



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

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

JUNE 30, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

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TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Territory and plan of operation	4
4. Market conduct activities	6
A. Advertising and sales activities	6
B. Underwriting and policy forms	8
C. Treatment of policyholders	8
5. Records retention plan	9
6. Prior report summary and conclusions	10
7. Summary and conclusions	11



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

May 3, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31406, dated December 18, 2015, and annexed hereto, an examination has been made into the condition and affairs of Allstate Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 878 Veterans Memorial Highway, Hauppauge, NY 11788.

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 and recommendations contained in this report are summarized below.

- The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60) by failing to examine the disclosure statements and ascertain that they are accurate and meet the requirements of the New York Insurance Law and this Part. (See item 4A of this report)
- The examiner recommends that the Company implement a remediation plan, acceptable to the Department, to mitigate the deficiencies noted above and provide relief to all policy and contract holders who did not receive complete, accurate and timely disclosure prior to completing an application to replace their existing policies and contracts. (See item 4A of this report)
- The examiner recommends that the Company develop and implement an audit plan designed to review, test and monitor compliance with Insurance Regulation 60. Such plan should be approved by the Company's board of directors or its audit committee, and the results of audits performed should also be reviewed by the board of directors or its audit committee. (See item 4A of this report)
- The Company violated Section 234.3(c) of 11 NYCRR (Insurance Regulation 52) when it failed to establish and maintain a records retention plan that includes a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records. (See item 5 of this report)
- The examiner recommends that the Company establish a formal written records retention plan and have such plan reviewed and approved by its board of directors. (See item 5 of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2010, through December 31, 2013. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2013 but prior to the date of this report (i.e., the completion date of the examination).

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

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct recommendation contained in the prior report on examination. The results of the examiner's review are contained in item 6 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 January 25, 1967, under the name Financial Life Insurance Company and was licensed and commenced business on December 15, 1967.

In March 1978, Pacific Mutual Life Insurance of Newport Beach, California, purchased the Company from Minnesota Mutual Life Insurance Company and changed the name to PM Life Insurance Company.

Allstate Insurance Company (“AIC”) purchased the Company on December 16, 1983, and at that time the name of the Company was changed to Allstate Life Insurance Company of New York, its present name. Effective January 1, 1984, ownership of the Company was transferred from AIC to Allstate Life Insurance Company (“ALIC”) through a transfer of all of the Company’s capital stock shares.

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 11 states, namely, California, Delaware Illinois, Missouri, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, Texas and the District of Columbia. In 2013, 93.2% of the Company’s total premiums were received from the states of New York (90.9%) and New Jersey (2.3%). Policies are written on a participating and non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2013:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	90.9%	New York	86.1%
New Jersey	2.3	New Jersey	7.9
Florida	1.7	Florida	3.0
Pennsylvania	0.7	North Carolina	1.0
Connecticut	<u>0.7</u>	Tennessee	<u>0.6</u>
Subtotal	96.3%	Subtotal	98.6%
All others	<u>3.7</u>	All others	<u>1.4</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

The Company distributes its products to individuals through multiple distribution channels, including Allstate exclusive agencies, which include exclusive financial specialists, independent agents, including master brokerage agencies and workplace enrolling agents, and specialized structured settlement brokers.

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(b) of, 11 NYCRR 51 (Insurance Regulation 60) states, in part:

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

(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 . . .”

1. The Company issued 714 internal replacement universal life policies during the exam period. A review of 27 internal universal life to universal life policy replacements revealed that the Disclosure Statement misrepresented or omitted at least one material fact relating to the proposed insurance.

- a) In 25 out of 27 (93%) replacement transactions reviewed, the examiner noted that the guaranteed interest rate for the proposed life policy was lower than that of the existing policy. However, a statement was not included in the Agent's Statement section of the Disclosure Statement indicating that an advantage of continuing the existing policy would be the high guaranteed interest rate.
- b) In 4 of the 27 (15%) replacements reviewed, the Disclosure Statement did not disclose that a disadvantage of replacing the existing universal life policy for the same face amount will result in a higher premium due to the applicant's age.
- c) In all 27 (100%) universal life to universal life replacements reviewed:
 - i. The Company failed to disclose to the applicants that the proposed policies are subject to a new 19-year surrender charge. In addition, the Company did not

indicate in the Disclosure Statement that the expiration of the surrender charge period for the existing policy was an advantage of continuing the existing policy;

- ii. The Company failed to disclose to the applicant that the proposed policies are subject to a new two-year contestability provision; and
 - iii. The Company failed to disclose that premiums shown on the disclosure statements are scheduled premiums which are subject to change based on the market rate, administrative cost, other expenses and the cost of insurance, which would increase as the insured gets older.
- d) In all 27 universal life to universal life replacements sampled, there were no description of the key advantages of replacing the existing policy with the proposed policy on the Agent's Statement section of the Disclosure Statements. As a result, the applicants were not provided with full comparisons to allow them to decide what is in their own best interest.

2. Of the 714 internal replacement universal life policies, the Company reported 71 internal term life to universal life policy replacements during the examination period. The examiner reviewed a sample of 25 internal term life to universal life policy replacements. In all 25 (100%) replacement transactions reviewed, the Company failed to disclose that premiums shown on the disclosure statements are scheduled premiums, which are subject to change based on the market rate, administrative cost, other expenses and the cost of insurance, which would increase as the insured gets older.

The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Department Regulation 60) by failing to examine the disclosure statements and ascertain that they are accurate and meet the requirements of the New York Insurance Law and this Part.

The examiner recommends that the Company implement a remediation plan, acceptable to the Department, to mitigate the deficiencies noted above and provide relief to all policy and contract holders that did not receive complete, accurate and timely disclosure prior to completing an application to replace their existing policies and contracts.

The examiner recommends that the Company develop and implement an audit plan designed to review, test and monitor compliance with Insurance Regulation 60. Such plan should

be approved by the Company's board of directors or its audit committee, and the results of audits performed should also be reviewed by the board of directors or its audit committee.

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.

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

5. RECORDS RETENTION PLAN

Section 243.3(c) of 11 NYCRR 243 (Insurance Regulation 152) states:

“An insurer shall establish and maintain a records retention plan. The plan shall include a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records. Such plan shall be provided to the superintendent upon request. The insurer shall certify the accuracy of any records that are provided in accordance with its record retention plan.”

The examiner requested a copy of the Company’s records retention plan. In its response, the Company stated, “There was no formal retention plan in place during the exam period. All records were either retained indefinitely or in accordance with NY Law.”

The Company failed to establish and maintain a records retention plan that includes a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.

The Company violated Section 243.3(c) of 11 NYCRR 243 (Insurance Regulation 152) when it failed to establish and maintain a records retention plan that includes a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.

The examiner recommends that the Company establish a formal written records retention plan and have such plan reviewed and approved by its board of directors.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation contained in the prior report on examination and the subsequent action taken by the Company in response to the citation:

<u>Item</u>	<u>Description</u>
A	The examiner recommended that the Company amend its claim forms so that the signature line related to the fraud warning statement appears directly beneath the fraud warning or submit such forms to the Department's Insurance Frauds Bureau for prior approval.

The Company has amended its claim forms so that the signature line related to the fraud warning statement appears directly beneath the fraud warning.

7. 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 Department Regulation 60) by failing to examine the disclosure statements and ascertain that they are accurate and meet the requirements of the New York Insurance Law and this Part.	7
B	The examiner recommends that the Company implement a remediation plan, acceptable to the Department, to mitigate the deficiencies noted above and provide relief to all policy and contract holders who did not receive complete, accurate and timely disclosure prior to completing an application to replace their existing policies and contracts.	7
C	The examiner recommends that the Company develop and implement an audit plan designed to review, test and monitor compliance with Insurance Regulation 60. Such plan should be approved by the Company's board of directors or its audit committee, and the results of audits performed should also be reviewed by the board of directors or its audit committee.	7
D	The Company violated Section 243.3(c) of 11 NYCRR 243 (Insurance Regulation 152) when it failed to establish and maintain a records retention plan that includes a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.	9
E	The examiner recommends that the Company establish a formal written records retention plan and have such plan reviewed and approved by its board of directors.	9

Respectfully submitted,

_____/s/
Ijeoma Ndika
Senior Insurance Examiner

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

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

_____/s/
Ijeoma Ndika

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31406

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **SHIRIN EMAMI**, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

IJEOMA NDIKA

as a proper person to examine the affairs of the
ALLSTATE 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 18th day of December, 2015

SHIRIN EMAMI
Acting Superintendent of Financial Services

By:



MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU

