



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

CONDITION:

DECEMBER 31, 2009

DATE OF REPORT:

MAY 13, 2011

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EXAMINER:

ERIC C. DERCHER, CFE

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

December 4, 2013

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

Sir:

In accordance with instructions contained in Appointment No. 30718, dated May 4th, 2011 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 42nd Street, New York, New York 10165.

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

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

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

1. EXECUTIVE SUMMARY

The material violation contained in this report is summarized below:

- The Company violated Section 3201(b)(1) of the New York Insurance Law by using application policy forms that were not filed with and approved by the Superintendent. (See item 4B of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2007 through December 31, 2009. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2009 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 Regulations Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior market conduct report on examination. The results of the examiner's review are contained in item 5 of this report.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on May 25, 1983. It was licensed on April 11, 1985 and commenced business on August 15, 1985.

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

B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in 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.

The Company is engaged in the sale of individual fixed and variable annuity contracts, individual life and group life insurance, group disability insurance, group dental 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 the remaining 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 Insurance Agency, Inc., is an affiliate of the Company. Three distributors, IFS Agencies, Inc., IFMG Securities, Inc., Independent Financial Securities, Inc., were affiliates of the Company until November 7, 2007 when those entities were sold. In addition, Sun Life Financial Distributors, Inc., another affiliate of the Company, provides wholesale and related support services to the Company with respect to the marketing of annuity products.

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Based upon the sample reviewed, no significant findings were noted.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms. The examiners reviewed a sample of 116 variable annuity contracts, 116 fixed annuity contracts, 86 life insurance policies, and 30 declined policies, withdrawals and policies not taken out.

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

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

In 35 of 116 (30.2%) variable annuity contracts reviewed, the Company used application policy forms that were not filed with and approved by the Superintendent. Six different unapproved application policy forms were used in the issuance of the 35 aforementioned variable annuity contracts. The Company issued 1066 variable annuity contracts during the examination period with unapproved policy forms.

The Company advised that three of the unapproved application forms were in use between May 1, 2006 and September 17, 2007 and three of the unapproved forms were in use between and September 17, 2007 and May 12, 2008. The Company also advised that the

applications were developed with the intention that they match filed and approved applications but were inadvertently put into production.

In 47 of 116 (40.5%) fixed annuity contracts reviewed, the Company used application policy forms that were not filed with and approved by the Superintendent. Two different unapproved application policy forms were used in the issuance of the 47 aforementioned fixed annuity contracts. The Company issued 5185 fixed annuity contracts during the examination period with unapproved policy forms.

The Company acknowledged that the application form used on 46 of the 47 contracts was not filed with and approved by the Superintendent, and that it was developed based on a filed and approved application and was inadvertently put into production without obtaining approval. The second application form that was used on the other contract was a form filed for use by an affiliated company.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using application policy forms that were not filed with and approved by the Superintendent.

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 violations and recommendations contained in the prior market conduct report on examination:

<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine Disclosure Statements used in life and annuity replacements and correct inaccurate surrender charges or add missing surrender charges.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
B	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements and ascertain that they are accurate and meet the requirements of the Regulation.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
C	<p>The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide the applicant with a revised Disclosure Statement when the insurance policy issued differed from the policy applied for.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
D	<p>The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain proposals including sales materials and the "Important Notice." A similar violation appeared in the prior report on examination.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct deficiencies involving Disclosure Statements or reject the application within 10 days from date of receipt of the application.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
F	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer being replaced a copy of the completed Disclosure Statement within 10 days of receipt of the application.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
G	<p>The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp Disclosure Statements when they were received.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
H	<p>The examiner recommended that the Company develop and implement an audit plan designed to review, test, and monitor compliance with Department Regulation No. 60. Such plan should be approved by the Company's board of directors and its audit committee, and the results of the audits performed should be reviewed by the board of directors and the audit committee.</p> <p>Due to the timing of the stipulation between the Company and the Department arising from the findings contained in the prior report on examination, the examiner did not review the Company's remedial actions with respect to this item, for the purposes of the current report.</p>
I	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law when it issued annuity contracts with an unapproved policy specification page.</p> <p>The Company again issued annuity contracts with unapproved policy forms. (See item 4B of this report)</p>

6. SUMMARY AND CONCLUSION

Following is the violation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 3201(b)(1) of the New York Insurance Law by using application policy forms that were not filed with and approved by the Superintendent.	

APPOINTMENT NO. 30718

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 4th day of May, 2011



JAMES J. WRYNN
Superintendent of Insurance

James J. Wynn
Superintendent