



THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
TIAA-CREF LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2008

DATE OF REPORT:

JANUARY 22, 2010

THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

MARC TSE

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

April 9, 2013

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

Sir:

In accordance with instructions contained in Appointment No. 30500, dated March 12, 2010, and annexed hereto, an examination has been made into the condition and affairs of the TIAA-CREF Life Insurance Company, hereinafter referred to as “the Company”, at its home office located at 730 Third Avenue, New York, NY 10017.

On October 3, 2011, the Insurance Department merged with the Banking Department to create the New York State Department of Financial Services. Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

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

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated various sections of Department Regulation No. 60 by failing to send the company being replaced a copy of any proposal and sales material used in the sale of the proposed policy, and a copy of the completed Disclosure Statement within ten days of receipt of the application, by failing to examine the Disclosure Statements in order to ascertain that they are accurate and meet the requirements of the Insurance Law and Department Regulation No. 60 and by failing to date all the documentation related to the replacement transaction upon receipt. Similar violations were contained in the prior report on examination. (See item 4A of this report)
- The Company violated Section 53-3.3(d)(1) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the applicant or policy owner. This is a repeat of a violation contained in the prior report on examination. (See item 4A of this report)
- The Company violated Section 53-3.3(d)(2) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the agent. This is a repeat of a violation contained in the prior report on examination. (See item 4A of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2005 through December 31, 2008. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2008 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, recommendations and comment contained in the prior report on examination. The results of the examiner's review are contained in Section 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, incorporated as a stock life insurance company under the laws of New York on November 20, 1996 under the name TIAA Life Insurance Company, was licensed and commenced business on December 18, 1996. The Company is a wholly-owned subsidiary of Teachers Insurance and Annuity Association of America (“TIAA”), an organization formed to provide pensions and insurance for teachers and employees of private educational institutions and currently providing an array of financial products and services to those in the academic, medical, cultural and research fields to assist in planning for and living in retirement. The Company was originally established by TIAA for the purpose of retaining its taxable life insurance and other non-pension business but now markets life and annuity insurance products to the general public.

The Company’s name was changed to its present name, TIAA-CREF Life Insurance Company, on May 1, 1998.

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 all 50 states and the District of Columbia.

The Company’s major lines of business consist of individual annuities, individual life insurance and funding agreements. Individual annuity products include: variable annuities and modified guaranteed annuities. The Company offers flexible premium deferred annuities and single premium immediate annuities. Life products consist of term life, universal life and variable life insurance products.

The Company primarily targets individuals working in the academic, cultural, medical and research institutions, small business owners and individuals, who wish to manage risk and preserve their wealth. The Company’s individual products are available to the general public; however, it has marketed primarily to individuals who own retirement annuities or insurance policies issued by its parent TIAA.

In 2008, 13.9% of life premiums, 15.8% of annuity considerations and 11.4% of accident and health premiums were received from New York. Policies are written on a non-participating basis.

The Company's sales operations are conducted predominantly on a direct response basis. The Company also has a salaried sales force that is not compensated based on commissions.

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.

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;

(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” . . .”

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 examiner reviewed a sample of 60 replacements issued during the examination period. The sample consisted of 25 external replacements and 35 internal replacements. Of the 60 replacements reviewed, four external replacements were sold through the direct response channel and as such did not require a Disclosure Statement and one did not include a Disclosure Statement. Thus the examiner reviewed only 55 Disclosure Statements. The review revealed the following:

1. In nine out of the 25 external replacements reviewed (36%), the Company failed to submit to the company being replaced a copy of the proposal and sales materials used in the sale of the proposed policy and a copy of the completed Disclosure Statement. In four out of 25 external replacements reviewed (16%), the Company did provide the proposal and sales materials used in the sale of the proposed policy and a copy of the completed Disclosure Statement, however, it failed to provide the information within ten days of receipt of the application for the policy.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by either failing to send to the company being replaced a copy of any proposal and sales material used in the sale of the proposed policy, and a copy of the completed Disclosure Statement or by failing to send such information to the company being replaced within ten days of receipt of the application. This is a repeat of a violation contained in the prior report on examination.

2. In three of the 55 replacements (5.45%) where the applicant was provided with a Disclosure Statement, the agent failed to indicate the advantages of continuing the existing policy. In addition, in one of those three replacements the agent failed to complete the entire Agent's Statement section of the Disclosure Statement.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements in order to ascertain that they are accurate and meet the requirements of the Insurance Law and Department Regulation No. 60. A similar violation was contained in the prior report on examination.

3. In eight (14.6%) of the 55 replacements transactions reviewed where the applicant was provided with a Disclosure Statement, the Disclosure Statement was not dated with the date of receipt by the Company. In 11 (18.33%) of the 60 replacements reviewed the application was not dated with the date of receipt by the Company.

The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date all the documentation related to the replacement transaction upon receipt.

Section 53-3.3(d) of Department Regulation No. 74 states, in part:

“Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policyowner in the case of an illustration provided at the time of delivery, as required in this Subpart.

(1) A statement to be signed and dated by the applicant or policyowner reading as follows: ‘I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent or broker has told me they are not guaranteed.’

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

The sample of 60 replacement files reviewed by the examiner included 14 policies that were sold with an illustration. The examiner reviewed these 14 policy files for compliance with Department Regulation No. 74. Six of the 14 (42.9%) policies reviewed had illustrations that were not signed by the applicant or the agent.

The Company violated Section 53-3.3(d)(1) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the applicant or policy owner. This is a repeat of a violation contained in the prior report on examination.

The Company also violated Section 53-3.3(d)(2) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the agent. This is a repeat of a violation contained in the prior report on examination.

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.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the market conduct violations and recommendations 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 51.6(b)(6) of Department Regulation No. 60 for failing to maintain an accurate index of replacements by agent.</p> <p>The Company maintained an index of replacements by agent in accordance with Section 51.6(b)(6) of Department Regulation No. 60.</p>
B	<p>The Company violated Section 51.6(a)(2) and Section 51.6(a)(3) of Department Regulation No. 60 by failing to require with or as part of each application, a completed Definition of Replacement signed by the applicant and agent or broker and failing to maintain signed and completed copies of the Definition of Replacement for six calendar years or until after the filing of the report on examination in which the transaction was subject to review, whichever is later.</p> <p>The examiner's review did not reveal any instances where the Company failed to obtain the Definition of Replacement.</p>
C	<p>The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require with or as part of each application a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy, and proof of receipt by the applicant of the Important Notice and the completed Disclosure Statement.</p> <p>The examiner's review did not reveal a recurrence of this violation.</p>
D	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine any proposal used, including the Disclosure Statement and ascertain that they were accurate.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See item 4A of this report)</p>
E	<p>The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy, and the notification of replacement to the insurer whose life insurance policy was to be replaced.</p> <p>The examiner's review indicated that the Company maintained the required proposal and sales material.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Section 51.7(b) of Department Regulation No. 60 by preventing the orderly working of the Regulation by accepting applications in cases where the Definition of Replacement, Important Notice and/or completed Disclosure Statement were not received by the applicants at or prior to the time that the applications were taken.</p> <p>The examiner's review did not reveal a recurrence of this violation.</p>
G	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 for failing to furnish to the insurer whose coverage was 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 within ten days of receipt of the application.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See item 4A of this report)</p>
H	<p>The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to follow its filed replacement procedures.</p> <p>The examiner's review did not reveal a recurrence of this violation.</p>
I	<p>The examiner recommends that the Company follow its filed procedures to track the sequence of steps that it must follow to comply with Department Regulation No. 60 and to document when those steps are executed in the replacement files.</p> <p>The examiner's review indicated that the Company complied with the recommendation.</p>
J	<p>As a result of the aforementioned findings, the Department and the Company have agreed on remediation plans for those policy and contract holders that have been adversely affected. The Company has also developed and started to implement an audit plan designed to review, test, and monitor compliance with the requirements of Department Regulation No. 60.</p> <p>The examiner's review indicated that the Company implemented the remediation plan.</p>
K	<p>The Company violated Section 3209(b)(1) of the New York Insurance Law for failing to provide the applicant with the most recent buyer's guide at or prior to the time the application was taken for all life insurance policies issued.</p> <p>The examiner's review did not reveal any instances where the Company violated Section 3209(b)(1) of the New York Insurance Law.</p>

<u>Item</u>	<u>Description</u>
L	<p>The Company violated Section 53-3.1(b) of Department Regulation No. 74 by using policy form TCL-RT.1(NY) without notifying the Superintendent whether the policy forms were to be marketed with or without an illustration.</p> <p>The examiner's review did not reveal the use of any forms for which the Company failed to notify the Superintendent whether the policy forms were to be marketed with or without an illustration.</p>
M	<p>The Company violated Section 53-3.1(d) of Department Regulation No. 74 by not preparing and delivering illustrations in six of 50 (12%) underwriting files reviewed.</p> <p>The examiner's review did not reveal a recurrence of this violation.</p>
N	<p>The Company violated Section 53-3.3 (d)(1) of Department Regulation No. 74 by having 11 out of 44 (25%) illustrations that were not signed and dated by the applicant or policyowner.</p> <p>The Company again violated Section 53-3.3 (d)(1) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the applicant or policy owner. (See item 4A of this report)</p>
O	<p>The examiner noted that the Company violated Section 53-3.5(c) and Section 53-3.3(d)(2) of Department Regulation No. 74 for failing to make diligent efforts to obtain the signed illustrations or failing to obtain the required agent certifications.</p> <p>The Company again violated Section 53-3.3(d)(2) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the agent. (See item 4A of this report) No violations of Section 53-3.5(c) of Department Regulation No. 74 were noted during the review.</p>
P	<p>The examiner recommends that the Company implement procedures to ensure that the type of sale (whether direct response or agent sale) is clearly identified.</p> <p>The Company complied with the recommendation.</p>
Q	<p>The Company violated Section 2611(a) of the New York Insurance Law by requiring individuals proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.</p> <p>The Examiners review did not reveal instances where the Company violated Section 2611(a) of the New York Insurance Law.</p>

6. 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 51.6(b)(4) of Department Regulation No. 60 by either failing to send to the company being replaced a copy of any proposal and sales material used in the sale of the proposed policy, and a copy of the completed Disclosure Statement or by failing to send such information to the company being replaced within ten days of receipt of the application. This is a repeat of a violation contained in the prior report on examination.	7
B	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements in order to ascertain that they are accurate and meet the requirements of the Insurance Law and Department Regulation No. 60. A similar violation was contained in the prior report on examination.	7
C	The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date all the documentation related to the replacement transaction upon receipt.	7
D	The Company violated Section 53-3.3(d)(1) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the applicant or policy owner. This is a repeat of a violation contained in the prior report on examination.	8
E	The Company violated Section 53-3.3(d)(2) of Department Regulation No. 74 by issuing policies with illustrations that were not signed and dated by the agent. This is a repeat of a violation contained in the prior report on examination.	8

Respectfully submitted,

_____/s/
Marc A. Tse
Associate Insurance Examiner

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

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

_____/s/
Marc A. Tse

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30500

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

MARC TSE

as a proper person to examine into the affairs of the

TIAA-CREF LIFE INSURANCE COMPANY

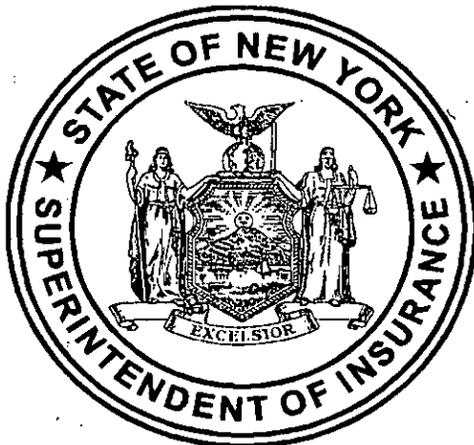
and to make a report to me in writing of the condition of the said

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 12th day of March, 2010



JAMES J. WRYNN

Superintendent of Insurance

James J. Wrynn
Superintendent