



STATE OF NEW YORK INSURANCE DEPARTMENT  
REPORT ON FINANCIAL CONDITION EXAMINATION  
OF THE  
SUN LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2009

DATE OF REPORT:

MAY 13, 2011

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EXAMINER:

ERIC C. DERCHER, CFE

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

Andrew M. Cuomo  
Governor

James J. Wrynn  
Superintendent

May 31, 2011

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

Sir:

In accordance with instructions contained in Appointment No. 30516, dated April 28, 2010 and annexed hereto, an examination has been made into the condition and affairs of Sun Life Insurance and Annuity Company of New York, hereinafter referred to as “the Company” at its office located at 60 East 42<sup>nd</sup> Street, New York, New York 10165.

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

## 1. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2010 Edition* (the “Handbook”). The examination covers the three-year period from January 1, 2007 through December 31, 2009. 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, 2009 but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

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 2007 through 2009, by the accounting firm of Deloitte & Touche LLP. The Company received an unqualified opinion in all years. Certain audit work papers of the accounting firm were reviewed and relied upon in conjunction with this examination. The U.S. Business Group of Sun Life Financial Inc. (“SLF”), the Company’s ultimate parent, has an internal audit department and a separate internal controls group which were given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 (“SOX”). The internal audit department and internal controls group are not dedicated to one legal entity and perform reviews of all entities within the SLF U.S. Business Group. Where applicable, internal audit and SOX compliance 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 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.

## 2. 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. Initial resources of \$7,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$5,000,000, were provided through the sale of 2,000 shares of common stock (with a par value of \$1,000 each) for \$3,500 per share.

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. To execute the merger, the Company issued 4,001 additional shares of common stock to KLIC in exchange for the assets and liabilities of KBL. As a result of the additional common stock issuance, the Company became a subsidiary of both KLIC and SLUS, with KLIC owning 67% of the common stock, and SLUS owning 33% of the common stock. On December 31, 2003, KLIC merged with and into SLUS, with SLUS being the surviving company. As a result, the Company became, once again, a wholly-owned subsidiary of SLUS.

KBL received a surplus contribution of \$71,000,000 from KLIC in 2001. The Company received additional surplus contributions of \$45,000,000 and \$150,000,000 from its parent in 2002 and 2008 respectively. As of December 31, 2009, the common capital stock of the Company totaled \$2,100,350 and the paid-in and contributed surplus totaled \$357,399,650.

### B. Holding Company

The Company is a wholly-owned subsidiary of SLUS, a Delaware life insurer. SLUS is, in turn, a wholly-owned subsidiary of Sun Life of Canada (U.S.) Holdings, Inc., a Delaware holding company. The ultimate parent of the Company is Sun Life Financial Inc.

LPL Holdings, Inc., a non-affiliated entity, purchased IFS Agencies, Inc., and IFMG Securities, Inc. (“IFMG”) from Sun Life Financial Inc. on November 7, 2007. IFMG is a successor by merger to Independent Financial Securities, Inc. The Company’s sales and marketing agreements with these two companies were not terminated in connection with the sale even though the companies were no longer affiliates.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2009 follows:



#### D. Service Agreements

The Company had 16 service agreements in effect with affiliates during the examination period.

<b>Type of Agreement and Department File Number</b>	<b>Effective Date</b>	<b>Provider(s) of Service(s)</b>	<b>Recipient(s) of Service(s)</b>	<b>Specific Service(s) Covered</b>	<b>Income/ (Expense)* For Each Year of the Examination</b>
General Services Agreement 26444	Effective 07/01/99 Amended 12/01/06	The Company	Sun Life Assurance Company of Canada ("SLOC") and SLUS	The Company performs marketing and other services related to the individual life and annuity and group life and disability products of SLOC and SLUS.	2007 \$ 934,169 2008 \$ 1,488,229 2009 \$ 2,077,762
Administrative Services Agreement 29891	Effective 11/21/00 Amended 12/31/01 12/01/06	SLUS	The Company	SLUS provides personnel, investment, actuarial, and administrative services to the Company.	2007 \$(27,685,973) 2008 \$(34,222,632) 2009 \$(30,820,823)
Administrative Services Agreement 30192	Effective 02/03/03 Amended 12/01/06 Terminated 03/01/09	Sun Life Information Services Ireland Limited ("Sun Life Ireland")	The Company	Sun Life Ireland provides administrative and support services to the Company in connection with the Company's insurance and annuity businesses.	2007 \$(1,316,657) 2008 \$(1,576,953) 2009 \$( 202,591)
Administrative Services Agreement 30785A	Effective 01/01/03 Amended 02/01/04 12/01/06 10/01/09 12/31/09	The Company	Sun Capital Advisers LLC ("SCA")	The Company provides administrative services with respect to the Sun Capital Advisers Trust (Variable Account C).	2007 \$ 63,594 2008 \$ 82,599 2009 \$ 398,040
Administrative Services Agreement 33326	Effective 12/06/04 Amended 12/01/06	Sun Life Information Services Canada, Inc. ("SLISC")	The Company	SLISC provides administrative and support services to the Company in connection with the Company's insurance and annuity businesses.	2007 \$(1,054,532) 2008 \$(1,168,052) 2009 \$( 974,624)
Servicing Agreement 34075	Effective 02/15/05 Amended 12/01/06	The Company	Clarendon Insurance Agency, Inc. ("Clarendon")	The Company provides services to Clarendon in connection with Clarendon's role as principal underwriter for variable contracts issued by the Company.	2007 \$ 43,903 2008 \$ 71,002 2009 \$ 210,265

Administrative Services Agreement 35176	01/01/06 Terminated 12/31/09	The Company, SLUS	Massachusetts Financial Services Company ("MFS")	The Company and SLUS perform administrative services with respect to the MFS/Sun Life Series Trust, for which MFS serves as investment adviser.	2007 \$ 295,772 2008 \$ 315,312 2009 \$ 353,159
Administrative Services Agreement 37566	05/31/07	The Company	Sun Life and Health Insurance Company (U.S.) ("SLHIC")	The Company performs various administrative services on behalf of SLHIC in connection with policies covered under their reinsurance agreement.**	2007 \$ 0 2008 \$ 0 2009 \$ 0
Administrative Services Agreement 41257	03/01/09	Sun Life Ireland	The Company	Sun Life Ireland provides administrative and support services to the Company in connection with the Company's insurance and annuity businesses.	2007 \$ 0 2008 \$ 0 2009 \$(1,867,656)
Administrative Services Agreement 42559	12/31/09	The Company	MFS Fund Distributors, Inc. ("MFS")	The Company performs administrative services with respect to the MFS Variable Insurance Trust II, for which MFS Fund Distributors, Inc. is the distributor.	2007 \$ 0 2008 \$ 0 2009 \$ 0
Investment Advisory Agreement 29889	01/01/02 Amended 12/01/06 12/20/07	SCA	The Company	SCA acts as investment manager for certain of the Company's portfolios.	2007 \$(1,270,726) 2008 \$(1,602,633) 2009 \$(1,730,149)
Sales Operations and General Agent Agreement 32878	09/03/92	Clarendon, Independent Financial Securities Inc., and IFS Agencies, Inc.***	The Company	Clarendon, IFS, and IFS Agencies, Inc., as broker-dealers solicit and sell certain insurance and annuity products issued by the Company.	2007 \$(1,032,503) 2008 N/A 2009 N/A
Managing General Agent and Broker/Dealer Agreement 32878	08/03/98	Clarendon, IFMG***	The Company	A managing general agent and broker-dealer agreement concerning distribution of products issued by the former KBL.	2007 \$ 0 2008 N/A 2009 N/A

Managing General Agent and Broker-Dealer 32878	08/03/98	Clarendon, IFS Agencies, Inc., and IFMG***	The Company	A managing general agent and broker-dealer agreement concerning distribution of products issued by the former KBL.	2007 \$(3,507,177) 2008 0 2009 0
Principal Underwriter's Agreement 30978A	02/01/03 Amended 12/01/06	Clarendon	The Company	Clarendon serves as principal underwriter and general distributor for certain insurance and annuity products issued by the Company.	2007 \$ 0 2008 \$ 0 2009 \$ 0
Wholesaling Agreement 30978A	02/01/03 Amended 12/01/06 Amended 10/01/10	Sun Life Financial Distributors, Inc. ("SLFD")	The Company	SLFD assists in distributing certain annuity products issued by the Company.	2007 \$(2,037,464) 2008 \$(2,080,966) 2009 \$(4,156,432)

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

\*\* Under the Company's Administrative Services Agreement with SLHIC, the Company provides all administrative services for policies covered under its reinsurance agreement with SLHIC. Apart from the performance by the Company of its obligations under the reinsurance agreement, the Administrative Services Agreement does not provide for any additional compensation

\*\*\* IFS Agencies, Inc., and IFMG Securities (the "IFMG Companies") are no longer affiliates of the Company as of November 7, 2007. Effective that date, the IFMG Companies were sold to LPL Holdings, Inc. ("LPL"), a non-affiliated entity. (Note: IFMG is a successor by merger to Independent Financial Securities, Inc. was known as Independent Financial Marketing Group, Inc.)

The Company's agreements with the IFMG Companies are no longer operational. Following the sale of the IFMG Companies and the transition of business to LPL, all services began to flow through existing agreements between the Company and LPL. Additionally, there was no activity that would have generated broker/dealer commissions for Clarendon under agreements numbered 32878 during 2008 and 2009. The Company's sales and marketing agreements with these two companies were not terminated in connection with the sale even though the companies were no longer affiliates or the agreements with IFMG Companies are no longer operational.

The Company participates in a federal income tax allocation agreement with its parent and affiliates.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 25 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in March of each year. As of December 31, 2009, the board of directors consisted of 13 members. In December, 2010, the Company's by-laws were amended to decrease the minimum number of directors to seven. Meetings of the board are held quarterly.

The 13 board members and their principal business affiliation, as of December 31, 2009, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Scott M. Davis Winchester, MA	Senior Vice President and General Counsel Sun Life Insurance and Annuity Company of New York	2004
John T. Donnelly Medfield, MA	Senior Managing Director, Investment Products and Strategy Sun Life Financial U.S. Business Group	2008
Ronald H. Friesen Dover, MA	Senior Vice President and Chief Financial Officer and Treasurer Sun Life Insurance and Annuity Company of New York	2006
Keith Gubbay Wellesley, MA	Senior Vice President and Chief Actuary Sun Life Insurance and Annuity Company of New York	2006
Leila Heckman* New York, NY	Senior Managing Director Mesirow Financial	2003
Donald B. Henderson, Jr.* Bronxville, NY	Partner Dewey & LeBoeuf LLP	1999
Michael K. Moran Bedford, MA	Vice President and Chief Accounting Officer Sun Life Financial U.S. Business Group	2008
Peter R. O'Flinn* Larchmont, NY	Retired, Former Co-Chairman LeBoeuf, Lamb, Greene and MacRae, LLP	1998
Barbara Z. Shattuck*	Managing Director	2003

New York, NY	Shattuck Hammond Partners LLC	
Michael E. Shunney Westborough, MA	Senior Vice President and General Manager, Employee Benefits Group Sun Life Insurance and Annuity Company of New York	2006
David K. Stevenson* Dedham, MA	Retired, Former Partner Arthur Andersen LLP	2002
Westley V. Thompson West Hartford, CT	President, SLF U.S. Sun Life Insurance and Annuity Company of New York	2008
Janet V. Whitehouse Norfolk, MA	Senior Vice President and General Manager, Individual Life Insurance Sun Life Insurance and Annuity Company of New York	2008

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

In April, 2010, Keith Gubbay resigned from the board and was not replaced.

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 the meetings.

The following is a listing of the principal officers of the Company as of December 31, 2009:

<u>Name</u>	<u>Title</u>
Wesley V. Thompson	President
Ronald H. Friesen	Senior Vice President and Chief Financial Officer and Treasurer
Keith Gubbay	Senior Vice President and Chief Actuary
Stephen C. Peacher	Executive Vice President and Chief Investment Officer
Terrence J. Mullen	President, Sun Life Financial Distributors
Michael E. Shunney	Senior Vice President and General Manager, Employee Benefits Group
Janet V. Whitehouse	Senior Vice President and General Manager, Individual Life Insurance
Stephen L. Deschenes	Senior Vice President and General Manager, Annuities
John R. Wright	Executive Vice President, Sun Life Financial U.S. Operations
Priscilla S. Brown	Senior Vice President and Head of U.S Marketing
Scott M. Davis	Senior Vice President and General Counsel
Sean N. Woodroffe	Vice President, Human Resources
Michael S. Bloom	Assistant Vice President and Senior Counsel and Secretary

George E. Maden is the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

In May, 2010, Larry R. Madge replaced Keith Gubbay as Senior Vice President and Chief Actuary.

Section 1202(b)(2) of the New York Insurance Law states, in part:

“The board of directors of a domestic life insurance company shall establish one or more committees comprised solely of directors who are not officers or employees of the company or of any entity controlling, controlled by, or under common control with the company and who are not beneficial owners of a controlling interest in the voting stock of the company or any such entity. Such committee or committees shall have responsibility for . . . recommending to the board of directors the selection and compensation of such principal officers . . . ”

The services of the principal officers of the Company are provided under service agreements between the Company and its affiliates. The compensation of such persons is determined and paid by the affiliates and an allocable portion of such expenses incurred by such affiliates is reimbursed by the Company pursuant to the service agreements. During the examination period a review of the board minutes revealed that such allocation was not reviewed by the audit committee of the board of directors.

The examiner recommends that the Company’s audit committee periodically (at least annually) review the allocation of such compensation to the Company under the service agreements and report its findings to the board of directors of the Company.

### 3. 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 two states, namely New York and Rhode Island. In 2009, all life and accident and health premiums and 99.4% of annuity considerations were received from New York. Policies are written on a non-participating basis.

#### A. Statutory and Special Deposits

As of December 31, 2009, the Company had \$400,000 (par value) of United States Treasury Bonds on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

#### B. Direct Operations

The Company's business is predominately individual fixed and variable annuity contracts. The Company also writes individual life and group life insurance, group disability insurance, and group stop loss insurance. Nearly 82.6% of the Company's direct premiums are derived from individual annuity considerations. Life insurance represents 11.2% of direct premiums and 6.2% is derived from group accident and health insurance.

The Company's agency operations are conducted on a general agency and broker basis. One distributor, Clarendon, is an affiliate of the Company. Three distributors, IFS Agencies, Inc., IFMG Securities, and Independent Financial Marketing Group, Inc. (formerly, Independent Financial Securities, Inc.), were affiliates of the Company until November 7, 2007 when those entities were sold. In addition, SLFD, Inc., another affiliate of the Company, provides wholesaling and related support services to the Company with respect to the marketing of variable products.

### C. Reinsurance

As of December 31, 2009, the Company had reinsurance treaties in effect with 18 companies, of which 12 were authorized or accredited. The Company's life and accident and health business is reinsured on a yearly renewable term basis. Certain life insurance products are reinsured on a coinsurance or modified-coinsurance basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$1,500,000. The total face amount of life insurance ceded as of December 31, 2009 was \$3,737,902,344, which represents 20.8% of the total face amount of life insurance in force. Reserve credits taken and paid, and unpaid losses recoverable for reinsurance ceded to unauthorized companies, totaled \$1,355,406 and \$953,500, respectively, the majority of which was supported by letters of credit and miscellaneous credit balances. The Company reported a liability of \$1,181,248 for reinsurance with unauthorized reinsurers.

The total face amount of life insurance assumed as of December 31, 2009, was \$4,084,455,417.

On May 31, 2007, the Company entered into a reinsurance agreement and related renewal rights and administrative services agreements with SLHIC. Under the 100% coinsurance agreement with SLHIC, the Company assumes 100% of all risk from SLHIC written in the State of New York that has not been reinsured to external parties. Under the corresponding administrative services agreement, the Company provides all administrative services for the covered policies. In addition, the renewal rights agreement allows the Company, on renewal of SLHIC's policies, the right to offer to each policyholder a policy issued by the Company. The increase in the amount of group life insurance issued in 2007 reflects the assumption of the SLHIC business.

#### 4. SIGNIFICANT OPERATING RESULTS

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

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

	December 31, <u>2006</u>	December 31, <u>2009</u>	Increase (Decrease)
Admitted assets	<u>\$2,567,345,439</u>	<u>\$3,071,402,975</u>	<u>\$504,057,536</u>
Liabilities	<u>\$2,434,652,822</u>	<u>\$2,839,010,963</u>	<u>\$404,358,141</u>
Common capital stock	\$ 2,100,350	\$ 2,100,350	\$ 0
Gross paid in and contributed surplus	207,399,650	357,399,650	150,000,000
Aggregate write-ins for special surplus funds	\$ 0	\$ 10,124,418	\$ 10,124,418
Unassigned funds (surplus)	<u>(76,807,383)</u>	<u>(137,232,406)</u>	<u>(60,425,023)</u>
Total capital and surplus	<u>\$ 132,692,617</u>	<u>\$ 232,392,012</u>	<u>\$ 99,699,395</u>
Total liabilities, capital and surplus	<u>\$2,567,345,439</u>	<u>\$3,071,402,975</u>	<u>\$504,057,536</u>

The majority (53%) of the Company's admitted assets, as of December 31, 2009, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2009, exclusive of separate accounts, were mainly comprised of bonds (79%), cash and short-term investments (14%) and mortgage loans (7%).

The majority (95.0%) of the Company's bond portfolio, as of December 31, 2009, was comprised of investment grade obligations.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

<u>Year</u>	<u>Group Life</u>	
	<u>Issued &amp; Increases</u>	<u>In Force</u>
2007	\$8,529,008	\$17,451,195
2008	\$2,574,019	\$16,925,038
2009	\$1,959,884	\$16,028,759

The increase in the amount of group life insurance issued in 2007 reflects the assumption of the SLHIC business.

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

	<u>Ordinary</u>		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Outstanding, end of previous year	96,167	97,044	372,491
Issued during the year	32,958	86,452	41,864
Other net changes during the year	<u>(32,081)</u>	<u>188,995</u>	<u>(176,212)</u>
Outstanding, end of current year	<u>97,044</u>	<u>372,491</u>	<u>238,143</u>

The fluctuations in the number of ordinary accident and health insurance policies are primarily the result of activity related to the reinsurance and administrative services agreements with SLHIC and SLOC.

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

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Ordinary:			
Life insurance	\$ 2,498,953	\$ (6,137,060)	\$ (236,515)
Individual annuities	4,391,397	(121,191,452)	20,599,062
Supplementary Contracts	<u>617,632</u>	<u>(201,369)</u>	<u>(306,599)</u>
Total ordinary	\$ <u>7,507,982</u>	\$ <u>(127,529,881)</u>	\$ <u>20,055,948</u>
Group:			
Life	\$ <u>(8,816,041)</u>	\$ <u>(1,231,747)</u>	\$ <u>1,413,197</u>
Total group	\$ <u>(8,816,041)</u>	\$ <u>(1,231,747)</u>	\$ <u>1,413,197</u>
Accident and health:			
Group	\$(19,994,546)	\$ 4,955,309	\$ 3,354,725
Other	<u>7,351</u>	<u>4,827</u>	<u>0</u>
Total accident and health	\$ <u>(19,987,195)</u>	\$ <u>4,960,136</u>	\$ <u>3,354,725</u>
All other lines*	\$ <u>0</u>	\$ <u>0</u>	\$ <u>3,098,673</u>
Total insurance	\$ <u>(21,295,254)</u>	\$ <u>(123,801,493)</u>	\$ <u>27,922,543</u>

\*All other lines is a surplus line of business that was created as a result of the segmentation plan that was filed with the Department in 2009. Prior to 2009, the Company allocated net investment income based on mean reserves per Department Regulation No. 33. Based on guidance received from the Department during the most recent financial examination of the Company, the Company changed its Annual Statement reporting to make it consistent with the segmentation process used to manage the business. Specifically, the sum of the net investment income for the appropriate segments will be reported as the net investment income of each line of business. Hence, the reported activity in "other lines" in 2009. With the approval of the Department, the Company prepared these items on a segmentation basis for year-end 2009.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2009, as contained in the Company's 2009 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, 2009 filed annual statement.

### A. Independent Accountants

The firm of Deloitte & Touche LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position of the Company as of December 31<sup>st</sup> of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

Deloitte & Touche LLP 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	\$1,059,547,299
Stocks:	
Common stocks	10,251
Mortgage loans on real estate:	
First Liens	99,052,756
Cash, cash equivalents and short term investments	183,706,290
Contract loans	269,758
Receivables for securities	134,369
Investment income due and accrued	10,514,600
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	11,534,176
Deferred premiums, agents' balances and installments booked but deferred and not yet due	77,134
Reinsurance:	
Amounts recoverable from reinsurers	1,727,054
Other amounts receivable under reinsurance contracts	1,428,999
Current federal and foreign income tax recoverable and interest thereon	9,684,887
Net deferred tax asset:	30,373,253
Receivables from parent, subsidiaries and affiliates	30,409,557
Miscellaneous receivable	593,916
Premium tax recoverable	110,881
From separate accounts, segregated accounts and protected cell accounts	<u>1,632,227,795</u>
Total admitted assets	<u>\$3,071,402,975</u>

C. Liabilities, Capital and Surplus

Aggregate reserve for life contracts	\$1,041,066,866
Aggregate reserve for accident and health contracts	51,727,142
Liability for deposit-type contracts	8,339,987
Contract claims:	
Life	9,725,756
Accident and health	7,741,032
Premiums and annuity considerations for life and accident and health contracts received in advance	2,466,438
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	3,267,143
Interest maintenance reserve	1,182,982
Commissions to agents due or accrued	8,831,147
General expenses due or accrued	3,784,915
Transfers to separate accounts due or accrued	(82,437,381)
Unearned investment income	49,261
Amounts withheld or retained by company as agents or trustee	12,569
Remittances and items not allocated	814,165
Miscellaneous liabilities:	
Asset valuation reserve	14,893,205
Reinsurance in unauthorized companies	1,181,248
Payable to parent, subsidiaries and affiliates	2,994,652
Funds held under coinsurance	128,397,001
Payable for securities	89,401
Stale checks	200,536
Accrued interest on policy claims	193,053
Amounts payable miscellaneous	2,266,109
Escheatment liabilities	47,428
From Separate Accounts statement	<u>1,632,176,309</u>
 Total liabilities	 <u>\$2,839,010,963</u>
 Common capital stock	 2,100,350
Gross paid in and contributed surplus	357,399,650
Surplus from SSAP 10R	10,124,418
Unassigned funds (surplus)	(137,232,406)
Surplus	<u>230,291,662</u>
Total capital and surplus	<u>232,392,012</u>
 Total Liabilities, Capital Stock and Surplus	 <u>\$3,071,402,975</u>

D. Condensed Summary of Operations

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Premiums and considerations	\$391,215,061	\$ 504,724,100	\$729,282,960
Investment income	79,019,384	55,971,621	45,615,520
Net gain from operations			
from Separate Accounts	1,926	(20,241)	9,990
Commissions and reserve adjustments on reinsurance ceded	54,170,566	17,631,802	14,175,010
Miscellaneous income	<u>19,881,901</u>	<u>20,915,179</u>	<u>21,350,447</u>
Total income	<u>\$544,288,838</u>	<u>\$ 599,222,460</u>	<u>\$810,433,927</u>
Benefit payments	\$513,663,443	\$ 483,540,079	\$351,482,265
Increase in reserves	(350,946,949)	(89,196,175)	183,484,528
Commissions	72,098,416	38,319,082	54,007,724
General expenses and taxes	37,406,560	42,426,529	41,968,955
Net transfers to (from) Separate Accounts	182,305,874	255,315,063	120,107,259
Miscellaneous deductions	<u>103,611,880</u>	<u>5,982,233</u>	<u>3,681,018</u>
Total deductions	<u>558,139,224</u>	<u>736,386,812</u>	<u>754,731,749</u>
Net gain (loss)	(13,850,386)	(137,164,352)	55,702,178
Federal and foreign income taxes incurred	<u>7,444,868</u>	<u>(13,362,859)</u>	<u>27,779,634</u>
Net gain (loss) from operations	(21,295,254)	(123,801,493)	27,922,544
before net realized capital gains			
Net realized capital gains (losses)	<u>(4,085,113)</u>	<u>(25,673,709)</u>	<u>(10,352,992)</u>
Net income	<u>\$ (25,380,367)</u>	<u>\$ (149,475,202)</u>	<u>\$ 17,569,552</u>

E. Capital and Surplus Account

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Capital and surplus, December 31, prior year	\$ <u>132,692,617</u>	\$ <u>206,951,788</u>	\$ <u>207,347,592</u>
Net income	\$(25,380,367)	\$(149,475,202)	\$ 17,569,552
Change in net unrealized capital gains (losses)	(71,596)	(2,479,333)	555,110
Change in unrealized foreign exchange capital gain (loss)	1,347	(744)	725
Change in net deferred income tax	(20,086,692)	40,315,799	12,916,050
Change in non-admitted assets and related items	19,305,462	(45,452,210)	(1,136,174)
Change in liability for reinsurance in unauthorized companies	19,766	(21,571)	(912,409)
Change in asset valuation reserve	1,423,243	9,905,461	(14,072,451)
Surplus (contributed to), withdrawn from Separate Accounts during period	0	(600)	(400)
Cumulative effect of changes in accounting principles	0	0	10,124,418
Surplus adjustments			
Paid in	0	150,000,000	0
Change in surplus as a result of reinsurance	103,602,711	0	0
Prior period reserve adjustment	<u>(4,554,703)</u>	<u>(2,395,795)</u>	<u>0</u>
Net change in capital and surplus for the year	\$ <u>74,259,171</u>	\$ <u>395,804</u>	\$ <u>25,044,420</u>
Capital and surplus, December 31, current year	\$ <u>206,951,788</u>	\$ <u>207,347,592</u>	\$ <u>232,392,012</u>

## 6. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Company's audit committee periodically (at least annually) review the allocation of such compensation to the Company under the service agreements and report its findings to the board of directors of the Company.	12



APPOINTMENT NO. 30516

**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:

**ERIC DERCHER**

*as a proper person to examine into the affairs of the*

**SUN LIFE INSURANCE AND 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 28<sup>th</sup> day of April, 2010*



JAMES J. WRYNN  
Superintendent of Insurance

*James J. Wrynn*  
Superintendent