



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

CONDITION:

DECEMBER 31, 2010

DATE OF REPORT:

FEBRUARY 8, 2012

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OF THE

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EXAMINER:

PAUL E. ELLIS, CFE

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Anthony J. Albanese
Acting Superintendent

November 10, 2015

Honorable Anthony J. Albanese
Acting Superintendent of Financial Services
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30856, dated May 23, 2012 and annexed hereto, an examination has been made into the condition and affairs of Genworth Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 666 Third Avenue, 9th Floor, New York, New York 10017 and at its main administrative office located at 6620 West Broad Street, Richmond, Virginia 23230.

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 Section 219.4(p) of Department Regulation No. 34-A by using the name of the Company's parent in an advertisement, thereby creating the impression that someone other than the Company had responsibility for the financial obligation under the policy. (See Section 4A of this report)
- The Company violated Section 215.7 of Department Regulation No. 34 by mentioning the length of the benefit period in a policy advertisement without disclosing policy provisions relating to renewability, cancelability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which did not minimize or render obscure the qualifying conditions. (See Section 4A of this report)
- The Company violated Section 215.10(a) of Department Regulation No. 34 by mentioning a benefit without mentioning the additional premium charged for that benefit. (See Section 4A of this report)
- The Company violated Section 243.2(b)(4) of Department Regulation No. 64 by failing to maintain death claim files for six calendar years after all elements of the claim were resolved and the file was closed or until after the filing of the report on examination in which the claim file was subject to review. (See Section 4C of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2008 through December 31, 2010. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2010 but prior to the date of this report (i.e. the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' Market Regulation Handbook or such other examination procedures, as deemed appropriate, in such review.

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

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on February 23, 1988 under the name First GNA Life Insurance Company of New York, and was licensed and commenced business on October 31, 1988.

Effective April 1, 1993, General Electric Capital Corporation (“GE Capital”), a subsidiary of the General Electric Company (“GE”), completed the acquisition of the Company’s ultimate parent, GNA Corporation (“GNA”), by purchasing 100% of GNA’s capital stock.

Effective February 1, 1996, the Company changed its name from First GNA Life Insurance Company of New York to GE Capital Life Assurance Company of New York. At that time the Company was a direct wholly-owned subsidiary of General Electric Capital Assurance Company (“GECA”), an indirect wholly-owned subsidiary of GE Financial Assurance Holdings, Inc. (“GEFAHI”) with GE being the Company’s ultimate parent.

In November 2003, GE announced its intention to pursue an initial public offering of a new company named Genworth Financial, Inc. (“Genworth”) that would comprise most of its life and mortgage insurance operations.

In May 2004, in connection with the initial public offering of the common stock of Genworth, GEFAHI transferred substantially all of its assets, including two New York domestic life insurers, American Mayflower Life Insurance Company of New York (“AML”) and the Company, to Genworth. As a result, the Company became an indirect wholly owned subsidiary of Genworth. GECA changed its name to Genworth Life Insurance Company (“GLIC”) on January 1, 2006 and remained the Company’s direct parent.

In March 2006, GE sold 71 million shares of Genworth common stock in a secondary offering and an additional 15 million shares of Genworth common stock to Genworth, thereby disposing of its remaining ownership interest in Genworth. As a result of these transactions, Genworth and its subsidiaries, including the Company, are no longer affiliated with GE or its affiliates. Genworth is now the ultimate parent of the Company.

Effective January 1, 2006, the Company adopted its present name Genworth Life Insurance Company of New York.

On January 1, 2007, AML was merged with and into the Company.

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 eight states, namely Connecticut, Delaware, Florida, Illinois, New Jersey, New York, Rhode Island, Virginia and the District of Columbia. In 2010, 91.1% of life premiums, 97.3% of annuity considerations, 90.5% of accident and health premiums and 94.7% of deposit type funds were received from New York. Policies are written on a non-participating basis; a few participating policies remain on the books.

Effective January 6, 2011, the Company discontinued sales of its variable deferred and group variable annuities. The Company is currently focusing on the sale of deferred and immediate fixed annuities and also writes long term care insurance, term life and universal life.

The majority of the Company's variable annuities include a guaranteed minimum death benefit. Some of the Company's group and individual variable annuity products include guaranteed minimum withdrawal benefits and certain types of guaranteed annuitization benefit features.

The Company's agency operations are conducted on a general agency basis. Products are distributed through a variety of channels, including career agents, independent agents, banks and marketing organizations.

4. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

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

Section 219.4(p) of Department Regulation No. 34-A states, in part:

“In all advertisements made by an insurer, or on its behalf . . . An advertisement shall not use a trade name, an insurance group designation, name of the parent company or affiliate of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference if such use would have the tendency to mislead or deceive as to the true identity of the insurer, or create the impression that someone other than the insurer would have any responsibility for the financial obligation under a policy.”

The examiner found that one advertisement (45665NY 05/01/09) identified the Company's parent as the issuing insurer, rather than the Company.

The Company violated Section 219.4(p) of Department Regulation No. 34-A by using the name of the Company's parent in an advertisement, thereby creating the impression that someone other than the Company had responsibility for the financial obligation under the policy.

Section 215.7 of Department Regulation No. 34 states:

“When an advertisement refers to either a dollar amount or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit is payable, it shall disclose the provisions relating to renewability, cancelability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.”

The examiner found that one advertisement (104187NY 092710) stated, “This benefit increase option may result in longer protection than those long term care insurance policies with

a “claims offset” compound benefit increase option. The annual benefit increases available with the Privileged Choice Compound Inflation Benefit Increase option are not reduced by claims paid (no claims offset). This means that the benefit period may last longer with Privileged Choice.” The advertisement did not disclose provisions relating to renewability, cancelability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which did not minimize or render obscure the qualifying conditions.

The Company violated Section 215.7 of Department Regulation No. 34 by mentioning the length of the benefit period in a policy advertisement without disclosing policy provisions relating to renewability, cancelability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which did not minimize or render obscure the qualifying conditions.

Section 215.10(a) of Department Regulation No. 34 states, in part:

“When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.”

The examiner found that one advertisement (104187NY 092710) discussed the Company’s “Privileged Choice Compound Inflation Benefit Increase Option” without mentioning the additional premium charged for that benefit option.

The Company violated Section 215.10(a) of Department Regulation No. 34 by mentioning a benefit without mentioning the additional premium charged for that benefit.

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.

Section 243.2(b)(4) of Department Regulation No. 64 states:

“Except as otherwise required by law or regulation, an insurer shall maintain a claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report on examination in which the claim file was subject to review, whichever is longer.”

The examiner requested a sample of 12 denied death claim files. The Company was unable to provide two of the 12 denied death claim files from the sample selected.

The Company violated Section 243.2(b)(4) of Department Regulation No. 64 by failing to maintain death claim files for the greater of six calendar years after all elements of the claim were resolved and the file was closed or until after the filing of the report on examination in which the claim file was subject to review.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations, and comments contained in the prior market conduct report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 215.13(a) of Department Regulation No. 34 when it failed to identify itself as the actual insurer and failed to include the policy form number on the advertisement.</p> <p>The examiner found no evidence that Section 215.13(a) of Department Regulation No. 34 had been violated during the 2010 Market Conduct examination's review of advertisements.</p>
B	<p>The Company violated Section 39.1(a) of Department Regulation No. 144 when it failed to display the Long Term Care Partnership program logo on the product being advertised, marketed, offered, or sold.</p> <p>The examiner found no evidence that Section 39.1(a) of Department Regulation No. 144 had been violated during the 2010 Market Conduct examination's review of advertisements.</p>
C	<p>The Company failed to comply with its IPA agreement with the New York State Department of Health when it failed to include the Long Term Care Partnership logo on the advertisement mailed by its agents.</p> <p>The examiner found no evidence that the Company failed to comply with its IPA agreement with the New York State Department of Health during the 2010 Market Conduct examination's review of advertisements.</p>
D	<p>The examiner recommends that the Company take additional measures to ensure that its agents use only approved advertisements; such measures include remedial compliance training related to the Company's policy over the use of advertising, sales materials and lead generation pieces. In addition, the Company should reiterate to its agents the requirement that all agent-created advertising and lead generation materials be submitted for approval prior to use and send reminder notices on a periodic basis.</p> <p>In 2009 the Company updated its Producer Agreement with more emphasis placed on the producers' use of Company advertising and marketing materials. The agreement also emphasizes producer training on Company requirements for approval and use of advertising and lead generation materials.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 when it failed to furnish the insurer whose coverage was being replaced, a copy of any proposal, including the sales material used in the sale, and the completed Disclosure Statement within ten days of receipt of the application.</p> <p>There was no evidence that Section 51.6(b)(4) of Department Regulation No. 60 had been violated when the examiner conducted policy replacement examination procedures during the 2010 Market Conduct examination.</p>
F	<p>The examiner recommends that the Company review and revise its current replacement procedures. On September 12, 2008, the Company submitted to the Department revised replacement procedures, including a revised 10 day letter which clearly indicates that a replacement has taken place and also lists the documents included with the letter.</p> <p>On September 12, 2008, the Company submitted to the Department revised replacement procedures, including a revised 10 day letter which clearly indicates that a replacement has taken place and also lists the documents included with the letter. In addition, new procedures regarding record retention were instituted with regard to maintenance of scanned documents.</p>
G	<p>The Company violated Section 1409(a) of the New York Insurance Law by operating four separate accounts wherein each account invested in a note comprising greater than 10% of the assets of the separate account.</p> <p>As required by the Department, the Company regularly provided certain reports on the status of the separate accounts and the investments supporting those separate accounts for monitoring by the Department. In May 2014 the Department released the Company from this reporting requirement.</p>
H	<p>The Company violated Section 1405(a)(7)(C) of the New York Insurance Law by having an investment in a foreign issuer that caused the aggregate value all such investments to exceed 8% of the separate account's admitted assets.</p> <p>As required by the Department, the Company regularly provided certain reports on the status of the separate accounts and the investments supporting those separate accounts for monitoring by the Department. In May 2014 the Department released the Company from this reporting requirement.</p>
I	<p>The Company violated Section 4240(a)(5)(ii) of the New York Insurance Law by providing to contractholders, within separate accounts that failed to comply with the investment limitations contained in the Insurance Law, guarantees not limited to the extent of the assets allocated to the separate account.</p>

<u>Item</u>	<u>Description</u>
I	<p>As required by the Department, the Company regularly provided certain reports on the status of the separate accounts and the investments supporting those separate accounts for monitoring by the Department. In May 2014 the Department released the Company from this reporting requirement.</p>
J	<p>The Company violated Section 4240(a)(2)(C) of the New York Insurance Law by: failing to invest for each separate account in good faith and with the degree of care that an ordinarily prudent person in a like position would use under similar circumstances; failing to properly diversify the investments in each separate account; acquiring investments without performing the appropriate due diligence in pricing such assets prior to investment; and concentrating funds in a single investment whose assets, if purchased directly by each separate account, would have violated Insurance Law limitations.</p> <p>As required by the Department, the Company regularly provided certain reports on the status of the separate accounts and the investments supporting those separate accounts for monitoring by the Department. In May 2014 the Department released the Company from this reporting requirement.</p>
K	<p>By letter dated May 29, 2009, the Company committed to conforming to Department guidelines prohibiting the use of Circular Letter No. 6 (2004) filing process for innovative products, products utilizing non-pooled separate accounts and products with deposits in excess of \$25 million.</p> <p>The Company agrees with Item K and reiterates the commitment it made in the May 29, 2009 letter.</p>

6. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

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A	The Company violated Section 219.4(p) of Department Regulation No. 34-A by using the name of the Company's parent in an advertisement, thereby creating the impression that someone other than the Company had responsibility for the financial obligation of the policy.	6
B	The Company violated Section 215.7 of Department Regulation No. 34 by mentioning the length of the benefit period in a policy advertisement without disclosing policy provisions relating to renewability, cancelability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which did not minimize or render obscure the qualifying conditions.	7
C	The Company violated Section 215.10(a) of Department Regulation No. 34 by mentioning a benefit without mentioning the additional premium charged for that benefit.	7
E	The Company violated Section 243.2(b)(4) of Department Regulation No. 64 by failing to maintain death claim files for six calendar years after all elements of the claim were resolved and the file was closed or until after the filing of the report on examination in which the claim file was subject to review.	8

Respectfully submitted,

_____/s/_____
Paul E. Ellis, CFE
Examiner In-Charge

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

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

_____/s/_____
Paul E. Ellis

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30856

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, 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:

PAUL ELLIS

as a proper person to examine the affairs of the

GENWORTH 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 23rd day of May, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

