



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

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

JUNE 4, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

MARKET CONDUCT REPORT ON EXAMINATION

OF

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

AS OF

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EXAMINER:

RORY CUMMINGS

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Linda A. Laceywell  
Superintendent

January 28, 2020

Honorable Linda A. Laceywell  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31629, dated May 3, 2017, and annexed hereto, an examination has been made into the condition and affairs of The Variable Annuity Life Insurance Company, hereinafter referred to as “the Company,” at its administrative office located at 80 Pine Street, New York, NY 10005.

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)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Insurance Law. (See item 4A-1 of this report.)
- The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed Disclosure Statement within ten days of receipt of the application. (See item 4A-1 of this report.)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2012, through December 31, 2016. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2016, 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.

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

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

### 3. DESCRIPTION OF COMPANY

#### A. History

The Company was organized as a stock life insurance company under the laws of the District of Columbia on December 21, 1955, as The Variable Annuity Life Insurance Company of America Incorporated, located in Washington, D.C. American General Corporation ("AGC") acquired a majority interest in the Company in 1967, and subsequently, the Company was re-organized in the State of Texas on August 21, 1968, as Variable Annuity Life Insurance Company of Texas ("VALICOT") and commenced business on May 1, 1969. On November 5, 1968, VALICOT changed its name to the Company's present name. The Company was admitted to New York State on December 31, 1971. The Company became a wholly-owned subsidiary of AGC in 1977.

On August 29, 2001, American International Group, Inc. ("AIG"), a Delaware corporation, acquired AGC, resulting in AIG becoming the Company's ultimate parent.

During 2009, as part of AIG's restructuring, the Company consolidated its domestic life and retirement service subsidiaries under the SunAmerica Financial Group and the SunAmerica Retirement Services, Inc. umbrellas. The AGC affiliates, including the Company, were realigned under SunAmerica Financial Group.

In December 2012, AIG reorganized its life insurance and retirement service divisions to implement a less complex and more efficient holding company structure, while continuing to market products and provide services under existing brands. The reorganization required several mergers involving AGC Life Insurance Company ("AGCL"), a number of AIG life insurance subsidiaries, and a number of other affiliates. The reorganization involved the following mergers and transactions, which were all completed on December 31, 2012:

- SunAmerica Investments, Inc. ("SAII") merged into SunAmerica Life Insurance Company ("SALIC"). The merger was approved by the Arizona Department of Insurance. SAII's wholly owned subsidiaries, SunAmerica Affordable Housing Partners, Inc. ("SAAHP Inc.") and AIG Advisor Group, Inc., became wholly owned subsidiaries of SALIC.
- SALIC contributed 100% of its ownership interest in SAAHP Inc. to SA Affordable Housing, LLC, making it a wholly owned subsidiary of the latter. AIG Life Holdings,

Inc. (formerly SunAmerica Financial Group, Inc.) contributed 100% of its ownership interests in SALIC and American General Assurance Company (“AGAC”) to AGCL, which were recognized by AGCL as capital contributions of \$3.1 billion and \$66.5 million, respectively, making SALIC and AGAC wholly owned subsidiaries of AGCL.

- American General Life Insurance (“AGL”) distributed 100% of its ownership interest in Variable Annuity Life Insurance Company (“VALIC”) to the AGCL, making VALIC a wholly owned subsidiary of AGCL. The distribution by AGL of its interest in VALIC and the receipt by AGCL of the interest in VALIC were approved by the Texas and Missouri Departments of Insurance.

Concurrent with the distribution of VALIC to AGCL, SunAmerica Annuity and Life Assurance Company merged into SALIC, with SALIC being the surviving entity. Immediately thereafter, SALIC, American General Life & Accident Insurance Company, American General Life Insurance Company of Delaware, AGAC and Western National Life Insurance Company merged into AGL, with AGL being the surviving entity.

As a result of the reorganization, all of AIG’s subsidiaries that provided life insurance and retirement service products were merged and reduced into the following three U.S. life insurance companies for which AGCL is now the direct parent: AGL, United States Life Insurance Company and the Company.

#### B. Territory and Plan of Operation

The Company is authorized to write life insurance and annuities as defined in paragraphs 1 and 2 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. The Company’s main product lines are individual, deferred, fixed and variable annuities, and group fixed annuities. In 2016, 4.06% of annuity considerations were received from New York. Policies are written on non-participating basis.

The Company’s agency operations are conducted on a branch office basis.

#### 4. MARKET CONDUCT ACTIVITIES

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

##### A. Advertising and Sales Activities

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

Section 51.6 of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) states, in part:

“. . . (b) 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;

(4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed 'Disclosure Statement;' . . .

(6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the '*IMPORTANT* Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts;' the signed and completed 'Disclosure Statement;' and the notification of replacement to the insurer whose life insurance policy or annuity contract is to be replaced indexed by agent and broker, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later; . . .

(d) Any insurer that issues a replacement life insurance policy or annuity contract shall provide to the policy or contract owner the right to return the policy or contract within sixty days from the date of delivery of such policy or contract and receive an unconditional full refund of all premiums or considerations paid on it, or in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender benefits provided under the policy or contract, plus the amount of all fees and other charges deducted from gross considerations or imposed under the policy or contract. . . .”

Section 243.2(b) of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain:

(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer. Policy records need not be segregated from the policy records of other states as long as they are maintained in accordance with the provisions of this Part A separate copy need not be maintained in an individual policy record, provided that any data relating to a specific contract or policy can be retrieved pursuant to Section 243.3(a) of this Part. A policy record shall include: . . .

(iv) Other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy.”

The Office of General Counsel (“OGC”) opinion, issued July 31, 2003, states, in part:

“. . . 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. . . .”

(1) The examiner reviewed 45 external annuity replacements and 10 internal annuity replacements. The external annuity replacements were comprised of 30 individual annuity replacement and 15 group annuity replacements.

- i. In 8 out of 30 (27%) individual external annuity replacements, in 2 out of 15 (13%) group external annuity replacements and in 7 out of 10 (70%) internal annuity replacements reviewed, where the Optional Guaranteed Minimum Withdrawal Benefit Endorsement was elected, the agent failed to disclose the rider fees or charges in the remarks section of the disclosure statement in adherence to the OGC

opinion, issued July 31, 2013. The Company failed to examine and ascertain that the disclosure statement was accurate.

- ii. In all 30 (100%) individual external annuity replacements, all 15 (100%) group external annuity replacements and all 10 (100%) internal annuity replacements reviewed, the Company did not indicate “N/A” or “Not Applicable” for the Surrender Charge, Market Value Adjustment, and Surrender Value for the proposed contract in the Description of Transaction section of the Disclosure Statement as instructed by Regulation 60. In addition, the Company did not complete the “As of Date” section of the Disclosure Statement. The Company failed to examine and ascertain that the disclosure statement was accurate.
- iii. In all 30 (100%) individual external annuity replacements and all 15 (100%) group external annuity replacements reviewed, the Company failed to furnish the insurer whose coverage is being replaced with a copy of any proposal including the sales material used in the sale of the proposed annuity contract and the completed Disclosure Statement as required by Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) within ten days of receipt of the application. The system notes provided by the Company did not clearly document that the Company furnished a copy of any proposal, including the sales material used and the completed Disclosure Statement within the required time frame.
- iv. In 4 out of 15 (27%) group external annuity replacements reviewed, the Company was unable to provide copies of the notification of replacement to the insurer whose annuity contract is to be replaced. In 1 out of 15 (7%) group external annuity replacements reviewed, the Company was unable to provide a copy of the Important Notice Regarding Replacement.

The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to examine and ascertain that the Disclosure Statement was accurate, complete and met the requirements of the Insurance Law. A similar violation was included in the prior market conduct report on examination.

The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to furnish the insurer whose coverage is being replaced with a copy of any proposal, including the sales material used in the sale of the proposed life insurance

policy or annuity contract and the completed Disclosure Statement within ten days of receipt of the application. A similar violation was included in the prior market conduct report on examination.

The Company violated Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to maintain copies of the notification of replacement to the insurer whose annuity contract is to be replaced and a copy of the Important Notice Regarding Replacement.

(2) In all 30 (100%) individual external annuity replacements, all 15 (100%) group external annuity replacements and all 10 (100%) internal annuity replacement contracts reviewed, the contract issued included a notice of “20-Day Right to Examine Contract” which advises contract holders of their right to cancel the contract for a full refund of premium within 20 days of receiving the contract. The contract contradicts the 60-day free look provision required by Section 51.6(d) of 11 NYCRR 51 (Insurance Regulation 60) for policies issued through replacement

The examiner recommends that the Company file an endorsement with the Department that reflects the 60-day free look provision required by Section 51.6(d) of Regulation 60 and attach the endorsement when issuing a policy through replacement.

(3) In 2 out of 30 (7%) individual external annuity replacements reviewed, the Company failed to maintain the suitability information required for the underwriting of the contract.

The Company violated Section 243.2(b)(1)(iv) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the suitability information required for the underwriting of individual external annuity replacements.

Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) states, in part:

“In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States. An advertisement shall prominently describe the type of policy advertised. If a specific policy or policy series is being advertised, the form or series number or other appropriate description shall be shown. . . .”

Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) states:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter

disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons. That portion of the advertising file which has been covered by a filed report on examination may be eliminated.”

(4) The examiner reviewed a sample of 45 advertising files and noted that for 23 out of 45 (51%) advertisements reviewed, the name of the city of the Company’s home office were not included. In addition, the examiner noted that in 22 out of 45 (49%) advertising materials reviewed, the policy form number stated on the advertisements was incomplete. The advertisements indicate that flexible investment options would be either the mutual funds or the fixed-interest option. Further, the advertisements state that the policy number associated with the fixed-interest option is policy form number GFUA-398, a group fixed unallocated annuity. The Company’s advertisements did not refer to the complete policy form number or series of the policies advertised as the New York form extension was missing.

(5) In 39 out of 45 (87%) advertisement files reviewed, the Company did not include a notation that indicates the total number of advertisements produced and disseminated or used in New York during the examination period.

The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to indicate on its advertisements the complete form number or series of the policies advertised and by failing to include the name of the city of its home office on such advertisements.

The Company violated Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to indicate the manner and extent of distribution of each advertisement disseminated or used in New York during the examination period.

## 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. Additionally, the examiner reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

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

“All applications for commercial insurance, 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.’”

Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) states:

“Location of warning statements and type size. The warning statements required by subdivisions (a), (b) and (e) of this section shall be placed immediately above the space provided for the signature of the person executing the application or claim form and shall be printed in type which will produce a warning statement of conspicuous size. On claim forms which require execution by a person other than the claimant, or in addition to the claimant, the warning statements required by subdivisions (a), (b) and (e) of this section shall be placed at the top of the first page of the claim form or in the page containing instructions, either in print, by stamp or by attachment and shall be in type size which will produce a warning statement of conspicuous size.”

(1) The examiner reviewed 33 individual variable annuity claims and 30 group annuity claims. In 19 out of 33 (58%) individual variable annuity claims and 13 out of 25 (52%) group annuity claims processed by the Company, the claim form utilized did not include the fraud warning statement required by 11 NYCRR 86 (Insurance Regulation 95). However, the Company used a substantially different fraud warning statement. The examiner also noted that in 14 out of 33 (42%) individual variable annuity claims and 11 out of 25 (48%) group annuity claims processed by the Company, the fraud warning statement was not placed immediately above the space provided for the signature of the person executing the claim.

The Company violated Section 403(d) of New York Insurance Law by using a fraud warning statement that substantially differed from the statutorily required fraud warning statement without obtaining prior approval.

The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by failing to place the fraud warning statement immediately above the space for the signature of the person executing the claim.

Section 216.5(a)(1) of 11 NYCRR 216 (Insurance Regulation 64) states:

“Every insurer shall commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within 15 business days of receiving notice of claim. An insurer shall furnish to every claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim. A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, such agent notifies the person filing the claim that the agent is not authorized to receive notices of claim.”

Section 216.6 of 11 NYCRR 216 (Insurance Regulation 64) states, in part:

“(a) In any case where there is no dispute as to coverage, it shall be the duty of every insurer to offer claimants, or their authorized representatives, amounts which are fair and reasonable as shown by its investigation of the claim, providing the amounts so offered are within policy limits and in accordance with the policy provisions. . . .

(c) Within 15 business days after receipt by the insurer of a properly executed proof of loss and receipt of all items, statements and forms which the insurer requested from the claimant, or the claimant's authorized representative, shall be advised in writing of the acceptance or rejection of the claim by the insurer. . . .”

(2) The examiner reviewed 33 individual annuity claims and 30 group annuity claims. In 3 out of 33 (9.0%) individual annuity claims and 2 out of 30 (6.7%) group annuity claims processed, the Company failed to provide the claimant with notification of all items, statements and forms, which the insurer reasonably believes will be required of the claimant, within 15 business days of receipt of the claim notice.

The examiner reviewed 33 individual annuity claims and 30 group annuity claims. In 1 out of 33 (3.0%) individual annuity claims and 1 out of 30 (3.3%) group annuity claims processed, the Company failed to advise the claimant in writing within 15 days of the receipt of a properly

executed proof of loss and the receipt of all items, statements and forms, of the acceptance or rejection of the claim.

The Company violated Section 216.5(a)(1) of 11 NYCRR 216 (Insurance Regulation 64) by failing to furnish to the claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim.

The Company violated Section 216.6(c) of 11 NYCRR 216 (Insurance Regulation 64) by failing to advise the claimant or claimant's authorized representative in writing, within 15 days of the receipt of a properly executed proof of loss and the receipt of all required items, statements and forms, of the acceptance or rejection of the claim.

Section 243.2(b) of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain:

(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer. Policy records need not be segregated from the policy records of other states as long as they are maintained in accordance with the provisions of this Part A separate copy need not be maintained in an individual policy record, provided that any data relating to a specific contract or policy can be retrieved pursuant to Section 243.3(a) of this Part. A policy record shall include: . . .

(ii) The application, including any application form or enrollment form for coverage under any insurance contract or policy; . . .

(iii) The contract or policy forms issued including the declaration pages, endorsements, riders, and termination notices of the contract or policy. Binders shall be retained if a contract or policy was not issued;

(iv) Other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy.”(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.

(3) The examiner reviewed a sample of 46 fixed annuity underwriting files. In 13 out of 46 (80%) fixed annuity files reviewed, it was determined that 1 contract was a “not taken” contract and 12 were beneficiary accounts. The Company failed to provide a copy of the application for the not taken contract. The Company failed to provide a copy of the policy contract for the 12 beneficiary accounts.

The Company violated Section 243.2(b)(1)(iii) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a copy of the application for a not taken contract and the Company violated Section 243.2(b)(8) of Insurance Regulation 152 by failing to maintain the contract for 12 beneficiary accounts, for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record or the file was subject to review, whichever is longer.

## 5. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company maintain its replacement documentation so that those files subject to Department Regulation 60 are clearly identified.</p> <p>The current examination revealed that the Company replacement documentation is clearly identifiable.</p>
B	<p>The Company violated Insurance Regulation 60, 11 NYCRR Section 51.6(b)(2) by failing to require with or as part of each application the Important Notice, the sales material used and the completed Disclosure Statement.</p> <p>The current examination revealed that the Company requires as part of each application the important notice, the sales material used and the completed disclosure statement.</p>
C	<p>The Company violated Insurance Regulation 60, 11 NYCRR Section 51.6(b)(3) failing to examine the “Disclosure Statement” and ascertain that it is accurate and meets the requirements of the Insurance Law and this Part.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See item 4A-1 of this report.)</p>
D	<p>The Company violated Insurance Regulation 60, 11 NYCRR Section 51.6(b)(4) by failing to furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed annuity</p>

<u>Item</u>	<u>Description</u>
	contract, and the completed "Disclosure Statement" within ten days of receipt of the application.
	The Company failed to take corrective action in response to this prior report violation. (See item 4A-1 of this report.)
E	The Company violated Insurance Regulation 152, 11 NYCRR Section 243.2(b) by failing to maintain a copy of the authorization letter signed by the applicant.
	The current examination revealed that the Company maintains the authorization letters signed by the applicant.
F	The Company violated Section 3201 of the New York Insurance Law by utilizing policy forms that were not approved by the Department and by using forms for which the approval had been withdrawn by the Department.
	The current examination did not reveal any instances where unapproved or withdrawn policy forms were utilized by the Company.

## 6. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Insurance Law.	8
B	The Company violated Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed Disclosure Statement within ten days of receipt of the application.	8
C	The Company violated Section 51.6(b)(6) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) by failing to maintain copies of the notification of replacement to the insurer whose annuity contract is to be replaced and a copy of the Important Notice Regarding Replacement.	9
D	The examiner recommends that the Company file an endorsement with the Department that reflects the 60-day "Free Look" provision required by Section 51.6(d) of Insurance Regulation 60 and attach the endorsement when issuing a policy through replacement. -	9
E	The Company violated Section 243.2(b)(1)(iv) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain suitability information required for the underwriting of individual external annuity replacements.	9
F	The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to indicate on its advertisements the complete form number or series of the policies advertised and by failing to include the name of the city of its home office on such advertisements.	10
G	The Company violated Section 219.5(a) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to indicate the manner and extent of distribution of each advertisement disseminated or used in New York during the examination period.	10
H	The Company violated Section 403(d) of New York Insurance Law by using a fraud warning statement that substantially differed from the	12

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
	statutorily required fraud warning statement without obtaining prior approval.	
I	The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by failing to place the fraud warning statement immediately above the space for the signature of the person executing the claim.	12
J	The Company violated Section 216.5(a)(1) of 11 NYCRR 216 (Insurance Regulation 64) by failing to furnish to the claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim.	13
K	The Company violated Section 216.6(c) of 11 NYCRR 216 (Insurance Regulation 64) by failing to advise the claimant or claimant's authorized representative in writing, within 15 days of the receipt of a properly executed proof of loss and the receipt of all required items, statements and forms, of the acceptance or rejection of the claim.	13
L	The Company violated Section 243.2(b)(1)(iii) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a copy of the application for a not taken contract and the Company violated Section 243.2(b)(8) of Insurance Regulation 152 by failing to maintain the contract for 12 beneficiary accounts, for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record or the file was subject to review, whichever is longer.	13

Respectfully submitted,

\_\_\_\_\_/s/  
Rory Cummings  
Associate Insurance Examiner

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

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

\_\_\_\_\_/s/  
Rory Cummings

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

*APPOINTMENT NO. 31629*

*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:*

***RORY CUMMINGS***

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

***VARIABLE ANNUITY LIFE INSURANCE COMPANY***

*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 3rd day of May, 2017*

*MARIA T. VULLO  
Superintendent of Financial Services*

*By:*

*Mark McLeod*

*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

