NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SECURITY MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

CONDITION: DECEMBER 31, 2015

DATE OF REPORT: MAY 12, 2017

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EXAMINER: JULIUS ASUBONTENG

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NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

April 27, 2017

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31513, dated July 26, 2016, and annexed hereto, an examination has been made into the condition and affairs of Security Mutual Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 100 Court Street, Binghamton, NY 13902.

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 Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(3) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for three replacement policies. (See item 7A of this report)
- The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e. annuitization feature of the existing annuity and no option to surrender an immediate annuity once it's annuitized. (See item 7A of this report)
- The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1), (c), (g), and (h) when a) the consumers were not informed of all the various features on the annuity contracts i.e. the annuitization option available on the existing deferred annuity, the proposed immediate annuity cannot be surrendered for a lump sum value etc. and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount; b) the Company did not ensure every insurance producer is adequately trained to make the recommendation and c) the producer made a recommendation without adequate knowledge of the product. (See item 7A of this report)

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2016 Edition* (the “Handbook”). The examination covers the five-year period from January 1, 2011 through December 31, 2015. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2015 but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted on a risk focused basis in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners (“NAIC”). The Handbook guidance provides for the establishment of an examination plan based on the examiner’s assessment of risk in the insurer’s operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that may threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management’s compliance with New York statutes and Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

Information about the Company’s organizational structure, business approach and control environment were utilized to develop the examination approach. The Company’s risks and management activities were evaluated incorporating the NAIC’s nine branded risk categories. These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic
- Credit
- Market

- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2011 through 2014, by the accounting firm of PricewaterhouseCoopers, LLP (“PwC”), and for the year 2015, by the accounting firm of RSM US, LLP (“RSM”). The Company received an unqualified opinion in all years. Certain audit workpapers of RSM were reviewed and relied upon in conjunction with this examination. The Company has outsourced its internal audit function to Baker Tilly Virchow Krause, LLP of Philadelphia, PA which was given the task of assessing the internal control structure and compliance with the Model Audit Rule (“MAR”). Where applicable, MAR workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the prior report on examination which did not contain any violations, recommendations and/or comments.

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 originally incorporated as a mutual assessment association under the name Security Mutual Life Association on November 6, 1886 and commenced business on January 3, 1887. The Company re-incorporated as Security Mutual Life Insurance Company, a stipulated premium company, on May 31, 1898. The Company reorganized on December 28, 1899 as a legal reserve mutual company. The Company changed its name to Security Mutual Life Insurance Company of New York in 1960. The Company is a mutual life insurance company owned by its policyholders, and operates primarily in the Northeast.

In February 2004, the Company announced the signing of a Stock Purchase Agreement ("Agreement") dated February 9, 2004 with the Ohio National Life Insurance Company ("Ohio National'). Such Agreement called for Ohio National to acquire the Company through a sponsored demutualization. Under the terms of the Agreement, the Company was to convert to a stock company and then sell all of its stock to Ohio National. The Department officially disapproved the Agreement on December 30, 2004.

Total costs incurred for the attempted demutualization was $10,176,000 during 2004. Upon the withdrawal from the transaction the Company expensed $9,295,000 and capitalized $881,000. The capitalized portion of the transaction costs represents the costs incurred related to the implementation of a new software system.

The Company issued a $15 million surplus note at $9^{3/8}$% to Chase Securities on December 27, 1996, scheduled to mature on December 15, 2016. The surplus note is not redeemable and there is no provision for a sinking fund. The $15 million surplus note has no call option.

On December 30, 2004, the Company issued a $10 million surplus note, scheduled to mature on December 30, 2034, to Credit Suisse First Boston for $9,694,000 in cash, through a private placement transaction. Interest accrued on the surplus note at 6.96% per annum from December 30, 2004 to December 30, 2009. Beginning December 31, 2009, the rate of interest on the surplus note changed to the sum of LIBOR plus 2.90%.

Pursuant to the provisions of Section 1307 of the New York Insurance Law, both surplus notes were filed with and approved by the Department prior to issuance.

B. Subsidiaries

Non-insurance entities within the Company's holding company group include the Company's 100% ownership in SML Agency Services, Inc. ("SAS"), Security Administrators, Inc. ("SAI"), and Archway Technology Services, Inc. ("ATS").

SAS was created in 1994 to function as a corporate general agency to permit the Company's agents to offer insurance products not issued by the Company. SAS primarily sells disability income insurance. During 2004 and 2005, the Company contributed $250,000 of additional capital to SAS for a marketing services agreement between the Company, SAS and Schmitt Sussman Enterprises, Inc., a Delaware Corporation. The agreement permits the agents to market and write life insurance products through employers, employer-sponsored credit unions, and selected financial services providers. On December 15, 2005 the board of directors approved a resolution authorizing an additional capital contribution to SAS, to be paid on or before December 31, 2006, in an aggregate amount not to exceed $600,000. Currently, SAS offers clients both individual disability insurance and long-term care insurance products.

SAI provides certain actuarial and pension services to the Company and other non-affiliates. In May 1998, SAI issued 3,019 common shares to American Annuity Group, Inc., a Delaware corporation, for $500,000. The Company retained a 51% majority ownership in SAI during this reporting period. Through the diversification of ownership, SAI acquired needed capital to expand its pension and actuarial administrative services. In March 2004, SAI purchased all of the shares of the minority interest and is now a wholly-owned subsidiary of the Company. On December 31, 2005, the Company received a cash dividend of $400,000 from SAI.

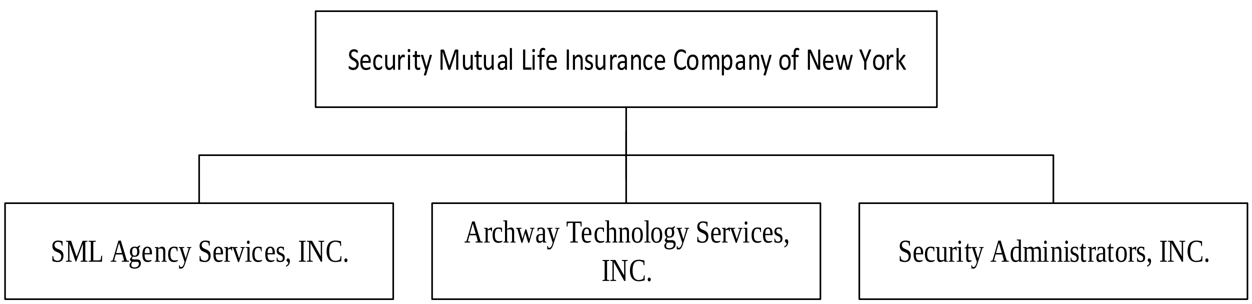
In 2001, the Company formed SMON Holdings, Inc. ("SMON") jointly with Ohio National Financial Services, Inc. ("Ohio National"). The Company made capital contributions aggregating $12,867,000 in 2001 and 2002, to attain 48.8% ownership in SMON. In January 2002, SMON purchased a variable life insurance company, First ING Life Insurance Company of New York, and re-named it National Security Life and Annuity Company ("NSLAC), for the purchase price of $23,350,000. In December 2002, the Company contributed additional paid-in-capital of $650,000 to SMON, which contributed a like amount to NSLAC in the same month. NSLAC began writing business in 2003. Effective March 30, 2007, the Company and Ohio National entered into a Stock Purchase Agreement pursuant to which SMON was dissolved and its assets were distributed to its sole shareholders, namely the Company and Ohio National. The proceeds were used to purchase shares in NSLAC, which resulted in the Company holding 19.5 percent of NSLAC and a surplus note from Ohio National. Effective December 15, 2011, the remaining ownership shareholder ascribed to the Company was completely taken over by Ohio National; thus bringing its control to 100%.

During 2003, ATS was established and is primarily responsible for the development and maintenance of computer systems used by the Company to sell its worksite insurance product.

On January 2, 2015, the Company formed a wholly owned subsidiary, LifeSite, LLC to develop and administer computer software applications, which was classified as a disregarded entity of the Company for income tax purposes. On September 3, 2015, LifeSite, LLC was disposed of by the Company.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2015 follows:



D. Service Agreements

The Company had nine 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
Amended and Restated Agreement (2007 Form IR) Letter Agreement (2012 Form IR) Letter Agreement (2013 Form IR)	12/31/2007 01/01/2013 01/01/2014	The Company	SAS	Administrative services and lease employees	2011 $322,414 2012 $307,093 2013 $297,503 2014 $273,483 2015 $109,166
General Agents' Contract (1998 Form IR) Corporate Career Agent Contract (1998 Form IR) Agent Contract (2000 Form IR)	02/15/97 11/15/1997 01/01/2001	SAS	The Company	General agency/marketing services	2011 $ (97,649) 2012 $ (88,296) 2013 $(101,708) 2014 $ (87,219) 2015 $ (67,216)
Lease Agreement (1997 Form IR) Lease Agreement (2014 Form IR) Lease Agreement (2015 Form IR)	02/01/1998 10/08/2014 10/01/2015	The Company	SAS	Leased space	2011 $15,558 2012 $ 9,709 2014 $ 1,099 2015 $ 3,608 2015 $ 1,202
Agent Contract (2000 Form IR) District Agent Contract (2000 Form IR)	03/01/2000 01/01/2001	SAI	The Company	General agency/marketing services	2011 $0** 2012 $0 2013 $0 2014 $0 2015 $0

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 Agreement Amended and Restated (2007 Form IR)	02/14/2003 12/31/2007	The Company	ATS	Corporate management, technical personnel and support staff, accounting and audit functions, investment management, general operations support and administration, and computer software and hardware	2011 $252,879 2012 $172,942 2013 $128,507 2014 $362,254 2015 $141,354
Amended and Restated Administrative Services Agreement (2007 Form IR)	12/31/2007	The Company/ SAI	The Company/ SAI	The Company performs administrative and other services for SAI and SAI performs actuarial and benefit consulting services for the Company	2011 $ 37,587 2012 $ 23,153 2013 $ 6,442 2014 $ 35,198 2015 $ 35,303

* Amount of Income or (Expense) Incurred by the Company
** The Company did not receive general agency and/or marketing services from SAI during the period under examination.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than seven and not more than 23 directors. Directors are elected for a period of three years at the annual meeting of the policyholders held in in February of each year. As of December 31, 2015, the board of directors consisted of 12 members. Meetings of the board are held quarterly.

The 12 board members and their principal business affiliation, as of December 31, 2015, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Willard N. Archie* New York, NY	Former Chief Executive Officer Mitchell & Titus, LLP	1996
Ray F. Barnard* Bonita Springs, FL	Executive Vice President & Chief Information Officer Fluor Corporation	2008
Carson E. Beadle* Naples, FL	Former President & Chief Executive Officer Carson E. Beadle, Inc.	1996
Bruce W. Boyea Binghamton, NY	Chairman, President and Chief Executive Officer Security Mutual Life Insurance Company of New York	1996
Daryl R. Forsythe* Norwich, NY	Chairman of the Board NBT Bancorp, Inc.	1995
Hugh A. Johnson, Jr.* Albany, NY	Chairman Hugh Johnson Advisors LLC	2001
Robert H. Linn* Manlius, NY	Former Managing Partner Ernst & Young	2010
Alan C. Marcus* Saddle River, NJ	President The Marcus Group, Inc.	2008
James W. Orband* Endicott, NY	Managing Partner Hinman, Howard & Kattell, LLP	2006
Thomas A. Pearson* Gainesville, FL	Executive Vice President for Research and Education University of Florida Health and Science	2002
Maria Ramirez* Far Hills, NJ	President Maria Fiorini Ramirez, Inc.	2006
Robert E. Sadler, Jr.* Buffalo, NY	Former Vice Chairman of the Board M & T Bank Corporation	1994

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

In February 2016, Robert E. Sadler, Jr. retired from the board and was replaced by Carol B. Moody.

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, 2015:

Name	Title
Bruce W. Boyea	Chairman, President and Chief Executive Officer
Paul B. Pheffer	Executive Vice President, Chief Financial Officer
F. David Mistretta	Executive Vice President, General Counsel and Secretary
Marc D. Novotney	Executive Vice President, Middle Market and Assistant to the President
James J. Kerwin	Executive Vice President, Chief Marketing Officer
Gary W. Scofield	Executive Vice President, Corporate Actuary
Scott A. Sylvester	Executive Vice President, Chief Information Officer
Frederick L. Wortman	Executive Vice President, Administration
George B. Kozol	Senior Vice President, Marketing
Doreen Acampora	Senior Vice President, Chief Underwriter and New Business Strategy
Vincent J. Montelione*	Senior Vice President, Individual Client Services, Reinsurance, Claims and Customer Relations
Ronald W. Funk	Vice President, Treasurer
James M. Lynch	Vice President, Chief Actuary

* Designated consumer services officer per Insurance Regulation No. 64, 11 NYCRR Section 216.4(c)

In October 2016, James M. Lynch replaced Gary W. Scofield as Corporate Actuary and Mark A. Walker replaced James M. Lynch as Chief Actuary.

4. TERRITORY AND PLAN OF OPERATIONS

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, the District of Columbia and the Virgin Islands. Effective March 24, 2011, the Company formally withdrew from doing business in Puerto Rico.

In 2015, 74.3% of premiums (life, accident and health premiums, annuity considerations, deposit type funds) were received from New York (61.9%) and New Jersey (12.4%). Policies are written on a participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2015:

Life Insurance Premiums	
New York	60.5%
New Jersey	8.6%
Florida	4.5%
Maryland	4.4%
Pennsylvania	2.7%
Subtotal	80.6%
All others	19.4%
Total	100.0%

A. Statutory and Special Deposits

As of December 31, 2015, the Company had $1,750,000 (par value) of United States Treasury Notes on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company. As per confirmations received from the following states which were reported in Schedule E of the 2015 filed annual statement, an additional $2,805,669 was being held by the states of Arkansas, Florida, Georgia, New Mexico, North Carolina, and the US Virgin Islands.

B. Direct Operations

The Company primarily markets individual life (whole life products, universal life and term) and individual annuities (single premium deferred annuities and single premium immediate annuities) with emphasis on the personal and estate planning needs of business owners and professional individuals. The Company also markets group life and group disability products. In addition, the Company is expanding its sales of products and services at the worksite, with an emphasis on marketing its individual life and annuity products through the traditional employer channel and providing specialized deposit fund investment and administration services to qualified retirement plans.

The Company's agency operations are conducted on a general agency basis which includes career agents and brokers and specialized group and worksite insurance agents.

The Company is organized within two major divisions; 1) individual insurance division, and 2) benefits division. Within the individual insurance division, products are marketed through an independent distribution force. The Company's distribution efforts are largely concentrated in the states of New York, New Jersey and Pennsylvania. The Company's general agents have a strong geographic presence within the Northeast, metro New York and Mid-Atlantic region, which in the aggregate accounts for almost 75% of life insurance sales. Over 52% of the Company's agents are located in New York State, with approximately 25% focusing their efforts in the five boroughs of New York City.

The benefits division consists of the Company's voluntary worksite marketing and group business lines. Within this division, the Company primarily offers traditional individual life products and to a lesser extent, group life and disability products for small to mid-sized employers through four regional vice presidents, who recruit and provide services to a select network of group general agencies that market the Company's products. The Company continues to successfully expand its core expertise into the worksite/voluntary payroll deduction market. The Company has expanded its platform into financial institutions sales. Through the financial institutions sales, the Company provides customized protection products, marketing support, customer service, and technology solutions to financial institutions, including credit unions, community and regional banks, and security firms.

The Company offers traditional and voluntary group life and disability products for small to mid-sized employers through four regional vice presidents, who recruit and provide services to a select network of group general agencies that market the Company's products.

C. Reinsurance

As of December 31, 2015, the Company had reinsurance treaties in effect with 24 companies, of which 21 were authorized or accredited. The Company's life, accident and health business is reinsured on a coinsurance, modified-coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $500,000. The total face amount of life insurance ceded as of December 31, 2015, was $19,449,310,221, which represents 61.0% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $1,087,199, was supported by letters of credit and trust agreements.

5. 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, 2010	December 31, 2015	Increase (Decrease)
Admitted assets	$ 2,497,363,798	$ 2,667,789,427	$170,425,629
Liabilities	$ 2,381,157,833	$ 2,531,284,619	$150,126,786
Separate account contingency reserve	$ 750,000	$ 750,000	$ 0
Incremental deferred taxes	4,753,530	0	(4,753,530)
Surplus Notes	25,000,000	16,000,000	(9,000,000)
Unassigned funds (surplus)	85,702,435	119,754,808	34,052,373
Total surplus	$ 116,205,965	$ 136,504,808	$ 20,298,843
Total liabilities and surplus	$ 2,497,363,798	$ 2,667,789,427	$170,425,629

The increase in admitted assets was primarily due to a $76.0 million increase in policy loans that resulted from policyholder behavior, an increase in bonds of $28.0 million due to the harvesting of capital gains over the five-year period, an increase in cash of $34.2 million partly due to an increase in earnings/surplus, an increase of $11 million due to the recognition of the Deferred Reinsurance Premium, and the Prepaid Reinsurance Asset regarding Section 1308 of the New York Insurance Law's universal life reserve. The increase in admitted assets was also due to an increase of $11.1 million in the separate account value that was partially due to the Company's contribution of $5.0 million in year 2012, and an increase in the Pension Plan/Auxiliary Fund Deposits that resulted from the Company's Long Term Incentive Compensation Plan Contribution of $4.2 million.

The decrease in surplus notes of $9.0 million was primarily due to the Company’s decision to take advantage of an opportunity to reduce its interest expense. On December 7, 2012, the Company received approval from the Department to make a total payment of $10,946,250 to the holder of the $15.0 million surplus note issued on December 27, 1996. The payment comprised of the prepayment of $9.0 million of the principal of the surplus note, $421,875 of accrued and unpaid interest, $281,250 of accrued and unpaid interest to December 15, 2012 on the $6,000,000 principal amount remaining, and $1,243,125 in additional consideration to the note holder for the agreement to accept the prepayment.

The unassigned funds (surplus) increase of $34.1 million was primarily due to cumulative net earnings from 2011 to 2015.

The Company’s invested assets as of December 31, 2015, exclusive of separate accounts, were mainly comprised of bonds (77.5%), contract loans (13.3%) and mortgage loans (6.7%),

The majority (99.6%) of the Company’s bond portfolio, as of December 31, 2015, was comprised of investment grade obligations.

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:

	2011	2012	2013	2014	2015
Ordinary:					
Life insurance	$ 8,256,959	$ 7,563,561	$ 6,764,500	$4,440,167	$ 5,028,117
Individual annuities	3,247,747	324,685	3,020,873	5,213,883	5,338,686
Supplementary contracts	52,049	(155,566)	(51,877)	(59,397)	11,686
Total ordinary	$11,556,755	$ 7,732,680	$ 9,733,496	$9,594,653	$10,378,489
Credit life	$ (3,161)	$ (34,800)	$ (17,667)	$ 14,277	$ 35,899
Group:					
Life	$ (562,302)	$ 746,719	$ (64,546)	$ (246,975)	$ (994,735)
Annuities	(291,551)	(387,364)	(515,728)	(548,206)	(587,602)
Total group	$ (853,853)	$ 359,355	$ (580,274)	$ (795,181)	$ (1,582,337)
Accident and health:					
Group	$ (263,058)	$(1,064,082)	$(1,089,804)	$ (897,786)	$ (1,468,054)
Other	(328,782)	(73,004)	(163,018)	149,705	109,946
Total accident and health	$ (591,840)	$(1,137,086)	$(1,252,822)	$ (748,081)	$ (1,358,108)
Total	$10,107,901	$ 6,920,149	$ 7,882,733	$8,065,668	$ 7,473,943

The ordinary life insurance net gain from operations decrease of $2.3 million from 2013 to 2014 was primarily due to the Company experiencing approximately $6.1 million of unfavorable mortality, mainly offset by a decrease in Federal income taxes of $2.7 million and a change in reserve method of $0.9 million.

The ordinary individual annuity net gain from operations decrease of approximately $3.0 million from 2011 to 2012 was due to less favorable mortality experience, resulting in $1.0 million difference in reserves released on the single premium immediate annuity ("SPIA") block of business. The statutory valuation rate decreased in 2012, causing increased reserves of $0.7

million over the prior year on certain fixed premium annuity ("FPA") contracts. Taxes, licenses and fees increased by $1.3 million due to guaranty association assessments incurred on an insolvency declared in 2012.

The ordinary individual annuity net gain from operations increase of approximately $2.9 million from 2012 to 2013 was due to more favorable mortality experience, resulting in $0.3 million. In 2013, the statutory valuation rate improved to eliminate the reserves of $0.7 million in 2012 on certain FPA contracts. The spreads for the annuity block of business improved in 2013 by $1.1 million, primarily due to lower interest rates credited.

The ordinary individual annuity net gain from operations increase of approximately $2.2 million from 2013 to 2014 was due to $1.2 million of improved spreads for the annuity block of business, resulting from lower interest rates credited. Amortization of surrender charges and increased surrender charges collected were $1.7 million favorable in 2014 over 2013.

The group life insurance net gain from operations increase of $1.3 million from 2011 to 2012 was related to favorable claims experience in the group life business. Loss ratio decreased from 72.4% in 2011 to 53.9% in 2012, resulting from decreased net incurred death and disability claims of $5.5 million in 2011 to $4.0 million in 2012, as net incurred premiums were approximately $7.6 million in 2011 and $7.5 million in 2012.

The group life insurance net loss from operations in 2013, 2014 and 2015 were primarily due to higher loss ratios of 70.0%, 73.8% and 78.8%, respectively, as compared to the 53.9% in 2012.

The group accident and health insurance net loss from operations in 2011 through 2015 were primarily due to actual expenses exceeding the assumed expenses built into pricing. The group accident and health insurance line of business is currently not large enough to absorb actual expense levels.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2015, as contained in the Company's 2015 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, 2015 filed annual statement.

A. Independent Accountants

The firm of PwC was retained by the Company to audit the Company's combined statutory basis statements of financial position as of December 31st of each of years 2011 through 2014, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the years then ended.

The firm of RSM was retained by the Company to audit the Company's combined statutory basis statements of financial position of the Company as of December 31, 2015, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

PwC and RSM concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

Bonds	$1,942,786,693
Stocks:	
Common stocks	3,171,811
Mortgage loans on real estate:	
First liens	167,709,891
Real estate:	
Properties occupied by the company	8,575,244
Properties held for the production of income	781,454
Cash, cash equivalents and short term investments	39,716,921
Contract loans	332,706,162
Other invested assets	10,515,078
Investment income due and accrued	34,432,616
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	(7,512,716)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	19,990,884
Reinsurance:	
Amounts recoverable from reinsurers	8,625,064
Other amounts receivable under reinsurance contracts	4,346,844
Current federal and foreign income tax recoverable and interest thereon	1,619,104
Net deferred tax asset	25,508,635
Guaranty funds receivable or on deposit	3,725,992
Electronic data processing equipment and software	655,993
Receivables from parent, subsidiaries and affiliates	17,587
General agents supplemental retirement plan investments	2,697,815
Pension plan auxiliary fund deposits	9,083,745
Voluntary deferred compensation trust	778,488
Deferred reinsurance premium- DPA NYS PP	3,412,281
Cash value of company owned policies	415,362
Prepaid reinsurance premium asset- Sect 1308 UL Res	7,797,889
From separate accounts, segregated accounts and protected cell accounts	46,230,590
Total admitted assets	$2,667,789,427

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$2,171,671,377
Aggregate reserve for accident and health contracts	2,118,429
Liability for deposit-type contracts	99,134,929
Contract claims:	
Life	15,785,678
Accident and health	391,316
Policyholders' dividends and coupons due and unpaid	(11,918)
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts	
Dividends apportioned for payment	20,042,169
Premiums and annuity considerations for life and accident and health contracts received in advance	978,948
Contract liabilities not included elsewhere:	
Interest maintenance reserve	41,567,479
Commissions to agents due or accrued	1,794,457
General expenses due or accrued	9,007,939
Taxes, licenses and fees due or accrued, excluding federal income taxes	1,161,172
Amounts withheld or retained by company as agent or trustee	83,791
Amounts held for agents' account	50,765
Remittances and items not allocated	4,791,000
Liability for benefits for employees and agents if not included above	24,071,664
Miscellaneous liabilities:	
Asset valuation reserve	12,823,594
Payable to parent, subsidiaries and affiliates	53,000
Funds held under coinsurance	75,772,284
Interest on policy and contract funds	196,440
Liability for voluntary deferred compensation	778,488
Uncashed drafts and checks that are pending escheatment to a state	1,626,395
Liability for future Guaranty Fund payments	887,588
Liability for interest due on reinsurance ceded	227,045
Liability for regulatory authority adjustments not reported elsewhere	50,000
From Separate Accounts statement	46,230,590
Total liabilities	$2,531,284,619
Surplus notes	$ 16,000,000
Separate account contingency reserve	750,000
Unassigned funds (surplus)	119,754,808
Total surplus	$ 136,504,808
Total liabilities and surplus	$2,667,789,427

D. Condensed Summary of Operations

	2011	2012	2013	2014	2015
Premiums and considerations	$160,133,963	$172,031,902	$171,235,836	$166,263,941	$175,205,023
Investment income	130,560,257	131,023,532	130,614,692	129,222,445	126,481,205
Commissions and reserve adjustments on reinsurance ceded	17,129,782	18,594,436	21,780,261	22,337,742	12,328,382
Miscellaneous income	(318,820)	(216,279)	82,873	(45,604)	27,715
Total income	$307,505,182	$321,433,591	$323,713,662	$317,778,524	$314,042,325
Benefit payments	$139,232,032	$149,650,746	$155,903,258	$202,350,779	$188,112,788
Increase in reserves	45,590,214	44,702,275	45,961,022	(3,003,996)	3,754,604
Commissions	35,215,332	36,522,336	36,757,906	37,613,151	38,909,699
General expenses and taxes	58,385,884	61,101,215	60,078,419	59,828,580	63,001,755
Increase in loading on deferred and uncollected premiums	3,029,638	502,863	1,702,934	(442,506)	925,724
Net transfers to (from) Separate Accounts	(1,094,829)	2,877,453	(1,941,098)	(2,149,775)	(2,229,161)
Miscellaneous deductions	4,131,969	3,914,933	4,147,952	4,141,038	4,207,498
Total deductions	$284,490,240	$299,271,821	$302,610,393	$298,337,271	$296,682,907
Net gain (loss)	$ 23,014,942	$ 22,161,770	$ 21,103,269	$ 19,441,253	$ 17,359,418
Dividends	12,684,461	13,245,771	12,170,154	12,927,809	9,972,402
Federal and foreign income taxes incurred	222,580	1,995,850	1,050,382	(1,552,224)	(86,927)
Net gain (loss) from operations before net realized capital gains	$ 10,107,901	$ 6,920,149	$ 7,882,733	$ 8,065,668	$ 7,473,943
Net realized capital gains (losses)	(123,846)	(1,226,603)	505,611	(1,345,584)	(564,805)
Net income	$ 9,984,055	$ 5,693,546	$ 8,388,344	$ 6,720,084	$ 6,909,138

The decreases in “Increase in reserves” in 2014 and 2015 were primarily due to decrease in reserves associated with the individual annuity line of business. From 2008 to 2010, the Company wrote significant number of single premium deferred annuity contracts, with five-year surrender charge and five-year interest guarantees. Effective 2013, the surrender charges began reaching zero and, as priced for, individual annuity surrenders increased. The surrenders amounted to $57 million in 2014 and $44 million in 2015, which reduced the overall “increase in reserves” to ($3,003,996) in 2014 and $3,754,604 in 2015.

The increase in “Net transfers to Separate Accounts” in 2012 was primarily due to a capital contribution of $5.0 million approved by the Security Mutual Pension Committee in 2011, but transferred in 2012 to the Separate Account, referred to as the Company’s home office pension plan (“HOPP”).

E. Capital and Surplus Account

	2011	2012	2013	2014	2015
Surplus, December 31, prior year	$116,205,965	$120,419,834	$120,079,906	$133,564,799	$138,614,670
Net income	$ 9,984,055	$ 5,693,546	$ 8,388,344	$ 6,720,084	$ 6,909,138
Change in net unrealized capital gains (losses)	(12,711,253)	(17,893)	(110,125)	(86,135)	418,379
Change in net deferred income tax	4,493,543	(4,777,634)	(3,369,379)	9,510,624	872,795
Change in non-admitted assets and related items	5,476,679	11,496,606	3,974,342	(13,380,451)	(7,282,482)
Change in liability for reinsurance in unauthorized companies	133,788	0	0	0	0
Change in reserve valuation basis	798,237	0	0	0	0
Change in asset valuation reserve	(1,351,124)	(2,050,174)	(1,169,823)	(281,869)	699,662
Change in surplus notes	0	(9,000,000)	0	0	0
Cumulative effect of changes in accounting principles	0	0	(16,000)	5,084,808	0
Change in minimum pension liabilities	(2,023,848)	3,909,832	6,416,774	(1,951,869)	(3,400,841)
Incremental deferred taxes	133,912	(4,887,442)	0	0	227,683
Net deferred reinsurance premium adjustment - DPA	(720,120)	(706,769)	(629,240)	(565,321)	(554,196)
Net change in surplus for the year	$ 4,213,869	$ (339,928)	$ 13,484,893	$ 5,049,871	$ (2,109,862)
Surplus, December 31, current year	$120,419,834	$120,079,906	$133,564,799	$138,614,670	$136,504,808

7. 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. Insurance Regulation No. 60, 11 NYCRR Section 51.6(b) 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 10 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 thereof. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of paragraph (6) of this subdivision . . ."

A review of seven immediate annuity replacement files in which the Company replaced a deferred annuity policy with an immediate annuity policy revealed:

a) The Company did not provide or indicate any amounts on the Disclosure Statements for comparison on the "proposed" single premium individual annuity contract.

   (i) In accordance with Section 4223(a)(1)(c) of the New York Insurance Law, every accumulation type deferred annuity issued to consumers in New York State must set forth the guaranteed interest rate and annuity mortality table being utilized for the guaranteed income purchase rates under the contract. The examiner noted that the Company did not provide the amount of guaranteed income available under the existing deferred annuity contract on the Disclosure Statement. Similarly, the Company did not provide the payout amount for the guaranteed income available under the proposed immediate annuity. In fact, since the existing deferred annuities were purchased during earlier years, the interest rate factor that was applied to the annuities (current and guaranteed) is higher on the existing insurance than at the time that the Company issued the replacement contracts. The annuitization of the existing deferred annuity contract would have resulted in higher monthly income than the proposed immediate annuity contract.

(ii) The Company failed to inform the existing companies that the new or replacement contract would be an immediate annuity contract. Thus, the Company requested and/or accepted Disclosure Statements with the replaced company's account values listed as a lump sum, rather than a monthly payment amount that the annuitant would receive with an immediate annuity.

(iii) The information requested on the authorization form by the agent/Company did not indicate to the existing companies that the proposed coverage would be an immediate annuity contract. The letter/authorization form stated " . . . Replacement Notification/Authorization . . . Anticipated purchase of a new life insurance policy or annuity contract may result in the following policy(ies) or contract(s) being replaced . . . Please furnish information necessary for completion of the . . . Disclosure Statement in accordance with the information specified below: Type of Replacement . . . Annuity to Annuity . . . Other than an Annuity to Annuity . . . ". Thus, the Company requested and accepted Disclosure Statements with account values listed as a lump sum instead of a monthly payment amount that the annuitant would have received with an immediate annuity. The Company failed to inform the existing company that their new or replacement contract to be issued by the Company would be an immediate annuity contract and thereby failed to give the existing insurer an opportunity to provide the applicable monthly annuitized amounts.

(iv) As stated in item (i) above, none of the files or Disclosure Statement indicate a comparison regarding payout options. Although Section 4223(a)(1)(C) of the

New York Insurance law requires all deferred contract to contain a provision allowing payout, there was no payout option comparison disclosed on the Company's prepared Disclosure Statements.

b) The agent's statement contained on the Disclosure Statement did not include key disadvantages pertaining to replacing a deferred annuity with an immediate annuity, for example:

(i) The agent's statement failed to indicate that the proposed immediate annuity cannot be surrendered for a lump sum cash value.

(ii) The agent's statement failed to indicate that the existing deferred annuity could be annuitized for a monthly payment as an option versus purchasing a new immediate annuity. The monthly payout amount should be shown on the Disclosure Statement for both the existing deferred annuity and the proposed immediate annuity.

(iii) The agent's statement was misleading because it indicated that the reason for recommending the immediate annuity is that there are no payouts from the existing deferred annuity, or that the existing coverage did not provide enough income, etc. when payouts were available with an annuitization of its existing contract.

Based on items "a" and "b", stated above:

- The Company accepted Disclosure Statements where the replaced company's account values were listed as a lump sum rather than the monthly payment amount that the policyholder would receive with an immediate annuity. In these instances the Company did not request, from the existing insurer, an appropriate comparison for the proposed immediate annuity.
- The Disclosure Statement did not disclose that a disadvantage of the proposed annuity would be that it cannot be surrendered for a lump sum cash value.
- The Disclosure Statement did not provide the monthly payment amount or any figures on the proposed immediate annuity for comparison with the existing deferred annuity.

- A statement was not included in the Agent's Statement section of the Disclosure Statement indicating that one of the advantages of keeping the existing deferred annuity contract would be the opportunity to annuitize the deferred annuity according to the terms of the original contract and avoid a surrender fee.
- The agent did not state on the authorization forms that the new product being offered was an immediate annuity policy.

The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(3) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for the three above referenced replacement policies.

The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e. annuitization feature of the existing annuity and no option to surrender an immediate annuity once it's annuitized.

2 Insurance Regulation No. 187, 11 NYCRR Section 224.4 of states, in part:

> "(a) In recommending to a consumer the purchase or replacement of an annuity contract, the insurance producer, or the insurer where no insurance producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments and other insurance policies or contracts and as to the consumer's financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:
>
> (1) the consumer has been reasonably informed of various features of the annuity contract, such as the potential surrender period and surrender charge, availability of cash value, potential tax implications if the consumer sells, surrenders or annuitizes the annuity contract, death benefit, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, guaranteed interest rates, insurance and investment components, and market risk . . .
>
> (c) Except as provided under subdivision (d) of this section, an insurer shall not issue an annuity contract recommended to a consumer unless there is a reasonable basis to believe the annuity contract is suitable based on the consumer's suitability information . . .

> (g) An insurer shall be responsible for ensuring that every insurance producer recommending the insurer's annuity contracts is adequately trained to make the recommendation.
>
> (h) No insurance producer shall make a recommendation to a consumer to purchase an annuity contract about which the insurance producer has inadequate knowledge."

The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1), (c), (g), and (h) when a) the consumers were not informed of all the various features on the annuity contracts i.e. the annuitization option available on the existing deferred annuity, the proposed immediate annuity cannot be surrendered for a lump sum value etc. and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount; b) the Company did not ensure every insurance producer is adequately trained to make the recommendation and c) the producer made a recommendation without adequate knowledge of the product.

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.

Insurance Regulation No. 95, 11 NYCRR Section 86.4(a) states, in part:

> "Except with respect to automobile insurance, all claim forms for insurance, and all applications for commercial insurance and accident and health insurance, provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:
>
> 'Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any

> materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.' . . ."

The examiner reviewed 60 claims files, comprised of 40 death claims and 20 disability claims. The review revealed that in all 60 claims files reviewed (100%), the Company utilized a claim form that failed to include a complete fraud warning statement as required by Insurance Regulation No. 95, 11 NYCRR Section 86.4(a).

The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(a) by failing to utilize claims forms that contained a complete fraud warning statement.

8. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

Item	Description	Page No(s).
A	The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(3) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for three replacement policies.	28
B	The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e. annuitization feature of the existing annuity and no option to surrender an immediate annuity once it's annuitized.	28
C	The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1), (c), (g), and (h) when a) the consumers were not informed of all the various features on the annuity contracts i.e. the annuitization option available on the existing deferred annuity, the proposed immediate annuity cannot be surrendered for a lump sum value etc. and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount; b) the Company did not ensure every insurance producer is adequately trained to make the recommendation and c) the producer made a recommendation without adequate knowledge of the product.	29
D	The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(a) by failing to utilize claims forms that contained a complete fraud warning statement.	30

Respectfully submitted,

_____________/s/___________
Julius Asubonteng
Senior Insurance Examiner

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

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

_____________/s/___________
Julius Asubonteng

Subscribed and sworn to before me

this__________ day of ___________________

APPOINTMENT NO. 31513

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

JULIUS ASUBONTENG

as a proper person to examine the affairs of the

SECURITY MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

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

COMPANY

with such other information as he shall deem requisite.

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

this 26th day of July, 2016

MARIA T. VULLO
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU