deficiencies involving Disclosure Statements or reject the application within 10 days from date of receipt of the application; furnish to the insurer being replaced a copy of the completed Disclosure Statement within 10 days of receipt of the application; date stamp Disclosure Statements when they were received. (See Section 4A of this report)

- 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 the audits performed should be reviewed by the board of directors and the audit committee. (See Section 4A of this report)

- The Company violated Section 3201(b)(1) of the New York Insurance Law when it issued annuity contracts with an unapproved policy specification page. The Company issued revised specification pages which also contained errors. (See Section 4B of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2004 through December 31, 2006. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2006 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 recommendation contained in the prior report on examination. The results of the examiner's review are contained in item 5 of this report.

This report on examination is confined to comments on 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 on May 25, 1983. It was licensed on April 11, 1985, and commenced business on August 15, 1985.

On December 31, 2002, Keyport Benefit Life Insurance Company ("KBL"), a New York domiciled life insurer, merged with and into the Company, with the Company being the surviving entity. Prior to the merger, Keyport Life Insurance Company ("KLIC") wholly-owned KBL, and Sun Life Assurance Company of Canada (U.S.) ("SLUS") wholly-owned the Company. After the merger, the Company became a subsidiary of both KLIC and SLUS. On December 31, 2003, KLIC merged with and into SLUS, with SLUS being the surviving company. The Company then, again, became a wholly-owned subsidiary of SLUS.

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 2 states, namely New York and Rhode Island. In 2006, 100% of its life and accident and health premiums, and 96.8% of its annuity considerations were received from New York. Policies are written on a non-participating basis.

The Company's primary product line is individual annuities. During the examination period, the Company expanded its individual universal life business significantly. About 68.1% of direct premiums are derived from individual annuity considerations. Approximately 26.2% of direct premiums are life insurance.

The Company's agency operations are conducted on a general agency and broker basis. One of the distributors, IFS Agencies, Inc., is an affiliate of the Company. In addition, Sun Life Financial Distributors, Inc., an affiliate of the Company, provides wholesaling and related support services for the Company with respect to marketing of the annuity products.

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.

The examiner selected a sample of 37 annuity replacements and 23 life replacements for review. The replacements were reviewed for compliance with Department Regulation No. 60 as well as the Company's own written replacement procedures on file with the Department. The examiner noted deviations from Department Regulation No. 60 during the review. These deviations are noted below.

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 . . . "

With respect to life replacements reviewed, one of the Disclosure Statements incorrectly stated the percentages of the surrender charges applied to the proposed life insurance policy and five of the Disclosure Statements did not state any surrender charges for the proposed life insurance policy.

With respect to annuity replacements, in two of the files reviewed, the Disclosure Statements incorrectly stated the surrender charges applied to the proposed contracts and an additional Disclosure Statement did not state any surrender charges applied to the proposed contracts.

Due to the high error rate (26.1%) regarding the life insurance replacements incorrectly stating or missing surrender charge rates, the Company reviewed the entire population of 190 life insurance replacements issued during the examination period. The Company determined that the surrender charge information was missing in 16 files. The examiner returned to the Company to examine the results of the Company's review. The examiner agreed with the Company's findings.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine Disclosure Statements used in life and annuity replacements and correct inaccurate surrender charges or add missing surrender charges.

2. 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 . . . "

In eight annuity replacements (21.6%) and two life replacements (8.7%), the Company failed to disclose the advantages of continuing the existing life insurance policy or annuity contract without changes.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements and ascertain that they are accurate and meet the requirements of the Regulation.

3. 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 . . .
> (9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the information relating to the life insurance policy or annuity contract as issued, including but not limited to the revised 'Disclosure Statement,' any revised or additional sales material used and acknowledgement by the applicant of receipt of such revised material."

In three life insurance replacements reviewed (13.0%), the applicant should have received a revised Disclosure Statement because the amount of insurance issued was different from the original amount applied for.

The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide the applicant with a revised Disclosure Statement when the insurance policy issued differed from the policy applied for.

4. 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 . . .
> (6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the 'IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts;' the signed and completed 'Disclosure Statement'; and the notification of replacement to the insurer whose life insurance policy or annuity contract is to be replaced indexed by agent, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later . . . "

In four annuity replacements (10.8%) the Company failed to maintain the proposals, including sales material used in the sale.

The Company also failed to maintain the "Important Notice" for two annuity replacements and one life replacement.

The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain proposals including sales materials and the "Important Notice." A similar violation appeared in the prior report on examination. (See Section 5 of this report)

5. 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 . . .
> (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 noted 20 life replacements (87%) and two annuity contracts (5.4%) where the agent statement section of the Disclosure Statement was incomplete because the Disclosure Statement was not signed by the agent and/or the applicant.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct deficiencies involving Disclosure Statements or reject the application within 10 days from date of receipt of the application.

6. 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 . . .
> (4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed 'Disclosure Statement' . . . "

The examiner noted 22 life replacements (95.6%) and two annuity replacements (5.4%) where the Company failed to provide evidence that the completed Disclosure Statement was sent to the company being replaced. In addition, seven annuity replacements (18.9%), the Company sent the Disclosure Statements to the replaced company after 10 days from receipt of the applications.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer being replaced a copy of the completed Disclosure Statement within 10 days of receipt of the application.

7. Section 51.6(e) of Department Regulation No. 60 states, in part:

> "Both the insurer whose life insurance policy or annuity contract is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt . . . "

The Company failed to date stamp the Disclosure Statements in 10 of the life replacements reviewed (43.5%).

The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp Disclosure Statements when they were received.

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 the audits performed should be reviewed by the board of directors and the audit committee.

B. Underwriting and Policy Forms

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

Section 3201(b)(1) of the New York Insurance Law states, in part:

> "No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. . . . "

During the review of annuity replacements, the examiner noted that the surrender charges used in the calculations on the Disclosure Statement differed from the surrender charges stated on the specification page of the annuity contract. A review of the policy form approval revealed that the specification page issued on all 419 annuity contracts sold differed from the approved form.

The examiner noted that while the specification page contained incorrect surrender charges, the Company did apply the correct, or approved, surrender charges on surrenders. The Company attributed the incorrect specification pages to a printing error.

The Company was notified of the error and in response sent a revised (second) specification page to all affected annuitants which contained the correct surrender charges. However, further review revealed that there were other errors on both the original (first) and revised (second) specification pages (ex: credited interest rate, fees).

The Company then sent out a third specification page which had the information as it should have been at policy issue.

The Company violated Section 3201(b)(1) of the New York Insurance Law when it issued annuity contracts with an unapproved policy specification page.

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 on the sample reviewed, no significant findings were noted.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	The Company violated Section 2112(d) of the New York Insurance Law by failing to provide notification to the Superintendent of its terminated agents. A review indicated that the Company provided notification to the Superintendent of its terminated agents.
B	The examiner recommends that the Company establish, implement and monitor procedures to terminate agents and update their records. The Company implemented a new system to administer licensing and appointment information. The Company performs an annual reconciliation of information generated from the new system against the Department's listing. The examiner's review found no recurrence of the failure to provide notification of terminated agents.
C	The Company violated Section 51.6(b) of Department Regulation No. 60 by failing to properly complete a disclosure form and by failing to maintain sales materials. A repeat violation appears in this report on examination. (See item 4A of this report)
D	The Company violated Section 3211 of the New York Insurance Law by lapsing four policies without providing adequate notice to the policyholder. A review of lapsed policies indicated that the Company provided premium notices with the required language.

6. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine Disclosure Statements used in life and annuity replacements and correct inaccurate surrender charges or add missing surrender charges.	6
B	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements and ascertain that they are accurate and meet the requirements of the Regulation.	6
C	The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide the applicant with a revised Disclosure Statement when the insurance policy issued differed from the policy applied for.	7
D	The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain proposals including sales materials and the "Important Notice." A similar violation appeared in the prior report on examination.	7
E	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct deficiencies involving Disclosure Statements or reject the application within 10 days from date of receipt of the application.	8
F	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer being replaced a copy of the completed Disclosure Statement within 10 days of receipt of the application.	8
G	The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp Disclosure Statements when they were received.	9

Item	Description	Page No(s).
H	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 the audits performed should be reviewed by the board of directors and the audit committee.	9
I	The Company violated Section 3201(b)(1) of the New York Insurance Law when it issued annuity contracts with an unapproved policy specification page.	10

Respectfully submitted,

/s/

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.

/s/

Henry Wong

Subscribed and sworn to before me

this_____ day of _____

APPOINTMENT NO. 30204

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

SUN LIFE INSURANCE & ANNUITY 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 24th day of September, 2008

ERIC R. DINALLO
Superintendent of Insurance

By:

MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU