



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON MARKET CONDUCT EXAMINATION  
OF  
THE UNITED STATES LIFE INSURANCE COMPANY  
IN THE CITY OF NEW YORK

CONDITION:

DECEMBER 31, 2011

DATE OF REPORT:

JANUARY 31, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF

THE UNITED STATES LIFE INSURANCE COMPANY

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EXAMINER:

PHARES CATON

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

November 25, 2014

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 31007, dated May 28, 2013, and annexed hereto, an examination has been made into the condition and affairs of The United States Life Insurance Company in the City of New York, hereinafter referred to as “the Company,” at its main administrative office located at 3600 Route 66, Neptune, NJ 07753. The Company’s statutory home office is 200 Liberty Street, New York, NY 10281.

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 3211(g) of the New York Insurance Law by failing to provide an annual notification that the policy contained a cash surrender value to all policyholders. (See item 4C of this report)
- The Company violated Section 3209 (b)(2)A through H of the New York Insurance Law by failing to provide disclosure statements to its prospective annuitants for equity index annuities that met each of the requirements referenced therein. (See item 4C of this report)
- The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay medical claims received via paper within forty-five days of receipt of proof of claim. (See item 4C of this report)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2008, through December 31, 2011. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2011, 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 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 February 25, 1850, and commenced business on March 4, 1850.

Under a special permit issued pursuant to Section 4231 of the New York Insurance Law, the Company writes both participating and non-participating business in all jurisdictions in which it is authorized to do business. The Company is licensed to transact business in all 50 states, the District of Columbia, Guam and The US Virgin Islands.

On June 17, 1997, American General Corporation (“AGC”) acquired control of the Company and its immediate parent, USLIFE Corporation, through the merger of USLIFE Corporation with the Texas Stars Corporation, a wholly owned subsidiary of AGC. On August 29, 2001, AGC was acquired by American International Group, Inc. (“AIG”), a Delaware corporation, resulting in AIG becoming the Company’s ultimate parent.

On December 31, 2002, American General Life Insurance Company of New York (“AGNY”), a New York domiciled company, was merged with and into the Company. On December 31, 2003, North Central Life Insurance Company was also merged with and into the Company.

In September 2008, the Company’s ultimate parent, AIG, experienced a severe liquidity strain that resulted in AIG entering into a revolving credit facility with the Federal Reserve Bank of New York (“NY Fed”). An initial maximum amount of \$85 billion (as later amended and supplemented by a guarantee and pledge agreement (the “Fed Facility Agreement”), effective September 22, 2008), provided AIG and its subsidiaries with the necessary funds to continue its operations. Under the Fed Facility Agreement AIG had, among other things, issued 100,000 shares of Series C Perpetual, Convertible Participating Preferred Stock (“Series C Preferred Stock”) to the AIG Credit Facility Trust, a trust established for the sole benefit of the United States Treasury (“Treasury.”) The Series C Preferred Stock represented approximately 79.9% of the aggregate voting power of AIG’s common stock, and was entitled to the same voting rights as AIG’s other common stock shareholders on all matters submitted to AIG shareholders. The Treasury additionally held warrants exercisable for 53,801,766 shares of AIG’s common stock.

In total, the maximum support authorized by the U.S. Government to AIG reached \$182.3 billion by the end of 2008.

The obligations created by the Fed Facility Agreement were guaranteed by certain AIG subsidiaries and secured by a pledge of certain assets of AIG and its subsidiaries. The Company was not a guarantor of the obligations created by the Fed Facility Agreement, nor did it pledge any assets to secure those obligations.

Additional information concerning AIG and its transactions with the NY Fed and the Treasury was provided in the Company's 2008 Annual Statement and its quarterly statutory financial statement for the three months ended March 31, 2009, as filed with the Department.

From 2008 through December 14, 2012, utilizing asset sales and other actions by AIG, the Federal Reserve, and the Treasury, the US Government recovered its full financial support of \$182.3 billion as well as achieved a combined positive return of \$22.7 billion. Beginning in May 2011, the Treasury successfully sold approximately 1.7 billion shares of AIG common stock in six public offerings for total proceeds of approximately \$51 billion, including approximately \$13 billion purchased by AIG. The Treasury continues to hold warrants to purchase approximately 2.7 million shares of AIG common stock – the sale of which is expected to provide an additional positive return to taxpayers.

During 2009, as part of AIG's restructuring, the Company further consolidated its domestic life and retirement services 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.

Effective December 31, 2010, American International Life Insurance Company merged with and into the Company, subsequent to the receipt of regulatory approval from the Department. The Company was the surviving entity in this transaction.

Effective December 31, 2011, First SunAmerica Life Insurance Company ("FSA") merged with and into the Company, subsequent to the receipt of regulatory approval from the Department. The Company was again the surviving entity in this transaction.



## 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 50 states, the District of Columbia, Guam and The US Virgin Islands. In 2011, 60% of life premiums, 96% of annuity considerations, 30% percent of accident and health premiums and 78% of deposit type funds were received from New York. 10.5% percent of accident and health premiums were received from California. Policies are written on either a participating or non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2011:

The Company's product portfolio is as follows:

- Individual annuity products including fixed annuities, immediate annuities, terminal funding annuities, structured settlement contracts and annuities directed at the market for tax-deferred, long term savings products.
- Individual life insurance products including universal life, term life, whole life and interest sensitive whole life.
- Group insurance products including group life, accidental death and dismemberment (AD&D), dental, excess major medical, vision and disability insurance.

All products are sold through a combination of general agents, direct marketing and brokerage sales.

With the addition of FSA, as of December 31, 2011, the Company has now diversified its business to include retirement services products and has established a footing in the domestic retirement services market.

The Company historically depended upon multiple distribution channels including independent producers, brokerage, career agents and banks to offer life insurance, annuity and accident and health products and services, as well as financial and other investment products. As a result of AIG's liquidity crisis during 2008 and the events which followed, the Company experienced a reduction in its distribution capabilities.

#### 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.

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

##### B. Underwriting and Policy Forms

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

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

##### C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

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

“In the case of life insurance policies . . . 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. . . .”

In 2010, the Department received a complaint in which a policyholder stated that his policy was terminated because the loans against his policy were greater than the value of the policy. The policyholder further explained that he never received any notice of the status of his policy and did not know the value of his policy prior to receiving the notice of termination. The Department requested that the Company investigate the complaint. The Company's response indicated that the Company could not determine whether the annual report required by Section

3211(g) was sent to the policyholder. Upon further inquiry by the Department, the Company indicated that as of September 2010, there were 96,415 policies nationwide that contained a cash surrender value where the policyholders had not received annual notifications demonstrating that the policies contained a cash surrender value. These policies were administered by four different policyholder systems, and the Company assured the Department that steps would be taken to correct the violation.

During the course of the examination, the examiners reviewed the complaint as well as the Company's corrective actions subsequent to the Department's inquiry. Following further discussion with the Company, the examiner was advised that only 46,907 of the aforementioned policies were issued on the lives of New York residents. The examiners selected a sample of policies issued to New York residents, and requested the Company to provide the required annual notices that were sent to the policyholders.

The examiner's review revealed that the annual notifications had only been sent to policyholders of one of the affected policyholder systems. The Company had not fixed the problem for the 40,423 policyholders in the remaining three administrative systems. The Company acknowledged that the problem had been fixed in only one of the four policyholder administrative systems.

The Company violated Section 3211(g) of the New York Insurance Law by failing to provide all affected policyholders with an annual notification demonstrating that the policy contained a cash surrender value.

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

"No annuity contract . . . with an equity index account shall be delivered or issued for delivery in this state unless, no later than at the time of application, the prospective purchaser has been provided with a disclosure statement containing the following:

(A) a statement in bold type to the effect that the equity index account provides benefits linked to an external equity index and does not participate directly in the equity market;

(B) a statement identifying the equity index used in the equity index formula, together with a description of any alternate index should the initial index no longer be publicly available;

(C) a statement indicating whether paid dividends are included in changes in the equity index, together with a description of how such dividends, or lack thereof, would affect the changes in the equity index; the statement must provide the average dividend rate over the lesser of ten years or the calculable life of the index;

- (D) a statement fully describing the equity index formula;
- (E) a statement explaining and illustrating the equity index formula including any features of the equity index formula subject to change after issuance of the contract, . . .;
- (F) a statement identifying the initial minimum guaranteed interest rate for the minimum accumulation value of an equity index account and any withdrawal charge;
- (G) a statement identifying the initial current and the minimum specified participation rate, i.e., how much of the increase in the index will be used to calculate the indexed linked interest rate, if any;
- (H) a statement identifying the initial current and the minimum upper limit or cap on the indexed linked interest rate, if any. . .”

The examiner selected a sample of 20 equity index annuity underwriting files for review. In 11 out of 20 (55%) equity index annuity contracts reviewed, the required disclosure statement was not provided to the prospective annuitant.

The Company violated Section 3209(b)(2)A through H of the New York Insurance Law by failing to provide disclosure statements to its prospective annuitants for equity index annuities that met each of the requirements referenced therein.

3. Section of 3224-a(a) of the New York Insurance Law states, in part:

“...such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for services rendered that is transmitted via the internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile.”

In 18 out of 60 (30%) medical claim files for excess major medical benefits that were reviewed via paper, the Company failed to make a payment within forty-five days of receipt of a claim.

The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay medical claims received via paper within forty-five days of receipt of proof of the claim.

#### D. Data Files

The examiner initially requested policy level data files from the Company for all life, annuity, and accident and health policies that were issued, in force, or terminated, as well as claims paid, denied, or pending during the examination period on October 18, 2011, prior to the commencement of the on-site examination. Additionally, the examiner requested reconciliations

to support the totals in the data files to the amounts reflected in the various policy exhibits and schedules, as reported in the Company's filed annual statements for the examination period. The reconciliations were required as a verification of the integrity of the data. The data files are necessary for the examiner to select policy samples to review the Company's compliance with New York Insurance laws and Department regulations.

The data files were not made available to the examiners until April 19, 2012. The Company explained that the delay in providing the data resulted from the vast undertaking required to gather this information, and that the personnel needed to perform this function were helping with the preparation of the information for the annual statement.

After attempting to validate the data files with the information provided in the annual statement, the examiner informed the Company that the data files provided were not reconciling to the annual statement. The Company explained that collecting the data from the various administration systems and reconciling this data with the filed annual statements would be extremely time consuming and problematic.

After several attempts by the Company to provide the corrected data and supporting reconciliations, it became clear that the Company could not provide data files that reconciled to the amount reported in its filed annual statements for 2008, 2009, 2010 and 2011. In many instances, the examiner's analysis of the data provided revealed material irreconcilable discrepancies between amounts reported in the annual statements and the data files provided. Revised data files were provided during the course of the examination requiring additional examination resources to re-analyze each new or revised data submission. The examiner emphasized to the Company that delays in providing the data and supporting reconciliations were having a material impact on the progress of the examination.

The examiner recommends that the Company develop and implement effective procedures to ensure that policy level data be reconciled to the various policy exhibits and schedules as reported in the Company's filed annual statements.

The examiner further recommends that, in the future, such data and supporting schedules are provided to the examiners in a timely manner.

## 5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations 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 Company violated Section 243.2(e) of Department Regulation No. 152 by failing to maintain its individual declined, withdrawn and NTO policies in a manner that is readily available and easily accessible to the superintendent.</p> <p>The Company provided the examiner with its individual declined, withdrawn and NTO policies during the current examination period.</p>
B	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law by utilizing policy forms which were not approved by the Department and by utilizing a policy form which was modified from the version approved by the Department.</p> <p>The examination did not reveal the utilization of policy forms that were not approved by the Department.</p>
C	<p>The Company violated Section 3201(c)(1) of the New York Insurance Law by utilizing a policy form that is misleading as to the true identity of the insurer.</p> <p>The examination did not reveal any policy forms that are misleading as to the true identity of the insurer.</p>
D	<p>The Company violated Section 403(d) of the New York Insurance Law and Section 86.4 of Department Regulation No. 95 by utilizing application forms for accident and health insurance without the required fraud warning statement and by incorrectly using fraud warning statements in life insurance applications.</p> <p>The examination did not reveal any utilization of application forms that did not contain the required fraud warning statement.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 3220(a)(2) of the New York Insurance Law by utilizing a provision other than one contained in the policy, which could affect the rights of the policyholder.</p> <p>The examination did not reveal any instances where the Company utilized a provision other than what was contained in the approved policies.</p>
F	<p>The Company violated Section 3201(c)(2) of the New York Insurance Law by utilizing an application containing a discretionary clause that is unfair and prejudicial to the interests of policyholders.</p> <p>The examination did not reveal any applications containing a discretionary clause that is unfair and prejudicial to the interests of policyholders.</p>
G	<p>The Company violated Section 3220(a)(1) of the New York Insurance Law by including language in the policy form that allows the Company to contest material statements made in the application beyond the two year contestable period limit.</p> <p>The examination did not reveal any cases where the Company utilized forms that contained a clause that allowed the Company to contest material statements after two years.</p>
H	<p>The Company violated Section 2611(b)(5) of the New York Insurance Law by using an HIV consent form which did not include the Department of Health's statewide toll-free telephone number that may be called for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services.</p> <p>The examination revealed that all the HIV consent forms contained the required information.</p>
I	<p>The Company violated Section 403(d) of the New York Insurance Law and Section 86.4 of Department Regulation No. 95 by utilizing claim forms without the required fraud warning statement.</p> <p>The examination did not reveal any instance where the Company utilized claim forms that did not contain the required fraud warning statement.</p>

## 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 3211(g) of the New York Insurance Law by failing to provide all affected policyholders with an annual notification demonstrating that the policy contained a cash surrender value.	8
B	The Company violated Section 3209(b)(2) A through H of the New York Insurance Law by failing to provide disclosure statements to its prospective annuitants for equity index annuities that met each of the requirement referenced therein.	9
C	The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay medical claims received via paper within forty-five days of receipt of proof of the claim.	9
D	The examiner recommends that the Company develop and implement effective procedures to ensure that policy level data be reconciled to the various policy exhibits and schedules as reported in the Company's filed annual statements.	10
E	The examiner further recommends that, in the future, such data and supporting schedules are provided to the examiners in a timely manner.	10



Respectfully submitted,

\_\_\_\_\_/s/  
Phares Caton  
Associate Insurance Examiner

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

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

\_\_\_\_\_/s/  
Phares Caton

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

*APPOINTMENT NO. 31007*

*NEW YORK STATE*

***DEPARTMENT OF FINANCIAL SERVICES***

*I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

***PHARES CATON***

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

***UNITED STATES LIFE INSURANCE COMPANY IN THE CITY 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 28th day of May, 2013*

*BENJAMIN M. LAWSKY  
Superintendent of Financial Services*

By:



***MICHAEL MAFFEI  
ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU***

