



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

CONDITION:

MARCH 31, 2017

DATE OF REPORT:

FEBRUARY 2, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON MARKET CONDUCT EXAMINATION

OF THE

ATHENE LIFE INSURANCE COMPANY OF NEW YORK

AS OF

MARCH 31, 2017

DATE OF REPORT:

FEBRUARY 2, 2018

EXAMINER:

JACQUELINE TUCKER

## TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	4
3. Description of Company	5
A. History	5
B. Territory and plan of operation	6
4. Market conduct activities	7
A. Advertising and sales activities	7
B. Underwriting and policy forms	7
C. Treatment of policyholders	9
5. Prior report summary and conclusions	15
6. Summary and conclusions	18



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

---

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

February 2, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31625, dated April 28, 2017, and annexed hereto, an examination has been made into the affairs of Athene Life Insurance Company of New York, hereinafter referred to as “the Company,” at its administrative office located at 7700 Mills Civic Parkway, West Des Moines, IA, 50266. The Company’s home office is located at One Blue Hill Plaza, Pearl River, NY 10960.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

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

## 1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to advise applicants in writing that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid. (See item 4B of this report)
- The Company violated Section 3211(b) of the New York Insurance Law by failing to mail premium due notices to policyholders at their last known address. (See item 4C of this report)
- The Company violated Section 3211(g) of the New York Insurance Law by failing to provide annual reports or cash surrender value notices to policyholders. (See item 4C of this report)
- The Company violated Section 4221(a)(7) of the New York Insurance Law and Insurance Regulation No. 74, 11 NYCRR Section 53-3.6(a) by failing to provide a statement at least annually to each holder of a policy marketed with an illustration under which additional amounts are credited. (See item 4C of this report)
- The Company violated Regulation No. 169, 11 NYCRR Section 420.5(a)(1) by failing to provide annual privacy notices to policyholders during the examination period. (See item 4C of this report)
- The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(c)(2) by failing to provide the replacing insurer with the existing policy or contract information necessary to complete the Regulation 60 “Disclosure Statement” within 20 days of receipt of the request. (See item 4A of this report)
- The Company violated Section 3234(b)(7) of the New York Insurance Law by failing to include in its Explanation of Benefits a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy and a notification that failure to comply with the requirements for appealing denied benefits

may lead to forfeiture of a consumer's right to challenge a denial or rejection even when a request for clarification has been made. (See item 4C of this report)

## 2. SCOPE OF EXAMINATION

The prior market conduct examination was conducted as of December 31, 2011. This examination covers the period from January 1, 2012, through March 31, 2017. As necessary, the examiner reviewed matters occurring subsequent to March 31, 2017, but prior to the date of this report (i.e., the completion date of the examination).

This examination was targeted because of several life insurance policyholder service related complaints received by the Department. The policyholder complaints included one or more of the following: (1) non-receipt of premium bills and annual reports; (2) failure to notify policyholders that their policies have been placed on restricted status; (3) the length of time that the Company placed policies on restricted status; (4) reference to the wrong company in correspondences sent to policyholders; or (5) delays in receipt of documents for policy replacements.

The examination comprised a review of market conduct activities and utilized the *National Association of Insurance Commissioners' Examiners 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 incorporated as a stock life insurance company under the laws of New York on April 17, 1958, and was licensed and commenced business on November 25, 1958, under the name Gotham Life Insurance Company of New York.

In 1979, the Company changed its name to Bankers Life and Casualty Company of New York. In March 1994, the Company changed its name to Bankers Life Insurance Company of New York. In July 1995, Indianapolis Life Insurance Company (“ILICO”) purchased the Company from Southwestern Life Insurance Company. In 1998, the Company became a subsidiary of the Indianapolis Life Group of Companies (“IL Group”), which was the downstream holding company of ILICO. On May 18, 2001, ILICO became a wholly owned subsidiary of AmerUs Group Co. (“AGC”). On March 5, 2002, the IL Group was dissolved and all the Company’s shares reverted to ILICO, which became the Company’s immediate parent and AGC became the Company’s ultimate parent. On November 15, 2006, AGC merged with Libra Acquisition Corporation, an Iowa corporation and an indirect wholly owned subsidiary of Aviva plc, a public limited company incorporated under the laws of England and Wales. AGC continued after the merger as the surviving corporation and an indirect wholly owned subsidiary of Aviva plc.

On December 31, 2007, ILICO acquired Aviva Life Insurance Company of New York (“ALICNY”), a New York domestic life insurance company. Immediately following the acquisition, ALICNY was merged with and into the Company, with Bankers Life Insurance Company of New York (“BLNY”) being the surviving entity. Simultaneously with the merger, BLNY was renamed Aviva Life and Annuity Company of New York.

Effective January 1, 2008, AGC merged with Aviva USA Corporation, a non-life insurance company incorporated in the State of Delaware. AGC, incorporated in the State of Iowa, continued as the surviving company and simultaneously changed its name to Aviva USA. Effective September 30, 2008, Aviva Life Insurance Company (“ALIC”), a Delaware domiciled insurance company in the Aviva holding company system, and ILICO, the Company’s immediate parent, were merged with and into Aviva Life & Annuity Company (“ALAC”), an Iowa domiciled insurer. ALAC became the Company’s immediate parent.



On October 2, 2013, the Company ceded through a series of reinsurance agreements all its life insurance business, excluding the block of business written by John Alden of New York, to First Allmerica Financial Life Insurance Company (“FAFLIC”). The Company also entered into transition services and administrative agreements with FAFLIC in connection with these reinsurance agreements.

On October 2, 2013, the Department approved the acquisition of the Company by Apollo Global Management, LLC (“AGM”). Simultaneous with the acquisition, ALAC, the Company’s immediate parent, became the parent of Athene Life & Annuity Assurance Company of New York (“AANY”), an indirect subsidiary of AGM. ALAC then sold 100% of the Company’s issued and outstanding capital stock to AANY in exchange for cash in the amount of \$48.2 million. On March 3, 2014, the Company changed its name to Athene Life Insurance Company of New York.

#### 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 17 states. As of March 31, 2017, 83% of life premiums and 99% of annuity considerations were received from New York. Policies are written on a non-participating basis.

The Company’s principal products sold during the examination period were term life, whole life, universal life and indexed universal life. In October 2, 2013, the Company ceased selling all products. The Company’s primary distribution channel was through brokerage general agents, who were appointed and contracted with the Company, but were otherwise non-affiliated.

#### 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 the Company's 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(c) states, in part:

“Where a replacement has occurred or is likely to occur, the insurer that issued the life insurance policy or annuity contract that is to be replaced shall: . . .

(2) Within 20 days of receipt of a request from a licensee of the department, for information necessary for completion of the “Disclosure Statement” with respect to the life insurance policy or annuity contract proposed to be replaced, together with proper authorization from the applicant, furnish the required information simultaneously to . . . the agent or broker and insurer replacing the life insurance policy or annuity contract.”

In 109 outgoing replacements reviewed, the Company failed to provide the replacing insurers with the existing policy or contract information necessary to complete the “Disclosure Statement” within 20 days of receipt of the request.

The Company violated Insurance Regulation No. 60, 11 NYCRR Section 51.6(c)(2) by failing to provide the replacing insurer with the existing policy or contract information necessary to complete the Regulation 60 “Disclosure Statement” within 20 days of receipt of the request.

##### B. Underwriting and Policy Forms

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

Section 3209(d) of the New York Insurance Law states, in part:

“The preliminary information shall be in writing and include, to the extent applicable, the following: . . .

(7) in addition, the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums

and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid . . .”

Insurance Regulation No. 152, 11 NYCRR Section 243.2(b) 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.

. . . A policy record shall include: . . .

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

The examiner requested a sample of eight term life application files for policies issued during the examination period. In four of the eight (50%) term life application files requested, the Company was unable to locate the preliminary information that was provided to the applicants. In all four application files provided by the Company, the preliminary information did not advise the applicants that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.

The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to advise applicants in writing that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.

The Company violated Insurance Regulation No. 152, 11 NYCRR Section 243.2(b)(1) by failing to maintain a copy of the preliminary information provided to prospective applicants on or before the date that the application was taken.

### 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.

Insurance Regulation No. 64, 11 NYCRR Section 216.4(b) states:

“An appropriate reply shall be made within 15 business days on all other pertinent communications.”

The examiner reviewed a sample of 49 policyholder complaint files during the examination period. In six of the 49 (12%) complaint files reviewed, the Company did not respond within 15 days of the receipt of the complaint from its policyholders.

The Company violated Insurance Regulation No. 64, 11 NYCRR Section 216.4(b) by failing to make an appropriate reply within 15 business days of the receipt of all other pertinent communications.

Insurance Regulation No. 64, 11 NYCRR Section 216.4(e) states:

“As part of its complaint handling function, an insurer's consumer services department shall maintain an ongoing central log to register and monitor all complaint activity.”

A review of the Company's complaint log revealed that it did not log two consumer complaints that it received from the Department's Consumer Assistance Unit during the examination period. The examiner also noted one or more of the following concerning 14 complaints recorded on the Company's complaint log: (1) the complaint was logged under the incorrect company code; (2) the case number for the complaint was recorded incorrectly; or (3) Department's case file number was missing from the entry. The Company has updated its complaint log to reflect the correct information.

The Company violated Insurance Regulation No. 64, 11 NYCRR Section 216.4(e) by not maintaining a complaint log that registers and monitors all the Company's complaint activity.

The examiner also recommends that the Company strengthens its complaint handling procedures to ensure all future complaints are recorded correctly on its complaint log.

## 1. Reinsurance Ceded

On October 2, 2013, the Company ceded through a series of reinsurance agreements all its life insurance business, excluding the block of business written by John Alden of New York, to First Allmerica Financial Life Insurance Company (“FAFLIC”). One of the reinsurance agreements was a coinsurance and assumption reinsurance agreement (“Assumption Agreement”). The Company also entered into administrative service agreements with FAFLIC relating to these reinsurance agreements.

The Assumption Agreement allowed FAFLIC to pursue novation of the reinsured policies once it had the requisite system in place to convert the Company’s policies to FAFLIC’s administrative system. The administrative agreement required FAFLIC to service and administer all policies, regardless of when or whether they were novated.

FAFLIC contracted with a subsidiary of Computer Sciences Corporation, now DXC Technology (“DXC”), to perform the data conversion and administration for the reinsured life insurance policies. On August 1, 2015, DXC began the data conversion from the Company’s administrative system to a new administrative system. As part of the data conversion, FAFLIC, on behalf of the Company, sent notices to policyholders to inform them that FAFLIC would be responsible for servicing their policies. However, FAFLIC and the Company encountered the following problems relating to the novation of the contracts and the data conversion which were not disclosed to the policyholders or the Department:

### A. Option Letters

FAFLIC, on behalf of the Company mailed approximately 70,000 letters explaining the policyholders’ option to novate (the “option letters”) to New York policyholders in three batches in March, April, and May of 2015. Two of the three batches had to be re-mailed because of the following issues:

- In March 2015, FAFLIC, on behalf of the Company, mailed an unapproved version of the option letters to 17,500 policyholders. FAFLIC, on behalf of the Company, re-sent the approved option letters to policyholders in April 2015.
- In May 2015, FAFLIC, on behalf of the Company, sent another batch of option letters to 35,000 policyholders. As a result, the Department received several complaints from policyholders that the option letters did not include the required Exhibits and the Department’s telephone number on the option letters was incorrect. Thus, the novation

of the reinsured policies was initially not properly effectuated in accordance with the Assumption Agreement. In June 2015, FAFLIC, on behalf of the Company, revised the option letters and mailed them to policyholders.

#### B. Restricted Policies

During the data conversion process, certain policies were supposed to be placed on a “restricted” status to verify that the data for each policy was being converted correctly to the new administrative system. Instead, due to problems with the conversion process FAFLIC, on behalf of the Company, placed the majority of New York policies on restricted status and was unable to move them off of restricted status for an extended period of time. Beginning in 2015, FAFLIC and the Company began holding regular updates with the Department related to the conversion process and policyholder service issues. During this time FAFLIC and the Company continued to pay claims and surrenders. FAFLIC performed limited policy transactions during the time the policies were on “restricted” status, including premium billing and automated preparation of the annual statements. Only in instances where policyholder requested information, such as replacements, annual reports and illustrations, were such transactions processed manually. As of December 2017, the Company still had 1,610 policies on “restricted” status out of a total of 72,890 New York policies.

The Department received several policyholder service-related complaints during the data conversion process, including one or more of the following: (1) non-receipt of premium bills and annual reports; (2) failure to notify policyholders that their policies were on restricted status; (3) the length of time that the Company placed policies on restricted status; (4) reference to the wrong company in correspondences sent to policyholders; or (5) delays in receipt of documents for policy replacements.

The Company failed to comply with various sections of the New York Insurance Laws and Insurance Regulations because of the issues noted above.

Section 3211(b) of the New York Insurance Law states:

“The notice required by paragraph one of subsection (a) hereof shall:

(1) be duly mailed to the last known address of the policyowner, or if any other person shall have been designated in writing to receive such notice, then to such other person;

(2) state the amount of such payment, the date when due, the place where and the person to whom it is payable; and shall also state that unless such payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.”

The Company failed to mail premium due notices to policyholders at their last known address during the examination period.

The Company violated Section 3211(b) of the New York Insurance Law by failing to mail premium due notices to policyholders at their last known address.

Section 3211(g) of the New York Insurance Law states, in part:

“In the case of life insurance policies to which this section is applicable and which contain a cash surrender value, the insurer must provide an annual notification that the policy contains a cash surrender value and that further information, including the amount thereof, is available from the insurer upon written request from the policyowner. . . .”

The Company failed to provide annual reports or cash surrender value notices to policyholders during the examination period.

The Company violated Section 3211(g) of the New York Insurance Law by failing to provide annual reports or cash surrender value notices to policyholders.

Section 4221(a) of the New York Insurance Law states, in part:

“In the case of policies issued on or after the operative date of this section as defined in subsection (p) hereof, no policy of life insurance, except as stated in subsection (o) hereof, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions . . .

(7) That the company . . . shall mail to each such holder at least once each policy year or within sixty days after the end of a policy year a statement as of a date during such year as to the death benefit, cash surrender value and loan value under the policy (and any amount by which such cash surrender value and loan value were adjusted in accordance with a market-value adjustment formula) on such date as well as such further information as the superintendent requires. The statement shall be addressed to the last post-office address of the policyholder known to the company.”

Insurance Regulation No. 74, 11 NYCRR Section 53-3.6(a) states, in part:

“In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policyowner with an annual report on the status of the policy. . . .”

The Company failed to provide annual statements to policyholders during the examination period.

The Company violated Section 4221(a)(7) of the New York Insurance Law and Insurance Regulation No. 74, 11 NYCRR Section 53-3.6(a) by failing to provide a statement at least annually to each holder of a policy marketed with an illustration under which additional amounts are credited. The examiner noted 26,405 cases where the Company failed to provide a statement to the policyholder.

Insurance Regulation No. 169, 11 NYCRR Section 420.5(a)(1) states, in part:

“ . . . A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12-consecutive-month period, but the licensee must apply it to the customer on a consistent basis.”

The Company failed to provide annual privacy notices to policyholders during the examination period.

The Company violated Insurance Regulation No. 169, 11 NYCRR Section 420.5(a)(1) by failing to provide annual privacy notices to policyholders during the examination period.

Section 3234 of the New York Insurance Law states, in part:

“(a) Every insurer . . . is required to provide the insured or subscriber with an explanation of benefits form in response to the filing of any claim under a policy or certificate providing coverage for hospital or medical expenses, including policies and certificates providing nursing home expenses or home care expense benefits.

(b) The explanation of benefits form must include at least the following: . . .

(7) a telephone number or address where an insured or subscriber may obtain clarification of the explanation of benefits, as well as a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made. . . .”



The examiner's review of a sample of 20 long-term care Explanation of Benefits ("EOB") forms revealed that all of the forms reviewed did not include a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy, and a notification that failure to comply with the requirements for appealing denied benefits may lead to forfeiture of a consumer's right to challenge a denial or rejection even when a request for clarification has been made.

The Company violated Section 3234(b)(7) of the New York Insurance Law by failing to include in its EOB a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy and a notification that failure to comply with the requirements for appealing denied benefits may lead to forfeiture of a consumer's right to challenge a denial or rejection even when a request for clarification has been made.

Insurance Regulation No. 95, 11NYCRR Section 86.4(d) 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."

A review of a sample 20 claim forms revealed that all claim forms utilized by the Company in adjudicating its long-term care claims did not have the fraud warning statement placed immediately above the space provided for the signature of the person executing the application or claim form.

The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim form. This violation appeared in the prior report on examination.

## 5. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish the insurer whose coverage was 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.</p> <p>The Company stopped accepting new applications for life insurance and annuity business in 2014 and 2010, respectively. During the prior examination period, the Company re-evaluated its procedures for processing New York life replacements to improve the process. The examiner did not note any repeat violations in the sample reviewed.</p>
F	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to have deficiencies corrected or reject the application when the required forms were not received or the forms did not meet the requirements of Department Regulation No. 60.</p> <p>The examiner did not note any repeat violations in the sample reviewed.</p>
G	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law by using a policy form which was not filed with and approved by the superintendent.</p> <p>The Company instructed its affiliates to cease using the unapproved form. The examiner's review did not reveal any instances where an unapproved policy form was used.</p>
H	<p>The Company violated Section 2611(a) of the New York Insurance Law by failing to obtain written informed consent prior to subjecting applicants to HIV related testing.</p> <p>The examiner did not note any repeat violations in the sample reviewed.</p>

<u>Item</u>	<u>Description</u>
I	<p>The Company violated Section 53-3.5(a) of Department Regulation No. 74 by failing to have a copy of the illustration used in the sale of the policy signed by the applicant at the time of application.</p> <p>The examiner did not note any repeat violations in the sample reviewed.</p>
J	<p>The Company violated Section 3209(b)(1) of the New York Insurance Law and Sections 53-2.1(c) and 53-2.6(a) of Department Regulation No. 74 by failing to provide prospective applicants with a copy of the preliminary information at or prior to the time an application is taken or by failing to have the preliminary information signed and dated by the agent and the applicant at or prior to the time an application is taken.</p> <p>The examiner did not note any repeat violations in the sample reviewed.</p>
K	<p>The examiner recommended that the Company implement a procedure to ensure that the preliminary information is signed and dated by the agent and the applicant at or prior to the time an application is taken.</p> <p>The Company changed its procedures to ensure that the preliminary information is signed and dated by the agent and the applicant at or prior to the time an application is taken.</p>
L	<p>The examiner recommended that the Company enhance their procedures to ensure that the Buyer's Guide is provided at the time of application and be able to demonstrate this to the Department in the future.</p> <p>The Company changed its procedures to ensure that the Buyer's Guide is provided at the time of application.</p>
M	<p>The Company violated Section 86.4(d) of Department Regulation No. 95 by not placing the fraud warning statement immediately above the space provided for the signature of the person executing the claim.</p> <p>The examiner's review revealed that the long-term care claim forms did not have the fraud warning statement placed immediately above the space provided for the signature of the person executing the application or claim form. (See item 4C of this report)</p>

<u>Item</u>	<u>Description</u>
N	The Company violated Section 216.6(g) of Department Regulation No. 64, by including the language, "IN FULL SETTLEMENT OF ACCOUNT PER STATEMENT" on benefit checks, which implies that acceptance of the check constitutes final settlement or release of any future obligations arising out of the loss.

The examiner did not note any repeat violations in the sample reviewed.

## 6. 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 Section 51.6(c)(2) by failing to provide the replacing insurer with the existing policy or contract information necessary to complete the Regulation 60 “Disclosure Statement” within 20 days of receipt of the request.	7
B	The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to advise applicants in writing that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.	8
C	The Company violated Insurance Regulation No. 152, 11 NYCRR Section 243.2(b)(1) by failing to maintain a copy of the preliminary information provided to prospective applicants on or before the date that the application was taken.	8
D	The Company violated Insurance Regulation No. 64, 11 NYCRR Section 216.4(b) by failing to make an appropriate reply within 15 business days of the receipt of all other pertinent communications.	9
E	The Company violated Insurance Regulation No. 64, 11 NYCRR Section 216.4(e) by not maintaining a complaint log that registers and monitors all the Company’s complaint activity.	9
F	The examiner recommends that the Company strengthens its complaint handling procedures to ensure all future complaints are recorded correctly on its complaint log.	9
G	The Company violated Section 3211(b) of the New York Insurance Law by failing to mail premium due notices to policyholders at their last known address.	11
H	The Company violated Section 3211(g) of the New York Insurance Law by failing to provide annual reports or cash surrender value notices to policyholders.	12

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
I	The Company violated Section 4221(a)(7) of the New York Insurance Law and Insurance Regulation No. 74, 11 NYCRR Section 53-3.6(a) by failing to provide a statement at least annually to each holder of a policy marketed with an illustration under which additional amounts are credited.	12
J	The Company violated Regulation No. 169, 11 NYCRR Section 420.5(a)(1) by failing to provide annual privacy notices to policyholders during the examination period.	13
K	The Company violated Section 3234(b)(7) of the New York Insurance Law by failing to include in its EOB a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy and a notification that failure to comply with the requirements for appealing denied benefits may lead to forfeiture of a consumer's right to challenge a denial or rejection even when a request for clarification has been made.	13 - 14
L	The company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim form. This violation appeared in the prior report on examination.	14

Respectfully submitted,

\_\_\_\_\_/s/  
Jacqueline Tucker  
Associate Insurance Examiner

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

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

\_\_\_\_\_/s/  
Jacqueline Tucker

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:

JACQUELINE TUCKER

as a proper person to examine the affairs of the

**ATHENE 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 28th day of April, 2017

MARIA T. VULLO  
Superintendent of Financial Services

By:



MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

