



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

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

JUNE 1, 2018

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EXAMINER:

DENISE SAUNDERS

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

December 5, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31675, dated October 10, 2017, and annexed hereto, an examination has been made into the condition and affairs of ReliaStar Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 1000 Woodbury Road, Suite 208, Woodbury, NY 11797.

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 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Insurance Law. (See Item, 4A of this report.)
- The Company violated Section 51.6(b)(9) of NYCRR 51 (Insurance Regulation 60) by failing to have the agent complete and submit a revised Disclosure Statement and an acknowledgement by the applicant of receipt of such Disclosure Statement, when the life insurance policy differed from the life insurance policy initially applied for. (See Item, 4A of this report.)

2. SCOPE OF EXAMINATION

The examination covers the four-year period from January 1, 2013, to December 31, 2016. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2013 but prior to the date of this report (i.e., the completion date of the examination).

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

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company on June 11, 1917, under the name The Morris Plan Insurance Society, and commenced business on September 18, 1917. The name was changed to Bankers Security Life Insurance Society (“Bankers”) in July 1946. In 1962, through an exchange of securities, Bankers merged with Postal Life Insurance Company of New York. In 1971, also by an exchange of securities, the Congressional Life Insurance Company merged into Bankers.

On January 17, 1995, ReliaStar Financial Corporation (“RFC”), the parent of ReliaStar Life Insurance Company (“RLIC”), acquired USLICO Corporation, the then ultimate parent of Bankers, through an exchange of stock. RFC became Bankers ultimate parent. As a condition to the approval of the acquisition by the Department, RLIC agreed to merge another one of its New York subsidiaries, North Atlantic Life Insurance Company of America, with and into Bankers. The merger became effective on December 28, 1995. On August 19, 1996, Bankers changed its name to ReliaStar Bankers Security Life Insurance Company.

On July 1, 1997, through an exchange of securities, Security-Connecticut Corporation (“SCC”) merged into RFC. SCC owned Security-Connecticut Life Insurance Company which, in turn, owned Lincoln Security Life Insurance Company (“Lincoln Security”), a domestic stock life insurer. On January 1, 1998, the Company merged into Lincoln Security and changed its name to its present name.

On September 1, 2000, ING AIH acquired RFC. On April 1, 2002, First Golden America Life Insurance Company, a then affiliate of the Company, merged into the Company, and on December 31, 2002, RFC merged into Lion Connecticut Holdings, Inc. (“Lion”), a Connecticut holding and management company which then became the parent of RLIC within ING AIH.

Following the global financial crisis in 2008, ING Groep N.V. (“ING”), the parent of ING AIH, requested state aid from the Dutch government in November 2008 and again in March 2009. On October 26, 2009, ING submitted a restructuring plan (the “2009 Restructuring Plan”) to the European Commission (the “EC”) to receive approval for the state aid granted to it by the Kingdom of the Netherlands (the “Netherlands”).

In November 2009, the 2009 Restructuring Plan received formal approval from the EC and the separation of insurance and banking operations and other components of the 2009 Restructuring Plan were approved by ING's shareholders. As a condition to receiving approval for this state aid, ING was required to divest its global insurance and investment management businesses, including the Company. Subsequent challenges to ING by the EC resulted in an amended restructuring plan (the "2012 Amended Restructuring Plan") that was agreed to on November 19, 2012. Pursuant to the 2012 Amended Restructuring Plan, ING was required to divest at least 25% of its U.S. insurance and investment businesses, including the Company, by December 31, 2013; more than 50% of its U.S. insurance and investment businesses, including the Company, by December 31, 2014; and 100% of its U.S. insurance and investment businesses, including the Company, by December 31, 2016.

On June 14, 2012, ING AIH was renamed ING U.S., Inc. and was still 100% owned by ING, a global financial services company based in the Netherlands. On May 7, 2013, and May 31, 2013, ING U.S., Inc. completed its initial public offering and the sale of its common stock to ING Insurance International B.V. ("ING International"), an indirect wholly owned subsidiary of ING, and the parent of ING U.S., Inc. On September 30, 2013, ING International transferred all its shares of ING U.S., Inc. common stock to ING. On October 29, 2013, ING completed the sale of common stock of ING U.S., Inc. in a registered public offering, reducing ING's ownership of ING U.S., Inc. to 57%.

On November 6, 2013, ING announced that the EC approved amendments to the 2012 amended restructuring plan (the "2013 Amended Restructuring Plan"). The 2013 Amended Restructuring Plan did not amend any commitment applicable or relevant to ING U.S., Inc. If ING does not divest the U.S. insurance and investment management businesses timely, or if ING failed to substantially comply with the 2012 Restructuring Plan, the Netherlands will re-notify the recapitalization measures to the EC. In such a case, the EC may require additional restructuring measures or take enforcement actions against ING, or at the request of ING and the Netherlands, allow ING more time to complete the divestment.

On March 25, 2014, ING completed another sale of common stock of ING U.S., Inc. in a registered public offering. Simultaneously, and pursuant to the terms of a share repurchase agreement between ING and ING U.S., Inc., ING U.S., Inc. repurchased 7,255,853 shares of ING U.S., Inc.'s common stock from ING (the "Direct Share Buyback"). Upon completion of

these transactions—the stock offering and the Direct Share Buyback—ING’s ownership of ING U.S., Inc. was reduced to 43%. The divestment of more than 50% of the U.S. insurance and investment management businesses, including the Company, is measured in terms of the divestment of over 50% of the shares of common stock of ING U.S., Inc.; the loss of the majority of ING’s members on ING U.S., Inc.’s board of directors; and the accounting deconsolidation of ING U.S., Inc., in line with the International Financial Reporting Standards.

Effective April 7, 2014, ING U.S., Inc. changed its name to Voya Financial, Inc. (“Voya”), and on September 1, 2014, Lion changed its name to Voya Holdings Inc. (“Voya Holdings”).

On September 8, 2014, November 18, 2014, and March 9, 2015, ING completed the sale of 22,277,993; 30,030,013, and 32,018,100 shares of Voya’s common stock, respectively, in registered public offerings. Upon completion of the March 9, 2015, transaction: (i) ING no longer owned shares of Voya’s common stock and was no longer an affiliate of, or the ultimate controlling entity of the Company; and (ii) Voya became the ultimate controlling entity of the Company.

On December 20, 2017, Voya entered into a master transaction agreement (the “MTA”) with VA Capital Company LLC (“VA Capital”), a newly formed Delaware limited liability company, and Athene Holding Ltd., a Bermuda limited company, pursuant to which Venerable Holdings, Inc., a wholly owned subsidiary of VA Capital, will acquire all shares of capital stock of Voya Insurance and Annuity Company (“VIAC”), an Iowa domiciled life insurer and an affiliate of the Company; and Directed Services LLC, a broker-dealer affiliate of the Company. In connection with the MTA, Venerable Holdings, Inc. and the other applicants have filed Form A with the Iowa Division of Insurance and is currently under review.

B. Territory and Plan of Operation

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

The Company is licensed to transact business in all states and the District of Columbia. In 2016, 69.8% of life premiums, 88.8% of annuity considerations, and 48.4% of accident and health premiums were received from New York.

The Company principally provides life insurance and related financial services products, including individual life, fixed annuities, group life, and group accident and health products. The Company's individual life insurance products include term, universal life and second-to-die universal life; fixed annuities include a deferred fixed annuity; group life insurance products include term life, whole life, and universal life products; and group accident and health insurance include medical stop loss, short-term disability income coverage, and specific disease insurance products. Effective December 31, 2016, the Company stopped offering individual term life insurance.

The Company's individual life insurance products are distributed through independent general agents and independent managing directors; fixed annuities are distributed through banks, broker-dealers, and independent producers, including national marketing organizations; and group life and accident and health insurance products are distributed through general agents, national and regional brokers, and benefit consultants, primarily to employers and their employees through payroll deduction.

4. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files including agent bulletins, solicitations and the replacements of insurance policies. No exceptions were noted with respect to the advertising files.

Section 51.6(b) of 11 NYCRR 51 (Insurance Regulation 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:

(4) examine the sales material, including any proposal, used in the sale of the 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 regulations . . .

(9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the information relating to the life insurance policy or annuity contract as issued, including but not limited to the revised “Disclosed Statement” any revised or additional sales material used and acknowledgement by the applicant of receipt of such revised material.”

Office of General Counsel opinion issued July 31, 2003, advises:

“Under the circumstances surrounding the sale of sophisticated products, where the fees and charges may be a significant factor in a determination by a client to purchase a product, and possibly replace another product; the illustration of applicable fees and charges could be an essential element in the Regulation 60 disclosure. In addition, the Securities & Exchange Commission commented, when this Department was revising Regulation 60 in 1997, that it regarded the illustration of applicable fees and charges desirable so that the insured could ascertain that the applicable fees and charges were not excessive. The Department is aware that the Disclosure Statements established by the Superintendent of Insurance, N.Y. Comp. R. & Regs. tit. 11, Appendices 10A and 10B, do not specifically provide space for information concerning any applicable charges and fees. The Disclosure Statements do, however, contain a space for remarks, which may be utilized by the agent to describe applicable charges and fees.”

The examiner reviewed a sample of 19 internal life replacements that comprised 1 universal life and 18 term life policies and noted the following:

In 11 out of 18 (61%) internal term and 1 of 1 (100%) internal universal life replacement transactions reviewed, the agent completed and submitted a revised Disclosure Statement where the premium amount differed from the premium amount presented when the life insurance replacement was initially submitted. In 6 out of 18 (33%) and 1 out of 1 (100%) replacements, the difference in premium resulted in an average decrease of approximately \$268.45, and in 5 out of 18 (28%) replacements, the difference in premium resulted in an average increase of approximately \$852.19. As a result of underwriting, the revised premium was reflected as a crossed-out item on the original Disclosure Statement which was initialed by the applicant but not dated. A revised Disclosure Statement should have been provided to the applicant for signature and date indicating that the applicant acknowledged and received the revised Disclosure Statement.

In 1 out of 18 (6%) internal term replacement transactions reviewed, it was stated in the Agent's Statement that the premiums on the proposed policy is lower than the premiums on the replaced policy. This statement is incorrect because the premium on the replacing policy was higher after underwriting; therefore, this inaccuracy can affect the applicant's decision in this replacement transaction.

The examiner reviewed a sample of 51 external life replacements that comprised of 8 universal life and 43 term life replacements and noted the following:

In 7 of 8 (88%) external universal life replacement transactions reviewed, the Company failed to disclose to the applicant that a 5% to 8% upfront premium charge would be imposed against the gross premiums remitted to the company.

In 1 out of 8 (12%) external universal life replacement transactions reviewed, the agent failed to state that there will be \$0 net death benefit available at age 65 under the guaranteed rate on the proposed policy; therefore, this omission in the comparison can affect the applicant's decision in this replacement transaction.

In 3 of 43 (7%) external term replacement transactions reviewed, it was stated in the Agent's or Broker Statement that the premiums on the replacing policy is lower than the premiums on the replaced policy. The statement is incorrect because the premium on the replacing policy was higher after underwriting; therefore, this inaccuracy can affect the applicant's decision in

replacing the policy. A revised Disclosure Statement should have been provided to the applicant for signature and date indicating that the applicant acknowledged and received the revised Disclosure Statement.

In 27 of 43 (63%) external term and 3 of 8 (13%) universal life replacement files reviewed, the agent completed and submitted a revised Disclosure Statement where the premium amount differed from the premium amount presented when the life insurance replacement was initially submitted. In 17 out of 43 (40 %) external term and 1 of 8 (13%) universal life replacements files reviewed, the difference in premium resulted in an average increase of approximately \$1,305.00. In 10 of 43 (23%) external term and 2 of 8 (25%) universal life replacement files reviewed, the difference in premium resulted in an average decrease of approximately \$272.02. As a result of underwriting, the revised premium was reflected as a crossed-out item on the original Disclosure Statement. A revised Disclosure Statement should have been provided to the applicant for signature and date indicating that the applicant acknowledged and received the revised Disclosure Statement.

The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of Regulation 60.

The Company violated Section 51.6(b)(9) of 11 NYCRR 51 (Insurance Regulation 60) by failing to have the agent complete and submit a revised Disclosure Statement and obtain a signed acknowledgement by the applicant of receipt of such revised Disclosure Statement, when the life insurance policy differed from the life insurance policy initially applied for.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Based on the sample reviewed, no significant underwriting or policy form 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.

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

5. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of Regulation 60.	10
B	The Company violated Section 51.6(b)(9) of 11 NYCRR 51 (Insurance Regulation 60) by failing to have the agent complete and submit a revised Disclosure Statement and obtain a signed acknowledgement by the applicant of receipt of such revised Disclosure Statement, when the life insurance policy differed from the life insurance policy initially applied for.	10

Respectfully submitted,

/s/

Denise Saunders
Senior Insurance Examiner

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

Denise Saunders, being duly sworn, deposes and says that the foregoing report, subscribed by her is true to the best of her knowledge and belief.

/s/

Denise Saunders

Subscribed and sworn to before me

this _____ day of _____

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

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

DENISE SAUNDERS

as a proper person to examine the affairs of the

RELIASTAR 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 10th day of October, 2017

MARIA T. VULLO
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

