NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

FIRST SYMETRA NATIONAL LIFE INSURANCE COMPANY

OF NEW YORK

CONDITION: DECEMBER 31, 2010

DATE OF REPORT: MARCH 9, 2012

<u>NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES</u>

<u>REPORT ON EXAMINATION</u>

<u>OF THE</u>

<u>FIRST SYMETRA NATIONAL LIFE INSURANCE COMPANY</u>

<u>OF NEW YORK</u>

<u>AS OF</u>

<u>DECEMBER 31, 2010</u>

<u>DATE OF REPORT</u>:	<u>MARCH 9, 2012</u>
<u>EXAMINER</u>:	<u>DENNIS G. BENSEN</u>

TABLE OF CONTENTS

NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

January 2, 2014

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

Sir:

In accordance with instructions contained in Appointment No. 30640, dated January 24, 2011, and annexed hereto, an examination has been made into the condition and affairs of First Symetra National Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 260 Madison Avenue, New York, New York 10016.

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

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

1. EXECUTIVE SUMMARY

The material violations contained in this report is summarized below.

- The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to examine the Disclosure Statements of annuity to immediate annuity replacements and ascertain that they were accurate and met the requirements of the Insurance Law and Department Regulation No. 60. A similar violation appeared in the prior report on examination. (See item 7A of this report)
- The Company violated Section 51.6(b)(7) of Department Regulation No. 60 when, in the cases where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. A similar violation appeared in the prior report on examination. (See item 7A of this report)
- The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to provide the company whose life insurance policy or annuity contract is being replaced a copy of the Disclosure Statement within ten days of receipt of such documentation. (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, 2011 Edition* (the "Handbook"). The examination covers the three-year period from January 1, 2008 through December 31, 2010. 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, 2010 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, Department guidelines, Statutory Accounting Principles as adopted by the Department and annual statement instructions.

The examination was coordinated in conjunction with the examination of the insurance subsidiaries of the Symetra Financial Corporation ("SFC"). The coordinated examination was led by the Washington State Office of the Insurance Commissioner ("WSOIC") with participation from New York. Since the insurance subsidiaries of SFC share common controls and management and the WSOIC is accredited by the NAIC, it was deemed appropriate to rely heavily on the work of the WSOIC.

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 2008 through 2010, by the accounting firm of Ernst & Young, LLP. The Company received an unqualified opinion in all three years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. Symetra Life Insurance Company (“Symetra”), the Company’s parent, has an internal audit department and a separate internal control department which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 (“SOX”). Where applicable, SOX workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Company with respect to the violations contained in the prior report on examination. The results of the examiner’s review are contained in item 8 of this report.

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 incorporated as a stock life insurance company under the laws of New York on April 23, 1987 and was licensed and commenced business on January 2, 1990. Initial resources of $8,500,000, consisting of common (preferred) capital stock of $2,000,000 and paid in and contributed surplus of $6,500,000, were provided through the sale of 20,000 shares of common stock for $425 per share.

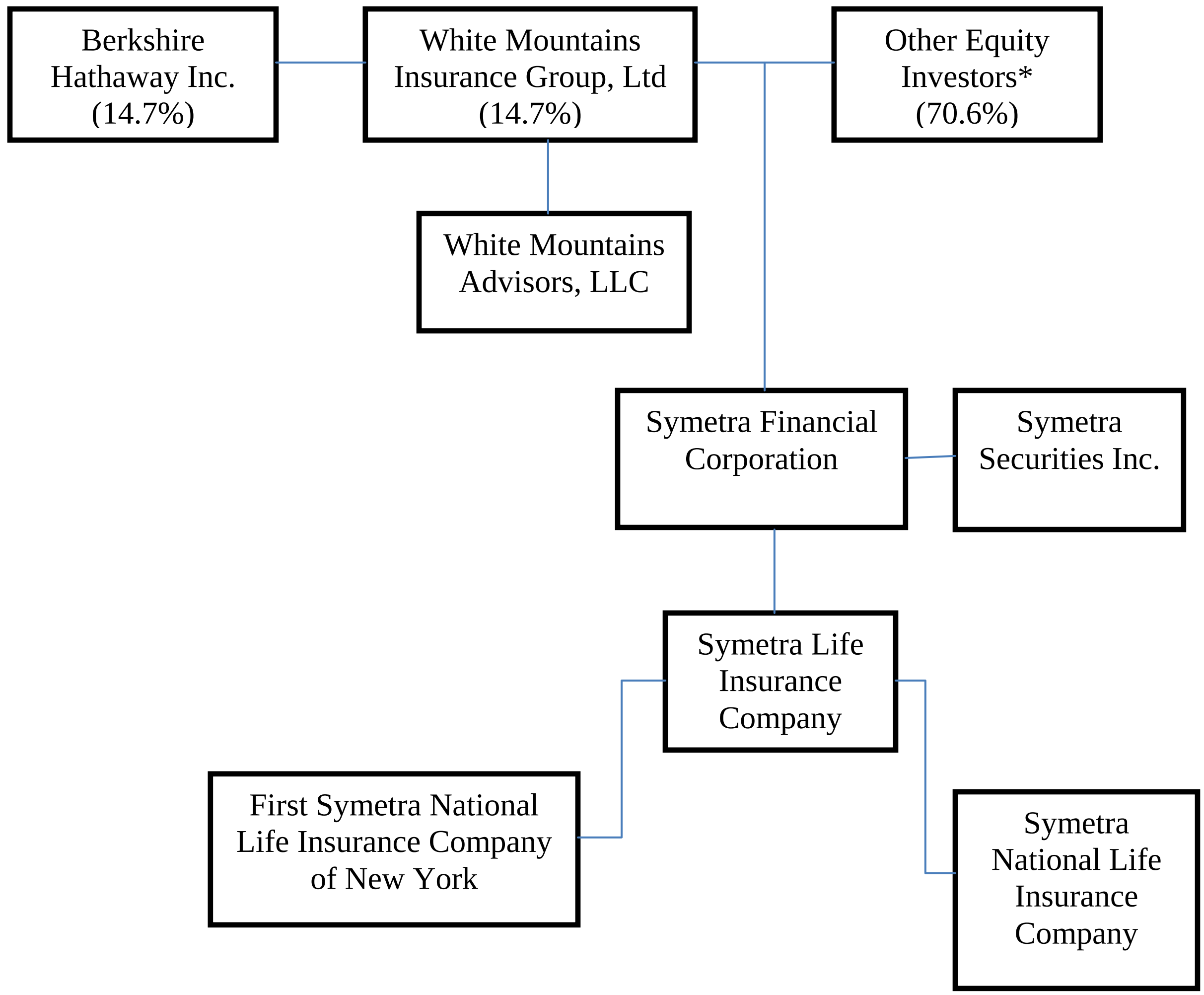
The Company received contributions to paid in surplus of $20,000,000 in 2008 and $20,000,000 in 2009 from its parent, Symetra. As of December 31, 2010, the Company's capital and paid in and contributed surplus were $2,000,000 and $60,000,000, respectively.

B. Holding Company

The Company is a wholly owned subsidiary of Symetra, a Washington State domiciled life insurer. Symetra is in turn a wholly owned subsidiary of SFC, a Delaware corporation. On January 27, 2010, SFC completed an initial public offering ("IPO") of its common stock. SFC is owned by various investors (70.6%) and White Mountains Insurance Group, Ltd and Berkshire Hathaway Inc., both of which own 14.7%. Prior to the IPO, SFC was privately owned.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2010 follows:



* None of the individual equity investors in the "Other Equity Investors" category purchased or held 10% or more of the voting securities of SFC.

D. Service Agreements

The Company had three 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	Expense For Each Year of the Examination	
Administrative Services Agreement Department File No. 25868	11/01/98 Amended 07/01/02 Amended and Restated 01/01/05	Symetra	The Company	Services including: accounting, data processing, tax, auditing, underwriting, claims processing and procedures, advertising and sales promotional services, functional support (including actuarial services, telecommunication services, legal services, purchasing, and employee relations services), and customer support services as well as providing the Company with the use of certain property, equipment and facilities of Symetra.	2008 2009 2010	$(2,271,388) $(2,248,106) $(2,218,159)
Investment Management Agreement	08/04/04 Amended 09/30/04 08/01/05 10/01/05 03/09/07 09/19/09	White Mountains Advisors, LLC	The Company	Advice and services regarding the purchase, sale or other disposition of securities.	2008 2009 2010	$ (96,944) $(222,119) $(281,427)
Principal Underwriting Agreement Department File No. 40640	02/01/97 Amended 9/30/05	Symetra Securities, Inc.	The Company	Underwriting for distribution of variable insurance products of the Company.	2008 2009 2010	$(586) $(577) $(625)

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 21 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held on the last business day of April, or any other business day in April or May of each year, as designated by the Chairman of the Board, the President, or the Board of Directors. As of December 31, 2010, the board of directors consisted of ten members. Meetings of the board are held quarterly.

The ten board members and their principal business affiliation, as of December 31, 2010, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Peter S. Burgess* South Glastonbury, CT	Independent Adviser	2010
Jonathan E. Curley Seattle, WA	Executive Vice President First Symetra National Life Insurance Company of New York	2010
Michael W. Fry Sammamish, WA	Executive Vice President First Symetra National Life Insurance Company of New York	2009
Lois W. Grady* Burlington, CT	Director OneBeacon Insurance Group, Ltd.	2004
Daniel R. Guilbert Sammamish, WA	Executive Vice President First Symetra National Life Insurance Company of New York	2010
Sander M. Levy* New York, NY	Managing Director Vestar Capital Partners	2004
Thomas M. Marra Kirkland, WA	President and Chief Executive Officer First Symetra National Life Insurance Company of New York	2010
Margaret A. Meister Kirkland, WA	Executive Vice President and Chief Financial Officer First Symetra National Life Insurance Company of New York	2004

Name and Residence	Principal Business Affiliation	Year First Elected
George C. Pagos Seattle, WA	Senior Vice President, General Counsel and Secretary First Symetra National Life Insurance Company of New York	2004
Lowndes A. Smith* Westbrook, CT	Managing Partner Whittington Gray Associates	2007

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

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, 2010:

Name	Title
Thomas M. Marra	President and Chief Executive Officer
Margaret A. Meister	Executive Vice President and Chief Financial Officer
Jonathan E. Curley	Executive Vice President
Michael W. Fry	Executive Vice President
Daniel R. Guilbert	Executive Vice President
Richard G. LaVoice	Executive Vice President
George C. Pagos	Senior Vice President, General Counsel and Secretary
Tommie D. Brooks	Senior Vice President and Chief Actuary
Christine A. Katzmar Holmes	Senior Vice President
Colleen M. Murphy	Senior Vice President, Controller, Assistant Secretary and Treasurer
Michele M. Kemper*	Vice President and Chief Compliance Officer

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

Michele M. Kemper retired in August of 2011. Michael F. Murphy, Vice President, replaced Ms. Kemper as the Company's designated consumer services officer pursuant to Section 216.4(c) of Department Regulation No. 64.

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 New York only. The Company's main product line is individual single premium fixed deferred annuities. The Company began issuing term life insurance in 2005 and medical stop loss insurance in 2006. The Company discontinued the issuance of variable annuities in March of 2007 due to a lack of sales. Although the Company submitted and received approval for a new variable annuity contract in 2007, no new variable products were issued during the examination period.

A. Statutory and Special Deposits

As of December 31, 2010, the Company had $450,000 (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 principal lines of business are annuities, life products, and medical stop loss insurance. All of its products are marketed through financial institutions, employee benefit brokers, third-party administrators, worksite specialists and independent insurance agents. The Company uses financial institutions to distribute a significant portion of its annuity products, as well as a small portion of its life insurance policies. The Company also uses independent agents to distribute its life and annuity products. Employee benefit brokers and third party administrators distribute most of the Company's medical stop loss products.

C. Reinsurance

As of December 31, 2010, the Company had reinsurance treaties in effect with eight companies, all of which were authorized or accredited. The Company's life and accident and health business is reinsured on a coinsurance, excess loss, and/or yearly renewable term basis. Reinsurance is provided on an automatic and/or 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, 2010, was $30,269,450, which represents 41.62% of the total face amount of life insurance in force. The Company did not assume any reinsurance during the examination period.

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 during the period under review:

	December 31, 2007	December 31, 2010	Increase
Admitted assets	$123,377,224	$639,347,304	$515,970,080
Liabilities	$ 98,291,975	$570,767,035	$472,475,060
Common capital stock	$ 2,000,000	$ 2,000,000	$ 0
Gross paid in and contributed surplus	20,000,000	60,000,000	40,000,000
Deferred tax asset adjustment related to SSAP No.10	0	786,327	786,327
Unassigned funds (surplus)	3,085,249	5,793,942	2,708,693
Total capital and surplus	$ 25,085,249	$ 68,580,269	$ 43,495,020
Total liabilities, capital and surplus	$123,377,224	$639,347,304	$515,970,080

The Company's invested assets as of December 31, 2010, exclusive of separate accounts, were mainly comprised of bonds (92.5%) and mortgage loans (6.1%).

The majority (99.7%) of the Company's bond portfolio, as of December 31, 2010, was comprised of investment grade obligations.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

Ordinary Annuities

	2008	2009	2010
Outstanding, end of previous year	1,767	3,303	5,980
Issued during the year	1,798	2,892	1,116
Other net changes during the year	(262)	(215)	(325)
Outstanding, end of current year	3,303	5,980	6,771

The Company indicated that the large increase in the number of ordinary annuities issued in 2009 is due to the fact that consumers began purchasing more fixed annuities after the 2008 financial crisis.

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:

	2008	2009	2010
Ordinary:			
Life insurance	$ (269,738)	$ (243,247)	$ (440,686)
Individual annuities	(2,045,164)	(121,807)	7,626,125
Total ordinary	$(2,314,902)	$ (365,054)	$7,185,439
Group:			
Annuities	$ 2,404	$ 27,499	$ 26,365
Total group	$ 2,404	$ 27,499	$ 26,365
Accident and health:			
Group	$ 147,865	$ 230,982	$ 878,914
Total accident and health	$ 147,865	$ 230,982	$ 878,914
Total	$(2,164,633)	$(106,573)	$8,090,718

Individual annuities net loss decreased between 2008 and 2009 primarily due to increased investment income partially offset by interest on aggregate reserves, increased commissions and increased insurance taxes, all of which are associated with the increased sales of the Company's fixed deferred annuities.

Individual annuities net gain increased between 2009 and 2010 primarily due to increased investment income, decreased commissions and decreased insurance taxes, partially offset by increased interest on aggregate reserves and higher federal income taxes. The increase in invested assets resulting from strong sales in 2009, along with improved market conditions, resulted in higher investment income year over year.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2010, as contained in the Company's 2010 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, 2010 filed annual statement.

A. Independent Accountants

The firm of Ernst & Young, LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position as of December 31st 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.

Ernst & Young, 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	$581,750,966
Mortgage loans on real estate:	
First liens	38,258,196
Cash, cash equivalents and short term investments	9,072,499
Contract loans	53,456
Receivable for securities	24,850
Investment income due and accrued	7,743,231
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	623,557
Deferred premiums, agents' balances and installments booked but deferred and not yet due	25,438
Reinsurance:	
Other amounts receivable under reinsurance contracts	1,530
Net deferred tax asset	1,634,676
Accounts and notes receivable	2,845
From separate accounts, segregated accounts and protected cell accounts	156,060
Total admitted assets	$639,347,304

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$550,999,382
Aggregate reserve for accident and health contracts	34,949
Liability for deposit-type contracts	6,852,065
Contract claims:	
Life	235,474
Accident and health	3,146,862
Premiums and annuity considerations for life and accident and health contracts received in advance	9,332
Contract liabilities not included elsewhere:	
Interest maintenance reserve	295,846
Commissions to agents due or accrued	1,807,611
General expenses due or accrued	433,055
Current federal and foreign income taxes	770,548
Amounts withheld or retained by company as agent or trustee	123,231
Remittances and items not allocated	2,803,360
Asset valuation reserve	2,096,256
Payable to parent, subsidiaries and affiliates	966,967
Payable for securities	33,905
Accrued interest on policy claims	2,132
From Separate Accounts statement	156,060
Total liabilities	$570,767,035
Common capital stock	$ 2,000,000
Gross paid in and contributed surplus	60,000,000
Deferred tax asset adjustment related to SSAP No. 10	786,327
Unassigned funds (surplus)	5,793,942
Surplus	$ 66,580,269
Total capital and surplus	$ 68,580,269
Total liabilities, capital and surplus	$639,347,304

D. Condensed Summary of Operations

	2008	2009	2010
Premiums and considerations	$181,543,093	$231,990,019	$116,418,451
Investment income	8,500,017	23,058,941	30,935,446
Commissions and reserve adjustments on reinsurance ceded	28,567	21,690	20,940
Miscellaneous income	84,809	174,504	440,303
Total income	$190,156,486	$255,245,154	$147,815,140
Benefit payments	$ 23,239,821	$ 27,508,255	$ 37,939,650
Increase in reserves	160,307,036	212,442,510	89,477,313
Commissions	5,897,633	9,438,396	4,901,355
General expenses and taxes	2,842,126	5,754,750	4,330,304
Increase in loading on deferred and uncollected premium	(2,931)	(2,187)	804
Net transfers to (from) Separate Accounts	1,135	(2,369)	(18,840)
Total deductions	$192,284,820	$255,139,355	$136,630,586
Net gain (loss)	$ (2,128,334)	$ 105,799	$ 11,184,554
Federal and foreign income taxes incurred	36,298	212,372	3,093,836
Net gain (loss) from operations before net realized capital gains	$ (2,164,632)	$ (106,573)	$ 8,090,718
Net realized capital gains (losses)	(4,376)	(490,627)	(182,230)
Net income	$ (2,169,008)	$ (597,200)	$ 7,908,488

Premium and considerations decreased between 2009 and 2010 primarily due to decreased sales on fixed deferred annuities. This is slightly offset by an increase that primarily relates to single premium universal life, life contingent single premium immediate annuities, and a small increase in sales from the Company’s medical stop loss product. The decrease in sales of fixed deferred annuities was primarily driven by a lower interest rate environment and lower sales through one of the Company’s distribution partners.

E. Capital and Surplus Account

	2008	2009	2010
Capital and surplus, December 31, prior year	$25,085,248	$42,672,538	$62,009,786
Net income	$ (2,169,008)	$ (597,200)	$ 7,908,488
Change in net deferred income tax	750,462	213,184	(266,131)
Change in non-admitted assets and related items	(673,997)	(591,049)	117,436
Change in reserve valuation basis			(526,076)
Change in asset valuation reserve	(320,167)	(412,933)	(763,017)
Surplus adjustments:			
Paid in	20,000,000	20,000,000	0
Deferred Tax Asset Adjustment Related to SSAP No. 10	0	725,246	61,081
Unearned Mortgage Loan Fees, Net of Tax	0	0	38,702
Net change in capital and surplus for the year	$17,587,290	$19,337,248	$ 6,570,483
Capital and surplus, December 31, current year	$42,672,538	$62,009,786	$68,580,269

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.

Section 51.6(b) of Department Regulation No. 60 states, in part:

> "Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .
>
> (3) Examine . . . the "Disclosure Statement," and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part;
> (4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed "Disclosure Statement . . .
> (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 ten days from the date of the 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 . . ."

The examiner reviewed a sample of files which included 50 deferred annuity replacements, 30 immediate annuity replacements and 20 life insurance replacements. The following was noted as a result of the review.

The review of annuity to immediate annuity replacements indicated that portions of the Disclosure Statements were not completed according to the requirements of Department Regulation No. 60. Specifically, the examiner noted cases where the "SUMMARY RESULT COMPARISON" (Section 2 of the Disclosure Statement) was filled out with only the response "Not Applicable". The "SUMMARY RESULT COMPARISON" section compares the values of the existing annuity to the projected values for the proposed annuity. Failure to properly and accurately complete this section of the Disclosure Statement does not afford the proposed applicant the most accurate and complete information to make an educated and informed decision regarding the replacement of the existing annuity contract.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to examine the Disclosure Statements of annuity to immediate annuity replacements and ascertain that they were accurate and met the requirements of the Insurance Law and Department Regulation No. 60. A similar violation appeared in the prior report on examination.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 when, in the cases where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. A similar violation appeared in the prior report on examination.

In an effort to ensure that Department Regulation No. 60 requirements are met in annuity to immediate annuity replacements, the Company filed an annuity to immediate annuity Disclosure Statement with the Department which was approved on February 29, 2012.

In eight of the 50 (18.0%) deferred annuity replacements, eight of the 30 (26.7%) immediate annuity replacements and five of the 20 (25%) life insurance policies reviewed, the Company failed to provide the company whose life insurance policy or annuity contract is being replaced a copy of the Disclosure Statement within ten days of receipt of such documentation.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to provide the company whose life insurance policy or annuity contract is being replaced a copy of the Disclosure Statement within ten days of receipt of such documentation.

During the process of selecting a sample of replacements, the Company provided the examiner with two different versions of their replacement inventory. The two versions did not reconcile.

The examiner recommends that the Company institute procedures which result in a tracking system that identifies correctly all actual replacements for all of the Company’s life insurance and annuity products.

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 3214(c) of the New York Insurance Law states:

> "If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured or annuitant in connection with a death claim on such a policy of life insurance or contract of annuity and from the date of maturity of an endowment contract to the date of payment and shall be added to and be a part of the total sum paid."

The examiner reviewed 25 deferred annuity death claims. The Company failed to pay sufficient interest on 21 of the 25 (84%) deferred annuity death claims reviewed. The Company indicated that its procedures are to pay interest on deferred annuities death claims from the date of death to the date the Company processes the claim. There is no interest paid from the date the claim was processed to the date the check was expected to be received by the beneficiary as required by Section 3214(c) of the New York Insurance Law.

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest from the date of death to the date of payment in the settlement of deferred annuity death claims.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to file its principal underwriting agreement, and subsequent amendment thereto, as well as amendments to its investment advisory agreement with the Department for its review. The Company submitted an amended underwriting agreement to the Department for review and the Department communicated its “no objection” to this agreement on August 26, 2010. The Company submitted a new investment advisory agreement on November 22, 2010 to replace and supersede the 2005 agreement. The Department communicated its “no objection” to the new investment advisory on June 3, 2011.
B	The Company violated Section 51.6(b)(3) of the Department Regulation No. 60 by failing to provide complete and accurate Disclosure Statements to all applicants, by incorrectly or not showing the applicable surrender charges on existing or proposed contracts, by not providing a composite Disclosure Statement in situations involving multiple policies and by incomplete responses in the Agent Statement Section of the Disclosure Statement. The Company also violated Section 51.6(b)(7) of Department Regulation No. 60 when, in the cases where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. The Company failed to take corrective action in response to this prior report violation. (See item 7 of this report)
C	The Company violated Section 2112(d) of the New York Insurance Law by not notifying the Superintendent within thirty days of termination of the certificate of appointment. The Company now notifies the Superintendent of terminations of certificates of appointment in a timely manner.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 when it failed to examine the Disclosure Statements of annuity to immediate annuity replacements and ascertain that they were accurate and met the requirements of the Insurance Law and Department Regulation No. 60. A similar violation appeared in the prior report on examination.	20
B	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 when, in the cases where the required forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. A similar violation appeared in the prior report on examination.	20
C	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to provide the company whose life insurance policy or annuity contract is being replaced a copy of the Disclosure Statement within ten days of receipt of such documentation.	20
D	The examiner recommends that the Company institute procedures which result in a tracking system that identifies correctly all actual replacements for all of the Company’s life insurance and annuity products.	20
E	The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest from the date of death to the date of payment in the settlement of deferred annuity death claims.	21

Respectfully submitted,

_____________/s/____________
Dennis G. Bensen
Associate Insurance Examiner

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

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

_____________/s/____________
Dennis G. Bensen

Subscribed and sworn to before me

this__________ day of ____________________

APPOINTMENT NO. 30640

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:

DENNIS BENSEN

as a proper person to examine into the affairs of the

FIRST SYMETRA NATIONAL LIFE INSURANCE 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 24th day of January, 2011

JAMES J. WRYNN
Superintendent of Insurance

Superintendent