NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

RIVERSOURCE LIFE INSURANCE CO. OF NEW YORK

CONDITION: DECEMBER 31, 2012

DATE OF REPORT: FEBRUARY 28, 2014

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AS OF

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| EXAMINER: | JULIUS ASUBONTENG |

TABLE OF CONTENTS

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. 30956, dated February 7, 2013 and annexed hereto, an examination has been made into the condition and affairs of RiverSource Life Insurance Co. of New York, hereinafter referred to as "the Company," at its home office located at 20 Madison Avenue Extension, Albany, NY 12203-5326.

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 3209 of the New York Insurance Law and Section 53-2.1 of Department Regulation No. 74 by issuing universal life policies without providing the applicant the required preliminary information. (See item 7B of this report)
- The Company violated Section 3209 of the New York Insurance Law and Section 53-2.2 of Department Regulation No. 74 by providing policy summary information that failed to include a table of values and benefits based upon current and median policy cost factors for the base policy. (See item 7B 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, 2013 Edition* (the "Handbook"). The examination covers the three-year period from January 1, 2010 through December 31, 2012. 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, 2012 but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

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

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

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

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

- Liquidity
- Legal
- Reputational

The Company was audited annually, for the year 2010, by the accounting firm of Ernst and Young (“E&Y), and for the years 2011 and 2012, by the accounting firm of PricewaterhouseCoopers, LLP (“PWC”). The Company received an unqualified opinion in all years. Certain audit workpapers of the accounting firms were reviewed and relied upon in conjunction with this examination. The Company and RiverSource Life Insurance Company, the Company’s parent, share common controls and management. RiverSource Life Insurance Company has a risk and control services department tasked with assessing the Company’s internal control structure and compliance with both the Sarbanes-Oxley Act of 2002 (“SOX”) and the Model Audit Rule (“MAR”). Where applicable, SOX/MAR 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 violation and recommendations 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 under the laws of New York on July 10, 1972 as IDS Life Insurance Company of New York ("IDSNY"), a stock life insurance company. The Company was licensed and commenced business on October 25, 1972. Initial resources of $4,000,000, consisting of common capital stock of $1,000,000 and paid in and contributed surplus of $3,000,000, were provided through the sale of 200,000 shares of common stock (with a par value of $5 each) for $20 per share.

On March 17, 2006, IDSNY and American Centurion Life Assurance Company ("ACL"), both subsidiaries of IDS Life Insurance Company ("IDS"), a Minnesota life insurer, at the time, executed an agreement and plan of merger, under which ACL would be merged with and into IDSNY. IDSNY was the surviving company and continued to exist as a domestic stock life insurance company. Simultaneously with the merger, the Company changed its name to RiverSource Life Insurance Co. of New York and IDS changed its name to RiverSource Life Insurance Company. The Company remained domiciled in New York and continued to be a wholly owned subsidiary of RiverSource Life Insurance Company. The merger and name change was effective December 31, 2006.

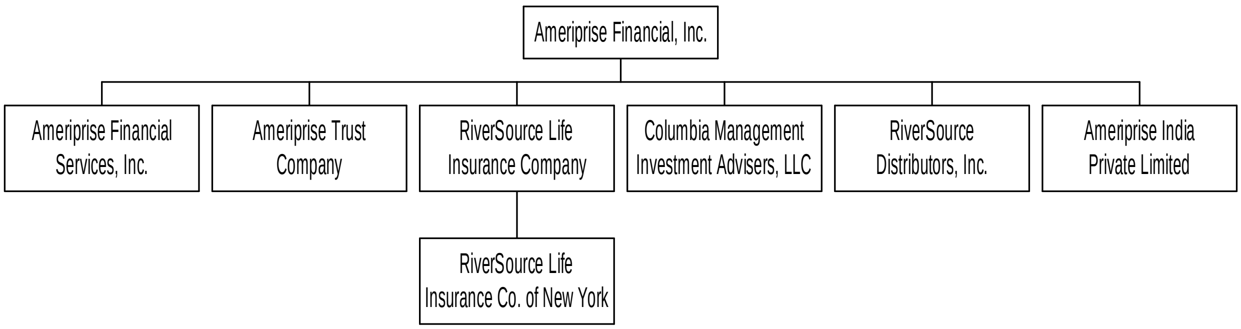
The Company's ultimate parent, Ameriprise Financial, Inc. was formerly a wholly owned subsidiary of American Express Company ("American Express"). On February 1, 2005, Ameriprise Financial, Inc. entered into certain agreements with American Express to effect a separation from American Express which was completed in 2007.

### B. Holding Company

The Company is a wholly owned subsidiary of RiverSource Life Insurance Company, a Minnesota Company. RiverSource Life Company is in turn a wholly owned subsidiary of Ameriprise Financial, Inc. a holding company incorporated in Delaware with its headquarters located in Minneapolis, MN. Ameriprise Financial, Inc. also maintains executive offices in New York City.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2012 follows:




D. Service Agreements

The Company had 14 service agreements in effect with affiliates during the examination period.

| Type of Agreement and Dept. File No. | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/(Expense)* For Each Year of the Examination | |
|---|---|---|---|---|---|---|
| Intercompany Service Agreement No. 36044 | 09/01/2008 | Ameriprise Financial, Inc. | The Company | Accounting, finance, financial reporting, executive management and other support services. | 2012<br>2011<br>2010 | $ (9,475,975)<br>$ (9,172,952)<br>$ (7,685,528) |
| Intercompany Service Agreement No. 36045 | 09/01/2008 | RiverSource Life Insurance Company | The Company | Business analysis, project management, accounting, compliance support, insurance and annuity executive management, insurance and annuity product marketing, development and management. | 2012<br>2011<br>2010 | $ (4,195,575)<br>$ (4,639,272)<br>$ (4,554,439) |

| Type of Agreement and Dept. File No. | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/(Expense)* For Each Year of the Examination | |
|---|---|---|---|---|---|---|
| Loan Servicing Agreement No. 36046 | 09/01/2008 | Ameriprise Financial, Inc. | The Company | Mortgage loan services. | 2012<br>2011<br>2010 | $ (28,388)<br>$ (29,730)<br>$ (30,575) |
| Marketing Support Services No. 36043 | 01/01/2007 | Ameriprise Financial Services, Inc. | The Company | Maintenance of a field organization includes establishing and maintaining a network of area sales offices, staffing of area offices, local marketing expenses, marketing and sales management and various marketing services. | 2012<br>2011<br>2010 | $ (9,145,463)<br>$(10,893,727)<br>$(10,520,441) |
| Management Service and Marketing Support Agreement No. 35163G | 09/01/2008 | The Company | Columbia Management Investment Services Corp** | Certain transfer agent, shareholder servicing and support for the offer, sale and servicing of shares in connecting with separate account funds offered through variable products of the Company. | 2012<br>2011<br>2010 | $ 1,768,749<br>$ 1,620,759<br>$ 1,242,133 |
| Amended No. 43564 | 09/01/2010 | | Columbia Management Investment Advisers LLC*** | | 2012<br>2011<br>2010 | $13,033,841<br>$11,921,733<br>$ 7,458,931 |
| Principal Underwriting Agreement No. 36039 | 01/01/2007 | RiverSource Distributors, Inc. | The Company | Distribution and sale of variable annuities and variable life insurance products. | 2012<br>2011<br>2010 | $ (1,479,286)<br>$ (1,611,108)<br>$ (1,720,847) |
| RiverSource Variable Portfolio Funds Service Agreement No. 38514 | 10/01/2008 | The Company | RiverSource Fund Distributors, Inc. | Distribution and shareholder services to assist in the promotion, distribution and account servicing of Variable Portfolio Funds shares. | 2012<br>2011<br>2010 | $ 6,906,510<br>$ 6,151,171<br>$ 4,030,568 |

| Type of Agreement and Dept. File No. | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/(Expense)* For Each Year of the Examination | |
|---|---|---|---|---|---|---|
| Wholesaling Service Agreement No. 36041 | 01/01/2007 | RiverSource Distributors, Inc. | The Company | Services in connection with the distribution of non-variable products including providing insurance distributors with product information, developing and dissemination approved sales material and related services. | 2012<br>2011<br>2010 | $ (724,681)<br>$ (519,157)<br>$ (447,294) |
| Fund Accounting Service Agreement No. 44213 | 04/01/2011 | Columbia Management Investment Advisers, LLC*** | The Company | Fund Accounting Services such as processing contract holder activity on investment accounting systems, sending fund level trades to the transfer agents, etc. | 2012<br>2011 | $ (1,041,383)<br>$ (1,232,431) |
| Shareholder Services Agreement<br><br>Amended and Restated<br><br>Re-filed<br>No. 43566C | 01/01/2007<br><br><br>12/22/2008<br><br><br>10/01/2011 | The Company | Columbia Management Investment Distributors, Inc. | Distribution and Shareholder services to assist in the promotion, distribution and account servicing. | 2012<br>2011<br>2010 | $ 0<br>$ 16,060<br>$ 15,767 |
| Administrative Services Agreement<br><br>Amended<br><br>Re-filed<br>No. 43566D | 05/01/2006<br><br><br>11/24/2008<br><br><br>10/01/2011 | The Company | Columbia Management Investment Advisers, LLC*** | Certain administrative services for the fund in connection with the variable contracts. | 2012<br>2011<br>2010 | $ 0<br>$ 60,162<br>$ 92,111 |
| Administrative Services Agreement<br><br>Amended<br><br>Re-filed<br>No. 43566E | 09/26/2001<br><br><br>12/17/2008<br><br>10/01/2011 | The Company | Columbia Wagner Asset Management, LLC | Certain administrative services for the fund in connection with the variable contracts. | 2012<br>2011<br>2010 | $ 0<br>$ 205,622<br>$ 217,902 |

| Type of Agreement and Dept. File No. | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/(Expense)* For Each Year of the Examination | |
|---|---|---|---|---|---|---|
| Accounting Services and Supplementary Agreement No.2 File No. 35289G | 07/01/2008 | Ameriprise India Private Limited | The Company | Bank reconciliation, corporate purchasing card accounting, intercompany payables/receivables accounting, journal ledger data entry and balance sheet account reconciliation services. | 2012<br>2011<br>2010 | $ (48,835)<br>$ (41,058)<br>$ (34,405) |
| Investment Management and services Agreement No. 35165G | 07/01/2008 | Columbia Management Investment Advisers, LLC*** | The Company | Investment management and asset liability management services for assets held in the investment accounts of the Company. | 2012<br>2011<br>2010 | $ (1,473,678)<br>$ (2,575,594)<br>$ (2,464,900) |

*Amount of Income or (Expense) Incurred by the Company
**Former name of the institution was RiverSource Service Corp
***Former name of the institution was RiverSource Investments, LLC

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than seven directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2012, the board of directors consisted of nine members. Meetings of the board are held periodically, as fixed by resolution of the board.

The nine board members and their principal business affiliation, as of December 31, 2012, were as follows:

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Gumer C. Alvero<br>Annandale, MN | Executive Vice President – Annuities<br>RiverSource Life Insurance Co. of New York | 2000 |
| Maureen A. Buckley<br>Albany, NY | Chairman, President and Chief Executive Officer<br>RiverSource Life Insurance Co. of New York | 1998 |
| Douglas Dunning<br>St. Paul, MN | Vice President – Annuity Product Development<br>RiverSource Life Insurance Co. of New York | 2011 |
| Mark Gorham<br>Minneapolis, MN | Vice President – Insurance Product Development<br>RiverSource Life Insurance Co. of New York | 2010 |

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Robert R. Grew*<br>New York, NY | Attorney – Retired<br>Carter, Ledyard & Milburn LLP | 1997 |
| Ronald L. Guzior*<br>Albany, NY | Partner<br>Bollam, Sheedy, Torani & Co LLP, CPAs | 2004 |
| Jean B. Keffeler*<br>Livingston, MN | Consultant<br>Little Mission Creek Ranch | 1999 |
| Jeryl A. Millner<br>Minneapolis, MN | Vice President – LFO Finance<br>Ameriprise Financial, Inc. | 2006 |
| Thomas V. Nicolosi<br>Greenwich, CT | Group Vice President<br>Ameriprise Financial, Inc. | 1996 |

*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 the meetings.

The following is a listing of the principal officers of the Company as of December 31, 2012:

| Name | Title |
|---|---|
| Maureen A. Buckley* | Chairman, President and Chief Executive Officer |
| Stephen P. Blaske | Appointed Actuary |
| Thomas R. Moore | Secretary |
| David K. Stewart | Vice President and Controller |
| Lynn M. Abbott | Vice President - National Accounts and Fund Management |
| Gumer C. Alvero | Executive Vice President – Annuities |
| Richard N. Bush | Senior Vice President  Corporate Tax |
| Steve M. Gathje | Senior Vice President and Chief Actuary |
| Mark Gorham | Vice President - Insurance Product Development |
| James L. Hamalainen | Senior Vice President and Treasurer |
| Kirk M. Moore | Vice President – Fixed Income Research |
| Thomas W. Murphy | Vice President - Investments |

*Designated consumer services officer per 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 only in New York. In 2012, 85.7% of life premiums, 83.3% of accident and health premiums, and 96.0% 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, 2012, the Company had United States Treasury Bonds in the amount of $250,000 (par value) 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 products are variable deferred annuities and variable universal life insurance, issued primarily to individuals. The Company also offers single and flexible premium fixed deferred and immediate annuities; disability income insurance and term products; and, both individual and joint universal life, on a fixed and variable basis.

The Company distributes insurance and annuity products through the retail distribution channel of Ameriprise Financial Services, Inc., its affiliated broker-dealer. In prior years, the Company also distributed annuity products through third-party banks and broker-dealers, however, in the fourth quarter of 2010, it discontinued the sale of annuities through that channel in order to focus on the distribution of its variable product offerings and sale through Ameriprise Financial Services, Inc.

### C. Reinsurance

As of December 31, 2012, the Company had reinsurance treaties in effect with 12 companies, of which 11 were authorized or accredited. The Company's life insurance business is reinsured on a coinsurance, modified coinsurance, and/or yearly renewable term basis. The Company's accident and health insurance business is reinsured on a coinsurance basis. Reinsurance is provided on an automatic and/or facultative basis.

The maximum retention limit for single life and joint life policies is $1,500,000. The total face amount of life insurance ceded as of December 31, 2012, was $7,293,717,687, which represents 67.0% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $1,599,673, was supported by letters of credit.

The total face amount of life insurance assumed as of December 31, 2012, was $41,564,675.

## 5. SIGNIFICANT OPERATING RESULTS

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

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

| | December 31, 2009 | December 31, 2012 | Increase (Decrease) |
|---|---|---|---|
| Admitted assets | $5,048,403,200 | $5,821,927,940 | $773,524,740 |
| Liabilities | $4,764,063,426 | $5,569,150,313 | $805,086,887 |
| Common capital stock | $ 2,000,000 | $ 2,000,000 | $ 0 |
| Gross paid in and contributed surplus | 106,633,657 | 106,750,836 | 117,179 |
| Incremental deferred tax assets | 14,420,120 | 0 | (14,420,120) |
| Separate accounts surplus special contingency reserve | 750,000 | 0 | (750,000) |
| Group life contingency reserve | 38,981 | 0 | (38,981) |
| Unassigned funds (surplus) | 160,497,016 | 144,026,791 | (16,470,225) |
| Total capital and surplus | $ 284,339,774 | $ 252,777,627 | $ (31,562,147) |
| Total liabilities, capital and surplus | $5,048,403,200 | $5,821,927,940 | $773,524,740 |

The increase in admitted assets was primarily due to an $866 million increase in separate account assets that resulted from market appreciation and net inflows of variable annuities during the three year period. The increase in liabilities of $805 million was similarly due to the increase in separate account business over the examination period.

The $750,000 decrease in separate accounts surplus special contingency reserve was due to the Company reclassifying the $750,000 to unassigned surplus as of December 31, 2011. The Company had reported the special surplus at December 31, 2010 and prior years based on Department Regulation No. 47 - Separate Accounts and Separate Account Annuities. However, the special contingency reserve is no longer applicable, as Actuarial Guideline 43, adopted at December 31, 2009, provides corresponding reserve requirements for separate account annuity business. The change has had no impact to the Company's total surplus.

The majority (65.1%) of the Company's admitted assets, as of December 31, 2012, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2012, exclusive of separate accounts, were mainly comprised of bonds (85.4%), mortgage loans (8%), and cash and short-term investments (1.4%).

The majority (95%) of the Company's bond portfolio, as of December 31, 2012, 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):

| | Individual Ordinary Life | | Individual Term | | Group Life | |
|---|---|---|---|---|---|---|
| Year | Issued | In Force | Issued | In Force | Issued & Increases | In Force |
| 2012 | $167,800 | $5,782,160 | $356,792 | $5,044,527 | $0 | $55,712 |
| 2011 | $246,420 | $5,946,264 | $367,083 | $4,974,595 | $0 | $57,018 |
| 2010 | $204,911 | $6,059,061 | $377,463 | $4,767,465 | $0 | $59,712 |

The $78.6 million decrease in 2012 in individual ordinary life insurance issued, which consists of the Company's universal and variable universal life products, was primarily due to decreasing sales that occurred as a result of low interest environment and reluctance of clients to invest in the equity market.

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:

| | 2010 | 2011 | 2012 |
|---|---|---|---|
| Ordinary: | | | |
| Life insurance | $13,611,892 | $ 9,233,466 | $14,761,586 |
| Individual annuities | 37,198,159 | (24,281,270) | 73,000,665 |
| Total ordinary | $50,810,051 | $(15,047,804) | $87,762,251 |
| Group: | | | |
| Life | $ 1,643,858 | $ 1,297,797 | $ 1,883,078 |
| Annuities | 3,891,950 | 1,747,705 | 423,002 |
| Total group | $ 5,535,808 | $ 3,045,502 | $ 2,306,080 |
| Accident and health: | | | |
| Other | 3,078,207 | 8,028,889 | 2,880,570 |
| Total accident and health | $ 3,078,207 | $ 8,028,889 | $ 2,880,570 |
| All other lines | $ 73,041 | $ 122,992 | $ 227,761 |
| Total | $59,497,107 | $ (3,850,421) | $93,176,662 |

The ordinary life insurance net gain from operations decrease of $4.4 million in 2011 as compared to 2010 was primarily due to lower surrender activity. Similarly, the ordinary life insurance net gain from operations increase of $5.5 million in 2012 as compared to 2011 was primarily due to higher surrender activity. Statutory net gain increases with higher surrender activity, due to release of statutory reserves being greater than the cash surrender value, and vice versa.

The ordinary individual annuities net gain from operations decrease of $61.5 million in 2011 as compared to 2010 was primarily due to a guaranteed benefit reserve increase of $75 million that resulted from the implementation of Actuarial Guideline 43 regarding the variable annuity block of business. The ordinary individual annuities net gain from operations increase of $97.2 million in 2012 as compared to 2011 was primarily due to the guaranteed benefit reserve decrease of $31 million that resulted from the implementation of Actuarial Guideline 43 regarding the variable annuity block of business.

The net income for the group annuity business has decreased each year primarily due to the business containing interest rate guarantees up to 5%, the historical low interest rate environment from 2010 to 2012, and the decline of the Company’s interest rate spread (difference between earned and credited interest) during the period.

## 6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2012, as contained in the Company's 2012 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, 2012 filed annual statement.

### A. Independent Accountants

The firm of PricewaterhouseCoopers ("PwC") was retained by the Company to audit the Company's consolidated balance sheets at December 31, 2011 and December 31, 2012, and the related consolidated statements of income, comprehensive income, shareholder's equity and cash flows, for the years then ended, as prepared in conformity with U.S. generally accepted accounting principles ("GAAP").

The firm of Ernst & Young ("E&Y") was retained by the Company to audit the Company's consolidated balance sheet as of December 31, 2010, and the related consolidated statements of income, comprehensive income, shareholder's equity and cash flows, for the year then ended, as prepared in conformity with GAAP.

PwC and E&Y concluded that the GAAP Consolidated Financial Statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. The audited GAAP basis Consolidated Financial Statements included disclosures which reconciled GAAP-basis net income and shareholder's equity to that determined using statutory accounting principles prescribed by the State of New York. Statutory amounts disclosed were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

| | |
|---|---|
| Bonds | $1,682,296,015 |
| Mortgage loans on real estate: | |
| First liens | 157,329,280 |
| Cash, cash equivalents and short term investments | 28,258,168 |
| Contract loans | 39,383,478 |
| Derivatives | 62,808,787 |
| Other invested assets | 120,704 |
| Receivable for securities | 211,756 |
| Investment income due and accrued | 20,730,312 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in the course of collection | 458,641 |
| Reinsurance: | |
| Amounts recoverable from reinsurers | 523,477 |
| Net deferred tax asset | 28,177,573 |
| Guaranty funds receivable or on deposit | 3,173,877 |
| Receivables from parent, subsidiaries and affiliates | 2,312,425 |
| Bank owned life insurance | 6,380,207 |
| Miscellaneous asset | 488,485 |
| Reinsurance premium asset | 2,099,376 |
| From separate accounts, segregated accounts and protected cell accounts | $3,787,175,379 |
| | |
| Total admitted assets | $5,821,927,940 |

C. Liabilities, Capital and Surplus

| | |
|---|---|
| Aggregate reserve for life policies and contracts | $1,674,209,186 |
| Aggregate reserve for accident and health contracts | 182,121,219 |
| Liability for deposit-type contracts | 3,722,419 |
| Contract claims: | |
| Life | 3,707,817 |
| Accident and health | 954,304 |
| Premiums and annuity considerations for life and accident and health Contracts received in advance | 357,636 |
| Contract liabilities not included elsewhere: | |
| Provision for experience rating refunds | 118,139 |
| Other amounts payable on reinsurance | 396,618 |
| Interest maintenance reserve | 8,298,298 |
| Commissions to agents due or accrued | 1,576 |
| General expenses due or accrued | 430,491 |
| Transfers to separate accounts due or accrued | (157,089,756) |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 5,059,939 |
| Current federal and foreign income taxes | 6,342,042 |
| Unearned investment income | 405,579 |
| Amounts withheld or retained by company as agent or trustee | 38,418 |
| Remittances and items not allocated | 719,761 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 3,433,953 |
| Payable to parent, subsidiaries and affiliates | 4,392,541 |
| Derivatives | 21,833,210 |
| Payable for securities | 3,733,260 |
| Derivative collateral | 19,032,460 |
| From separate accounts statement | 3,786,931,205 |
| Total liabilities | $5,569,150,313 |
| Common capital stock | 2,000,000 |
| Gross paid in and contributed surplus | 106,750,836 |
| Unassigned funds (surplus) | 144,026,791 |
| Surplus | $ 250,777,627 |
| Total capital and surplus | $ 252,777,627 |
| Total liabilities, capital and surplus | $5,821,927,940 |

D. Condensed Summary of Operations

| | 2010 | 2011 | 2012 |
|---|---|---|---|
| Premiums and considerations | $452,312,731 | $482,232,955 | $417,163,342 |
| Investment income | 115,545,384 | 112,710,590 | 110,049,046 |
| Net gain from operations from Separate Accounts | 17,426 | (3,104) | 18,707 |
| Commissions and reserve adjustments on reinsurance ceded | 2,218,408 | 2,233,027 | 2,187,438 |
| Miscellaneous income | 71,919,360 | 84,693,324 | 90,792,143 |
| Total income | $642,013,309 | $681,866,792 | $620,210,676 |
| Benefit payments | $397,498,649 | $467,982,753 | $422,115,136 |
| Increase in reserves | (68,043,304) | 68,171,269 | (21,944,210) |
| Commissions | 26,364,325 | 30,091,148 | 28,482,577 |
| General expenses and taxes | 34,147,615 | 34,699,404 | 34,783,335 |
| Increase in loading on deferred & uncollected premiums | (2,222,301) | (1,633) | 15,082 |
| Net transfers to (from) Separate Accounts | 179,923,153 | 66,435,295 | 45,971,017 |
| Miscellaneous deductions | 2,095,906 | 855,635 | 193,862 |
| Total deductions | $569,764,043 | $668,233,871 | $509,616,799 |
| Net gain (loss) from operations | $ 72,249,266 | $ 13,632,921 | $110,593,877 |
| Federal and foreign income taxes incurred | 12,752,159 | 17,483,342 | 17,417,215 |
| Net gain (loss) from operations before net realized capital gains | $ 59,497,107 | $ (3,850,421) | $ 93,176,662 |
| Net realized capital gains (losses) | 3,597,569 | (2,370,532) | (10,760,525) |
| Net income | $ 63,094,676 | $ (6,220,953) | $ 82,416,137 |

E. Capital and Surplus Account

| | 2010 | 2011 | 2012 |
|---|---|---|---|
| Capital and surplus, December 31, prior year | $284,339,774 | $287,772,755 | $235,477,229 |
| Net income | $ 63,094,676 | $ (6,220,953) | $ 82,416,137 |
| Change in net unrealized capital gains (losses) | (7,350,395) | 20,678,508 | (26,642,987) |
| Change in net unrealized foreign exchange capital gain (loss) | 0 | (175,237) | 617,063 |
| Change in net deferred income tax | (1,608,665) | 14,889,529 | (15,735,806) |
| Change in non-admitted assets and related items | (6,725,176) | (347,913) | 11,470,796 |
| Change in reserve valuation basis | 3,905,489 | 0 | 0 |
| Change in asset valuation reserve | (1,483,963) | (15,339,463) | 15,184,608 |
| Surplus (contributed to), withdrawn from Separate Accounts during period | (102,512) | 25,964 | (21,662) |
| Other changes in surplus in Separate Accounts statement | 102,512 | (25,964) | 21,662 |
| Cumulative effect of changes in accounting principles | (553,615) | 0 | 0 |
| Surplus adjustments: | | | |
| Paid in | (1,904) | 27,642 | 91,441 |
| Dividends to stockholders | (28,233,977) | (78,577,275) | (50,000,000) |
| Change in other surplus funds from deferred income tax election | (4,692,758) | (841,202) | 0 |
| Prior period adjustments | (12,916,731) | 13,610,838 | (100,854) |
| Net change in capital and surplus for the year | 3,432,981 | (52,295,526) | 17,300,398 |
| Capital and surplus, December 31, current year | $287,772,755 | $235,477,229 | $252,777,627 |

F. Separate Account Business

The Department's actuaries conducted a review of the Company's separate accounts activity. The review revealed that 65.1% of the Company's admitted assets as of December 31, 2012 were derived from separate accounts. The separate accounts activity is mainly generated from the Company's variable annuity guarantee block of business, which has been increasing each year, and exposes the Company to additional risks.

In light of the amount of this business in relation to the total business and the size of the Company, the examiner recommends that the Company consider limiting its exposure to these risks.

## 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.

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.

1. Section 3209 of the New York Insurance Law states, in part:

> “(b)(1) No policy of life insurance shall be delivered or issued for delivery in this state . . . unless the prospective purchaser has been provided with the following:
>
> (A) . . . the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken . . .
>
> (d) The preliminary information shall be in writing and include, to the extent applicable, the following. . .
> (4) the total guaranteed cash surrender values for the basic policy, at the end of the tenth and twentieth policy years or at the end of the premium-paying period if earlier. These values may be shown on a per thousand or per unit basis . . .
> (7) in addition, the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished . . . ”

Section 53-2.1 of Department Regulation No. 74 states, in part:

> “ . . . (a) The preliminary information shall be in writing and include, to the extent applicable, the following . . .
>
> (4) a table of values and benefits based upon current, median and guaranteed policy cost factors for the base policy and any rider at the end of each of the first five policy years, the tenth policy year and at the end of the policy years in which the

proposed insured attains age 65, 75, 85 and 95. These values may be shown on a per thousand or per unit basis;

(5) the year coverage will terminate based upon current, median and guaranteed policy cost factors. These values may be shown on a per thousand or per unit basis;

(6) the interest rate basis for each table of values based upon current, median and guaranteed policy cost factors;

(7) the effective policy loan annual percentage interest rate and whether this rate is applied in advance or in arrears, adjustable or fixed;

(8) acknowledgment that the potential purchaser understands that policy values, cash surrender values and death benefits based on current and median policy cost factors are not guaranteed and that any changes in the company's interest earnings, expenses or claim experience may result in lower or higher premium payments or lower or higher policy benefits;

(9) a statement advising the applicant that when the policy is issued, a complete policy summary including cost data, based on the benefits, premiums and dividends of the policy as issued will be furnished, and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premium paid or the adjusted amount if such policy provides for a market-value adjustment pursuant to Section 3203(a)(11) of the Insurance Law; and

(10) life insurance cost indexes and the equivalent level annual dividend for the basic policy for 10 and 20 years, but in no case beyond the premium-paying period.

(b) The table of values and benefits based on guaranteed policy cost factors shall be labeled in a prominent manner "guaranteed" and the table of values and benefits based on current and median policy cost factors shall be labeled in a prominent manner "not guaranteed."

(c) The preliminary information shall be provided to the prospective purchaser at or prior to the time an application is taken and shall be signed and dated by the agent or broker and the applicant and a copy of the preliminary information shall be attached to the application submitted to the insurer . . ."

The examiner reviewed a sample of 17 universal life policies issued during the examination period. The review revealed that all 17 (100%) proposals and signed illustrations that the Company used to satisfy preliminary information requirements failed to include a table of values and benefits based upon current and median policy cost factors for the base policy as stipulated by Section 53-2.1 of Department Regulation No. 74.

The Company violated Section 3209 of the New York Insurance Law and Section 53-2.1 of Department Regulation No. 74 by issuing universal life policies without providing the applicant the required preliminary information.

2. Section 3209(b)(7) of the New York Insurance Law states, in part:

> " . . . the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished . . . "

Section 53-2.2(a)(5) of Department Regulation No. 74 states, in part:

> " . . . (a) A policy summary shall include the following . . .
>
> (5) tables for the first five policy years and every fifth year thereafter until the maturity date containing the following . . .
>
> (v) the death benefits, policy values and cash surrender values based on the annual premium or annual planned premium using the current, median and guaranteed policy cost factors;
>
> (vi) the interest rate assumptions for each projection of policy values and death benefits based upon current, median and guaranteed policy cost factors;
>
> (vii) the dates the policy will terminate based on the annual premium or annual planned premium and on the current, median and guaranteed policy cost factors; and,
>
> (viii) the level annual premium from the issue date that would, based upon guaranteed policy cost factors, continue the policy to the maturity date.
>
> (6) the effective policy loan annual percentage interest rate specifying whether this rate is applied in advance or arrears, adjustable or fixed, and if adjustable, the frequency at which such rate is to be determined and the index upon which the maximum rate is based at the time the policy is issued; and . . ."

The examiner reviewed a sample of 17 universal life policies issued during the examination period. The review revealed that all 17 (100%) of the policy summaries that the Company provided its policyholders failed to include a table of values and benefits based upon current and median policy cost factors for the base policy as stipulated by Section 53-2.2 of Department Regulation No. 74.

The Company violated Section 3209 of the New York Insurance Law and Section 53-2.2 of Department Regulation No. 74 by providing policy summary information that failed to include a table of values and benefits based upon current and median policy cost factors for the base policy.

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.

## 8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

| Item | Description |
|---|---|
| A | The examiner recommended that the Company continue to carefully monitor its exposure to risks from its variable annuity guarantee block of business. |
| | A review indicated that the Company continues to carefully monitor and evaluate its exposure to risks from its variable annuity guarantee block of business. The Company performs: daily valuation of 'Greeks' and rebalancing of hedge positions; ongoing monitoring and quantification of hedge strategy effectiveness; quarterly ERM analysis evaluating statutory capital and liquidity under a variety of stressed market environments; monthly quantification of 'net amount at risk' for all variable annuity death and living benefits; and monthly review of policyholder behavior, such as surrenders and withdrawal benefit utilization. |
| B | The examiner recommended that the Company prepare future Annual Statements in accordance with NAIC Annual Statement Instructions. |
| | A review of annual statements prepared during the examination period revealed that the Company prepared such statements in accordance with NAIC Annual Statement Instructions. |
| C | The examiner recommended that the Company notify its employees and field force that the intent of the 10-day period allowed in Section 51.6(b)(7) of Department Regulation No. 60 was intended for errors where the required replacement forms were obtained and presented to the applicant on a timely basis in accordance with the Regulation, but due to clerical error the forms were not submitted to the insurer along with the application. |
| | A review indicated that the Company notified its employees and updated its procedures to ensure that the 10-day period is only utilized for those errors where the required replacement forms were obtained and presented to the applicant on a timely basis in accordance with the Regulation. Notification to the field force occurs at the time the application is returned to the agent as an unacceptable application submission. |

| Item | Description |
|---|---|
| D | The Company violated Section 243.2(b) of Department Regulation No. 152 by failing to maintain copies of the notification letters mailed to replaced insurers to demonstrate that the Company complied with Section 51.6(b)(4) of Department Regulation No. 60.<br><br>A review indicated that the Company provides and maintains notification letters as part of its procedures. The Company has enhanced its controls to ensure it retains documentation evidencing its compliance with Section 51.6(b)(4) of Department Regulation No. 60. The Company has established an automatic feed to its imaging system, so that when a letter is printed and mailed to the replaced Company, a copy of the letter is automatically saved to the Company's imaging system. |

## 9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

| Item | Description | Page No(s). |
| --- | --- | --- |
| A | In light of the amount of the separate accounts business in relation to the total business and the size of the Company, the examiner recommends that the Company consider limiting its exposure to risks associated with its variable annuity guarantee block of business, which has been increasing each year. | 22 |
| B | The Company violated Section 3209 of the New York Insurance Law and Section 53-2.1 of Department Regulation No. 74 by issuing universal life policies without providing the applicant the required preliminary information. | 25 |
| C | The Company violated Section 3209 of the New York Insurance Law and Section 53-2.2 of Department Regulation No. 74 by providing policy summary information that failed to include a table of values and benefits based upon current and median policy cost factors for the base policy. | 26 |

Respectfully submitted,

_____________/s/____________
Julius Asubonteng
Senior Insurance Examiner

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

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

_____________/s/____________
Julius Asubonteng

Subscribed and sworn to before me

this__________ day of ___________________

*APPOINTMENT NO. 30956*

*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:*

***JULIUS ASUBONTENG***

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

***RIVERSOURCE 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 7th day of February, 2013*

BENJAMIN M. LAWSKY
*Superintendent of Financial Services*

*By:*

MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU