



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
AMERICAN NATIONAL LIFE INSURANCE COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2015

DATE OF REPORT:

JUNE 13, 2017

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EXAMINER:

JACQUELINE TUCKER

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

June 20, 2017

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31438, dated March 3, 2016, and annexed hereto, an examination has been made into the condition and affairs of American National Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 344 Route 9W, Glenmont, New York 12077.

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 Insurance Regulation No. 60, 11 NYCRR Sections 51.6(b)(3) and 51.6(b)(4) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for the twenty replacement policies that were reviewed. (See item 7A of this report.)
- The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or else reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e., annuitization feature of the existing annuity and no option to surrender an immediate annuity once it has annuitized. (See item 7A of this report.)
- The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1) and 224.4(c) when the consumers were not informed of all the various features on the annuity contracts, i.e., the annuitization option available on the existing deferred annuity and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount. (See item 7A of this report)
- The Company violated section 403(d) of the New York Insurance Law by using claim forms that failed to contain the required fraud warning statement. (See item 7C 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, 2016 Edition* (the “Handbook”). The examination covers the three year period from January 1, 2013 through December 31, 2015. 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, 2015 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.

The coordinated examination was led by the State of Texas with participation from the states of New York, Missouri, Louisiana and California. There are fourteen companies within the holding company group. All of the companies were examined together as part of the coordinated examination. However, the examination was divided into two subgroups; life subgroup and property and casualty subgroup. Texas was the facilitating state for the life subgroup while Missouri was the facilitating state for the property and casualty subgroup. Since the lead and participating states are all accredited by the NAIC, all states deemed it appropriate to rely on each other’s work.

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 2013 through 2015, by the accounting firm of KPMG LLP. The Company received an unqualified opinion in all years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. American National Insurance Company ("ANICO"), the Company's ultimate parent, has an internal audit department and is subject to the Sarbanes-Oxley Act of 2002 ("SOX"). ANICO shares, on an enterprise-wide basis with its holding company members, the services of its internal control department, which was given the task of assessing the internal control structure and compliance with SOX. Where applicable, internal audit and SOX workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the prior report on examination which did not contain any violations, recommendations or comments.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on October 15, 2009, and was licensed and commenced business on March 17, 2010. Initial resources of \$20,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$18,000,000, were provided through the sale of 2,000,000 shares of common stock to ANICO (with a par value of \$1 each) for \$10 a share.

The company received a capital contribution of \$20,000,000 from ANICO in 2015. Paid in and contributed surplus was \$38,000,000 as of December 31, 2015.

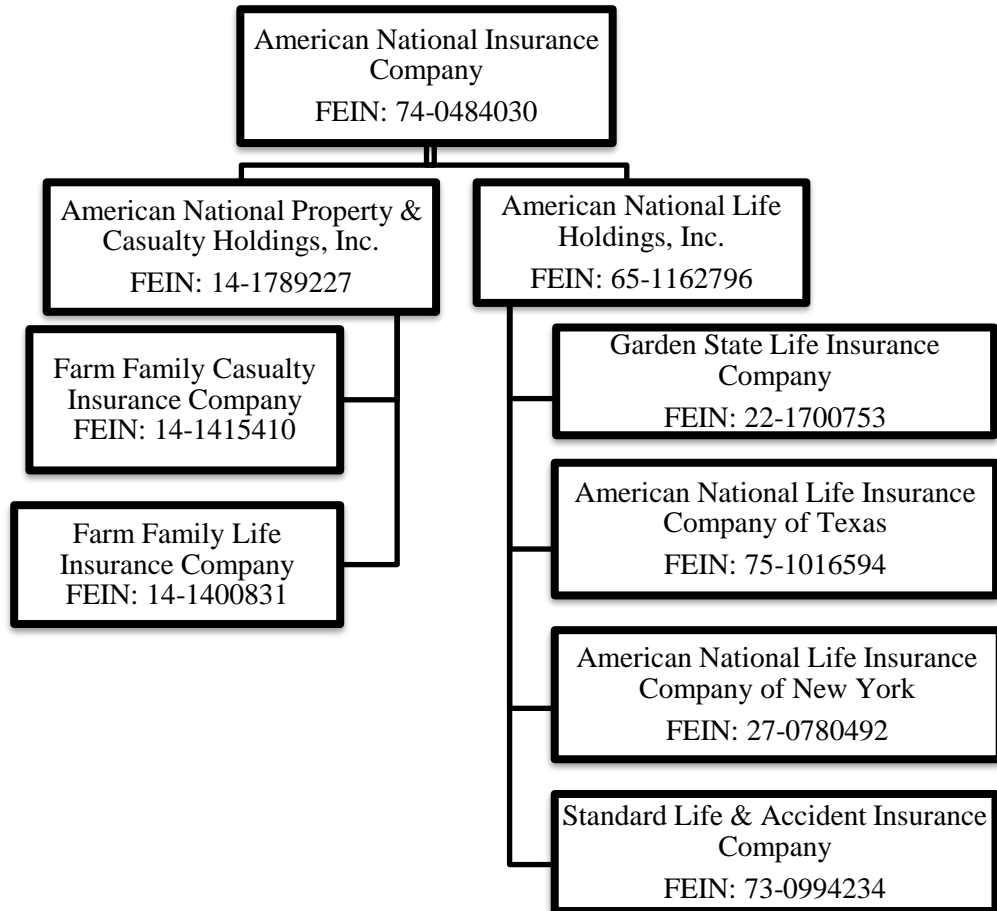
B. Holding Company

The Company is a wholly owned subsidiary of American National Life Holdings, Inc. (“ANLHI”), a Nevada holding company. ANLHI is in turn a wholly owned subsidiary of ANICO, a Texas insurance corporation and the Company’s ultimate parent.

Farm Family Life Insurance Company (“FFL”) is an affiliate of the Company and shares the same facilities at 344 Route 9W, Glenmont, NY 12077, with the Company. FFL is a wholly owned subsidiary of American National Property & Casualty Holdings, Inc. (“ANPAC Holdings”), a Delaware holding company. ANPAC Holdings is in turn a wholly owned subsidiary of ANICO. Both the Company and FFL have the same ultimate parent, ANICO, as depicted in the organizational chart below.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2015 follows:



D. Service Agreements

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

Type of Agreement and Department File Number	Effective Date	Provider of Service(s)	Recipient of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
License Agreement	01/01/2010	ANICO	The Company	Provide royalty-free right and license to use specific registered marks, trademarks, or service marks.	2013 \$0 2014 \$0 2015 \$0
Administrative Services Agreement	01/04/2010	ANICO	The Company	To the extent requested by Recipient, Provider provides to Recipient the following services: (i) maintenance of original corporate minute books, charter, by-laws, stock records, copies of annual statements and quarterly statements filed with Department and its reports on examination and other records and files in Recipient's home office; (ii) serving as a home office liaison with regulatory authorities, particularly the New York Insurance Department; (iii) receipt and forwarding of service of process; (iv) providing office space and office furnishings and equipment; (v) printing and reproduction services as needed at the home office; (vi) procurement of goods and services relating to home office operations; (vii) collecting and forwarding mail at the home office, and (viii) support and administration of computer hardware located at the home office, and (ix) support and administration of communication links, including computer system, telecommunications, Internet and Intranet in the home office.	2013 \$(2,308,595) 2014 \$(2,662,779) 2015 \$(1,751,629)

Type of Agreement and Department File Number	Effective Date	Provider of Service(s)	Recipient of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Administrative Services Agreement	01/04/2010	Farm Family Casualty Insurance Company	The Company	To the extent requested by Recipient, Provider provides to Recipient the following services: (i) maintenance of original corporate minute books, charter, by-laws, stock records, copies of annual statements and quarterly statements filed with Department and its reports on examination and other records and files in Recipient's home office; (ii) serving as a home office liaison with regulatory authorities, particularly the New York Insurance Department; (iii) receipt and forwarding of service of process; (iv) providing office space and office furnishings and equipment; (v) printing and reproduction services as needed at the home office; (vi) procurement of goods and services relating to home office operations; (vii) collecting and forwarding mail at the home office; (viii) support and administration of computer hardware located at the home office, and (ix) support and administration of communication links, including computer system, telecommunications, Internet and Intranet in the home office.	2013 \$(1,968) 2014 \$(2,004) 2015 \$(1,908)
Mortgage Loan And Real Estate Investment Services Agreement	01/07/2010	ANICO	The Company	Mortgage loan and real estate investment services	2013 \$0 2014 \$0 2015 \$0

Type of Agreement and Department File Number	Effective Date	Recipient of Service(s)	Recipient of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Net Worth Maintenance Agreement	12/02/2010	ANICO	The Company	To take certain actions to maintain the financial condition of the Company	2013 \$0 2014 \$0 2015 \$0
Amended & Restated Master Investment Participation Agreement File No. 45343	05/01/2012	ANICO	The Company	To effect multiple purchases and sales of participations and to provide for an expedient method of administering such transactions	2013 \$ 62,938 2014 \$ 214,848 2015 \$1,142,979
Letter of Credit Note	08/05/2014	ANICO	The Company	\$3.5M revolving line of credit note	2013 \$0 2014 \$0 2015 \$0

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

The Company participates in a federal income tax allocation agreement with its parent and affiliates, effective January 1, 2015.

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 15 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, 2015, the board of directors consisted of nine members. Meetings of the board are held quarterly.

The nine board members and their principal business affiliation, as of December 31, 2015, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
David A. Behrens League City, TX	President and Chief Operating Officer American National Life Insurance Company of New York	2010
John J. Dunn, Jr. League City, TX	Vice President and Chief Financial Officer American National Life Insurance Company of New York	2015
G. R. Ferdinandtsen League City, TX	Advisory Director American National Insurance Company	2010
Edward J. Muhl* Bonita Springs, FL	Retired Partner, PricewaterhouseCoopers, LLP	2010
James E. Pozzi Galveston, TX	Chairman of the Board and Chief Executive Officer American National Life Insurance Company of New York	2010
Victoria M. Stanton Glenmont, NY	Executive Vice President, General Counsel and Secretary Farm Family Life Insurance Company	2010
Edward J. Walsh, Jr.* Galveston, TX	Partner Edward J. Walsh and Associates	2010
Timothy A. Walsh West Cocksackie, NY	President and Chief Executive Officer Farm Family Life Insurance Company	2010
James D. Yarbrough* Galveston, TX	Owner and Consultant James D. Yarbrough & Company	2010

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

As of August 2016, Edward J. Walsh was deceased and has not been replaced.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2015:

<u>Name</u>	<u>Title</u>
James E. Pozzi	Chairman of the Board and Chief Executive Officer
David A. Behrens	President and Chief Operating Officer
John J. Dunn, Jr	Vice President and Chief Financial Officer
William F. Carlton	Vice President and Controller
Johnny D. Johnson	Vice President and Chief Information Officer
Dwain A. Akins*	Vice President and Compliance
Albert L. Amato, Jr.	Vice President and Policy Administration
Frank V. Broll, Jr	Vice President and Actuary
Sara L. Latham	Vice President and Actuary
John F. Simon	Vice President and Actuary
Scott F. Brast	Vice President and Investments
Anne M. LeMire	Vice President and Investments
Robert J. Kirchner	Vice President and Investments
James A. Collura	Vice President, Multiple Line Marketing
Ronald C. Price	Vice President, Multiple Line Marketing
Bruce M. LePard	Vice President, Human Resources
George A. Macke	Vice President, General Auditor
John M. Flippin	Secretary and Treasurer

* 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 has not never written any accident and health business. The Company is licensed to transact business only in New York.

A. Statutory and Special Deposits

As of December 31, 2015, the Company had \$400,000 (par value) of New York City General Obligation 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 primarily offers individual life products including: whole life policies, term life policies, and universal life policies. The Company also offers individual annuities, including: single premium deferred annuities, flexible premium deferred annuities, which are offered on a qualified and non-qualified basis, and single premium immediate annuities. The Company does not offer group business, accident and health business, or separate account business.

The Company's agency operations were conducted on a general agency basis. At year-end 2015, the Company had 3,156 appointed, independent agents. The Company marketed its life products through direct response distribution channels, primarily through direct mail solicitations and internet advertising.

C. Reinsurance

As of December 31, 2015, the Company had one reinsurance treaty in effect with its ultimate parent, ANICO. ANICO is an unauthorized reinsurer in New York State. The Company's life business is reinsured on a coinsurance, 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 \$100,000. The total face amount of life insurance ceded as of December 31, 2015, was \$398,997,676, which represents 58.2% of the total face amount of life insurance in force.

The Company reported ceded life premiums of \$320,546, with reserve credit taken of \$270,410 for reinsurance ceded to ANICO. A liability for reinsurance in unauthorized companies was established for \$270,410.

The Company had no assumed business on December 31, 2015.

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:

	<u>December 31,</u> <u>2013</u>	<u>December 31,</u> <u>2015</u>	<u>Increase</u>
Admitted assets	\$ <u>161,382,948</u>	\$ <u>273,410,825</u>	\$ <u>112,027,877</u>
Liabilities	\$ <u>149,765,313</u>	\$ <u>245,437,347</u>	\$ <u>95,672,034</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	18,000,000	38,000,000	20,000,000
Unassigned funds (surplus)	<u>(8,382,365)</u>	<u>(12,026,522)</u>	<u>(3,644,157)</u>
Total capital and surplus	\$ <u>11,617,635</u>	\$ <u>27,973,478</u>	\$ <u>16,355,843</u>
Total liabilities, capital and surplus	\$ <u>161,382,948</u>	\$ <u>273,410,825</u>	\$ <u>112,027,877</u>

The Company's invested assets as of December 31, 2015, were mainly comprised of bonds (89.0%), and cash and short-term investments (7.0%).

The majority (93.1%) of the Company's bond portfolio, as of December 31, 2015, was comprised of investment grade obligations.

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

<u>Year</u>	<u>Individual</u> <u>Whole Life</u>		<u>Individual</u> <u>Term</u>	
	<u>Issued</u>	<u>In Force</u>	<u>Issued</u>	<u>In Force</u>
2013	\$22,805	\$34,964	\$246,565	\$316,419
2014	\$31,544	\$62,458	\$266,233	\$476,563
2015	\$19,429	\$75,432	\$211,445	\$610,133

The Company began writing life business in 2011, and since then it has been a growing block of business. Issues for 2013 and 2014 reflect this growth. During 2015, the Company transitioned from the sales of a simplified issue product to a fully underwritten product resulting in lower issues for the year.

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

	<u>Ordinary Annuities</u>		
	<u>2013</u>	<u>2014</u>	<u>2015</u>
Outstanding, end of previous year	1,303	1,471	1,716
Issued during the year	209	306	900
Other net changes during the year	<u>(41)</u>	<u>(61)</u>	<u>(48)</u>
Outstanding, end of current year	<u>1,471</u>	<u>1,716</u>	<u>2,568</u>

The increase in annuities issued in 2015 was due to an increase in the sales of the fixed deferred annuity and the marketing of new equity-indexed annuity products.

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

	<u>2013</u>	<u>2014</u>	<u>2015</u>
Ordinary:			
Life insurance	\$ (936,440)	\$(1,172,474)	\$(1,041,768)
Individual annuities	<u>(587,077)</u>	<u>(909,335)</u>	<u>(942,220)</u>
Total	\$(<u>1,523,517</u>)	\$(<u>2,081,089</u>)	\$(<u>1,983,988</u>)

The net loss from operations reflects a growing business as the costs associated with the issuance of new business are expensed as incurred.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2015, as contained in the Company's 2015 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, 2015 filed annual statement.

A. Independent Accountants

The firm of KPMG 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.

KPMG 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	\$239,682,717
Mortgage loans on real estate:	
First liens	10,589,848
Cash, cash equivalents and short term investments	18,758,730
Contract loans	3,804
Other invested assets	225,704
Investment income due and accrued	2,469,154
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	(22,376)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	956,522
Guaranty funds receivable or on deposit	505,465
Receivables from parent, subsidiaries and affiliates	172,778
State premium tax recoverable	<u>68,479</u>
 Total admitted assets	 <u>\$273,410,825</u>

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$229,532,029
Liability for deposit-type contracts	6,982,677
Contract claims:	
Life	589,763
Premiums and annuity considerations for life and accident and health contracts received in advance	2,421
Contract liabilities not included elsewhere:	
Interest maintenance reserve	276,161
Commissions to agents due or accrued	324,516
Taxes, licenses and fees due or accrued, excluding federal income taxes	353,307
Net deferred tax liability	445,900
Amounts withheld or retained by company as agent or trustee	48,430
Remittances and items not allocated	91,811
Miscellaneous liabilities:	
Asset valuation reserve	1,100,896
Reinsurance in unauthorized companies	270,410
Payable to parent, subsidiaries and affiliates	489,121
Payable for securities	4,921,481
Pending escheat items	8,424
 Total liabilities	 <u>\$245,437,347</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	38,000,000
Unassigned funds (surplus)	<u>(12,026,522)</u>
Less treasury stock, at cost:	
Surplus	\$ <u>25,973,478</u>
Total capital and surplus	\$ <u>27,973,478</u>
 Total liabilities, capital and surplus	 <u>\$273,410,825</u>

D. Condensed Summary of Operations

	<u>2013</u>	<u>2014</u>	<u>2015</u>
Premiums and considerations	\$25,224,357	\$33,128,151	\$ 95,708,116
Investment income	4,924,607	5,939,463	7,083,824
Commissions and reserve adjustments on reinsurance ceded	0	50	350
Miscellaneous income	<u>0</u>	<u>82</u>	<u>0</u>
 Total income	 <u>\$30,148,964</u>	 <u>\$39,067,746</u>	 <u>\$102,792,290</u>
Benefit payments	\$ 7,869,931	\$ 8,632,325	\$ 9,931,485
Increase in reserves	18,999,744	27,417,137	87,855,806
Commissions	1,502,328	1,887,902	4,325,950
General expenses and taxes	3,681,835	3,555,258	2,847,586
Increase in loading on deferred and uncollected premium	(80,112)	14,472	(105,646)
Miscellaneous deductions	<u>1,566</u>	<u>0</u>	<u>0</u>
 Total deductions	 <u>\$31,975,292</u>	 <u>\$41,507,095</u>	 <u>\$104,855,181</u>
Net gain (loss) from operations	\$ (1,826,328)	\$ (2,439,348)	\$ (2,062,891)
Federal and foreign income taxes incurred	<u>(302,811)</u>	<u>(357,539)</u>	<u>(78,903)</u>
Net gain (loss) from operations before net realized capital gains	\$ (1,535,517)	\$ (2,081,809)	\$ (1,983,988)
Net realized capital gains (losses)	<u>0</u>	<u>156</u>	<u>(157)</u>
 Net income	 <u>\$ (1,535,517)</u>	 <u>\$ (2,081,653)</u>	 <u>\$ (1,984,145)</u>

The increase in premiums and considerations from 2013 to 2014 was due to the growth in the annuity block of business. The increase in premiums and considerations in 2015 was due to the marketing of a new enhanced annuity product and the introduction of a new equity-indexed product resulting in increased sales, which in turn increased premiums, reserves and commissions during 2015.

The increase in investment income is due to the growth in the invested assets portfolio.

E. Capital and Surplus Account

	<u>2013</u>	<u>2014</u>	<u>2015</u>
Capital and surplus, December 31, prior year	<u>\$16,372,185</u>	<u>\$14,054,907</u>	<u>\$11,617,634</u>
Net income	\$ (1,523,517)	\$ (2,081,653)	\$ (1,984,145)
Change in net unrealized capital gains (losses)	0	0	(32,504)
Change in net deferred income tax	351,778	528,947	655,844
Change in non-admitted assets and related items	(682,660)	(711,508)	(2,198,699)
Change in liability for reinsurance in unauthorized companies	(230,931)	(81,458)	99,176
Change in asset valuation reserve	(253,237)	(112,499)	(364,694)
Surplus adjustments:			
Paid in	0	0	20,000,000
Change in deferred taxes on non-admitted assets	<u>21,289</u>	<u>20,899</u>	<u>180,866</u>
Net change in capital and surplus for the year	<u>\$ 2,317,278</u>	<u>\$ 2,437,273</u>	<u>\$16,355,844</u>
Capital and surplus, December 31, current year	<u>\$14,054,907</u>	<u>\$11,617,634</u>	<u>\$27,973,478</u>

In 2015, the Company received a \$20,000,000 capital contribution from its parent, ANICO, to provide additional working capital and liquidity to the Company.

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.

Insurance Regulation No. 60, 11 NYCRR Section 51.6(b) 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 any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the “Disclosure Statement”, and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part. . .

(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 10 days from the date of 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. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of paragraph (6) of this subdivision . . .”

A review of 20 immediate annuity replacement files in which the Company replaced a deferred annuity policy with an immediate annuity policy revealed the following:

- a) The Company did not provide or indicate the amounts on the Disclosure Statements for comparison on the “proposed” single premium individual annuity contract.
 - i. In accordance with Section 4223(a)(1)(C) of the New York Insurance Law, every accumulation type deferred annuity issued to consumers in New York State must set forth the guaranteed interest rate and annuity mortality table being utilized for the guaranteed income purchase rates

under the contract. The examiner noted that the Company did not provide the amount of guaranteed income available under the existing deferred annuity contract on the Disclosure Statement. Similarly, the Company did not provide the payout amount for the guaranteed income available under the proposed immediate annuity.

- ii. In two instances, the Company failed to inform the existing companies that the new or replacement contract would be an immediate annuity contract. Thus, the Company requested and/or accepted Disclosure Statements with the replaced company's account values listed as a lump sum, rather than a monthly payment amount that the annuitant would receive with an immediate annuity.
 - iii. In the other 18 instances, the Company requested and/or accepted Disclosure Statements with the replaced company's account values listed as a lump sum, rather than a monthly payment amount that the annuitant would receive with an immediate annuity.
 - iv. As stated in item (i) above, none of the files or Disclosure Statement indicate a comparison regarding payout options. Although Section 4223(a)(1)(C) of the New York Insurance Law requires all deferred contracts to contain a provision allowing payout option, there was no payout option comparison disclosed on the Company's prepared Disclosure Statements.
- b) The agent's statement contained in the Disclosure Statement did not include key disadvantages pertaining to replacing a deferred annuity with an immediate annuity; namely the following:
- (i) The agent's statement failed to indicate that the existing deferred annuity could be annuitized for a monthly payment as an option versus purchasing a new immediate annuity. The monthly payout amount should be shown on the Disclosure Statement for both the existing deferred annuity and the proposed immediate annuity.
 - (ii) The agent statements were misleading because they indicated that the reason for recommending the immediate annuity was that there were no

payouts from the existing deferred annuity, or that the existing coverage did not provide enough income, etc. when payouts were available with an annuitization of its existing contract.

Based on items a and b above:

- The Company accepted Disclosure Statements where the replaced company's account values were listed as a lump sum rather than the monthly payment amount that the policyholder would receive with an immediate annuity. In these instances, the Company did not request, from the existing insurer, an appropriate comparison for the proposed Immediate Annuity.
- The Disclosure Statement did not provide the monthly payment amount or any figures on the proposed immediate annuity for comparison with the existing deferred annuity.
- A statement was not included in the Agent's Statement section of the Disclosure Statement indicating that one of the advantages of keeping the existing deferred annuity contract would be the opportunity to annuitize the deferred annuity according to the terms of the original contract.
- The agent did not state on two of the authorization forms that the new product being offered was an immediate annuity contract.

The Company violated Insurance Regulation No. 60, 11 NYCRR Sections 51.6(b)(3) and 51.6(b)(4) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for the twenty replacement policies that were reviewed.

The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or else reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e., annuitization feature of the existing annuity and no option to surrender an immediate annuity once it has annuitized.

Section 224.4 of Department Regulation No. 187 states, in part:

“(a) In recommending to a consumer the purchase or replacement of an annuity contract, the insurance producer, or the insurer where no insurance producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer’s investments and other insurance policies or contracts and as to the consumer’s financial situation and needs, including the consumer’s suitability information, and that there is a reasonable basis to believe all of the following:

(1) the consumer has been reasonably informed of various features of the annuity contract, such as the potential surrender period and surrender charge, availability of cash value, potential tax implications if the consumer sells, surrenders or annuitizes the annuity contract, death benefit, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, guaranteed interest rates, insurance and investment components, and market risk . . .

(c) Except as provided under subdivision (d) of this section, an insurer shall not issue an annuity contract recommended to a consumer unless there is a reasonable basis to believe the annuity contract is suitable based on the consumer’s suitability information.”

The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1) and 224.4(c) when the consumers were not informed of all the various features on the annuity contracts, i.e., the annuitization option available on the existing deferred annuity, and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount.

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.

The examiner reviewed a sample of 16 death claims. The review revealed seven instances where an affiliate's claim form was used to adjudicate the claims.

The examiner recommends that the Company revise its death claim procedures and exercise due diligence to ensure that the Company's claim forms are used to adjudicate death claims.

Section 403(d) of the New York Insurance Law states, in part:

“All applications for . . . individual, group or blanket accident and health insurance and all claim forms . . . shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

'Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.'”

The examiner reviewed all 37 annuity claims for the examination period under review to ensure that the annuity claim forms contained the required fraud warning statement.

The examiner's review revealed that in 22 out of the 37 (59.4%) claim forms reviewed, the claim forms did not contain the required fraud warning statement.

The Company violated section 403(d) of the New York Insurance Law by using claim forms that failed to contain the required fraud warning statement.

8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Insurance Regulation No. 60, 11 NYCRR Sections 51.6(b)(3) and 51.6(b)(4) by failing to examine and ascertain that the Disclosure Statement included all required disclosures for the twenty replacement policies that were reviewed.	22
B	The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(b)(7) by failing to have any deficiencies corrected or else reject the application in the cases where the Disclosure Statement did not include all required disclosures, i.e., annuitization feature of the existing annuity and no option to surrender an immediate annuity once it has annuitized.	22
C	The Company violated Insurance Regulation No. 187, 11 NYCRR Sections 224.4(a)(1) and 224.4(c) when the consumers were not informed of all the various features on the annuity contracts, i.e., the annuitization option available on the existing deferred annuity and were recommended annuity contracts that were not suitable because the annuitization of the existing deferred annuity produced a higher income amount.	23
D	The examiner recommends that the Company revise its death claim procedures to ensure that American National Life Insurance Company of New York claim forms are used to adjudicate death claims.	24
E	The Company violated section 403(d) of the New York Insurance Law by using claim forms that failed to contain the required fraud warning statement.	24

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **MARIA T. VULLO**, Acting 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:

JACQUELINE TUCKER

as a proper person to examine the affairs of the

AMERICAN NATIONAL 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 she 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 3rd day of March, 2016

MARIA T. VULLO

Acting Superintendent of Financial Services

By:



MARK MCLEOD

ASSISTANT CHIEF - LIFE BUREAU

