

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SUN LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2012

DATE OF REPORT:

MAY 9, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

COURTNEY WILLIAMS

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

May 22, 2014

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

Sir:

In accordance with instructions contained in Appointment No. 30988, dated September 3, 2013 and annexed hereto, an examination has been made into the condition and affairs of Sun Life Insurance and Annuity Company of New York, hereinafter referred to as “the Company,” at its administrative office located at One Sun Life Executive Park, Wellesley Hills, Massachusetts 02481. The Company’s home office is located at 1115 Broadway, 12th Floor, New York, New York 10010.

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 comments contained in this report are summarized below.

- On December 17, 2012, Sun Life Financial Inc. announced the execution of a definitive agreement to sell its domestic U.S. annuity business and certain individual life insurance business to Delaware Life Holdings, LLC. The sale transaction closed on August 2, 2013 and as a result, the Company's entire board of directors and principal officers resigned and were replaced. (See item 3 of this report)
- On December 12, 2011, Sun Life Financial Inc. announced that it would discontinue new sales of its domestic U.S. annuity and individual life products effective December 30, 2011. (See item 3 of this report)

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2013 Edition* (the “Handbook”). The examination covers the three-year period from January 1, 2010 to December 31, 2012. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2012, but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted on a risk focused basis in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners (“NAIC”). The Handbook guidance provides for the establishment of an examination plan based on the examiner’s assessment of risk in the insurer’s operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that may threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management’s compliance with New York statutes, Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

Information about the Company’s organizational structure, business approach and control environment were utilized to develop the examination approach. The Company’s risks and management activities were evaluated incorporating the NAIC’s nine branded risk categories. These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic

- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2010 through 2012, by the accounting firm of Deloitte & Touche LLP. The Company received an unqualified opinion in all applicable years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. During the examination period, the Company shared an internal audit department with its parent (and affiliates). The Company's ultimate parent, Sun Life Financial Inc. ("SLF"), had a separate internal control department which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 ("SOX"). The Company followed the same control processes as the parent and, where applicable, the shared internal audit and SOX workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Company with respect to the violation and recommendation contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

This report on examination is confined to financial statements and comments on those 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 May 25, 1983. It was licensed on April 11, 1985 and commenced business on August 15, 1985. Initial resources of \$7,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$5,000,000, were provided through the sale of 2,000 shares of common stock (with a par value of \$1,000 each) for \$3,500 per share.

On December 31, 2002, Keyport Benefit Life Insurance Company (“KBL”), a New York domiciled life insurer, merged with and into the Company; the Company was the surviving entity. Prior to the merger, Keyport Life Insurance Company (“KLIC”) owned KBL, and Sun Life Assurance Company of Canada (U.S.) (“SLUS”), a Delaware life insurer, owned the Company. To execute the merger, the Company issued 4,001 additional shares of common stock to KLIC in exchange for the assets and liabilities of KBL. As a result of the additional common stock issuance, the Company became a subsidiary of both KLIC and SLUS, with KLIC owning 67% of the Company’s common stock and SLUS owning 33%. On December 31, 2003, KLIC merged with and into SLUS; SLUS was the surviving company. As a result, the Company, once again, became a wholly-owned subsidiary of SLUS.

KBL received a surplus contribution of \$71,000,000 from KLIC in 2001. The Company received additional surplus contributions of \$45,000,000 and \$150,000,000 from its parent in 2002 and 2008, respectively. As of December 31, 2012, the common capital stock of the Company totaled \$2,100,350 and the paid-in and contributed surplus totaled \$357,399,650.

On December 12, 2011, SLF announced that it would discontinue new sales of its domestic U.S. annuity and individual life products effective December 30, 2011, as a result of a strategic review of its business. SLF’s decision to discontinue sales in these lines of business was based on unfavorable product economics due to ongoing shifts in capital markets and regulatory requirements. On December 17, 2012, SLF announced the execution of a definitive agreement to sell its domestic U.S. annuity business and certain life insurance business to Delaware Life Holdings, LLC (“Delaware Life”). Delaware Life, a newly formed limited liability company organized under the laws of Delaware, is ultimately owned by Messrs. Mark R. Walter and Todd L. Boehly. Mr. Walter and Mr. Boehly are principal officers of and hold

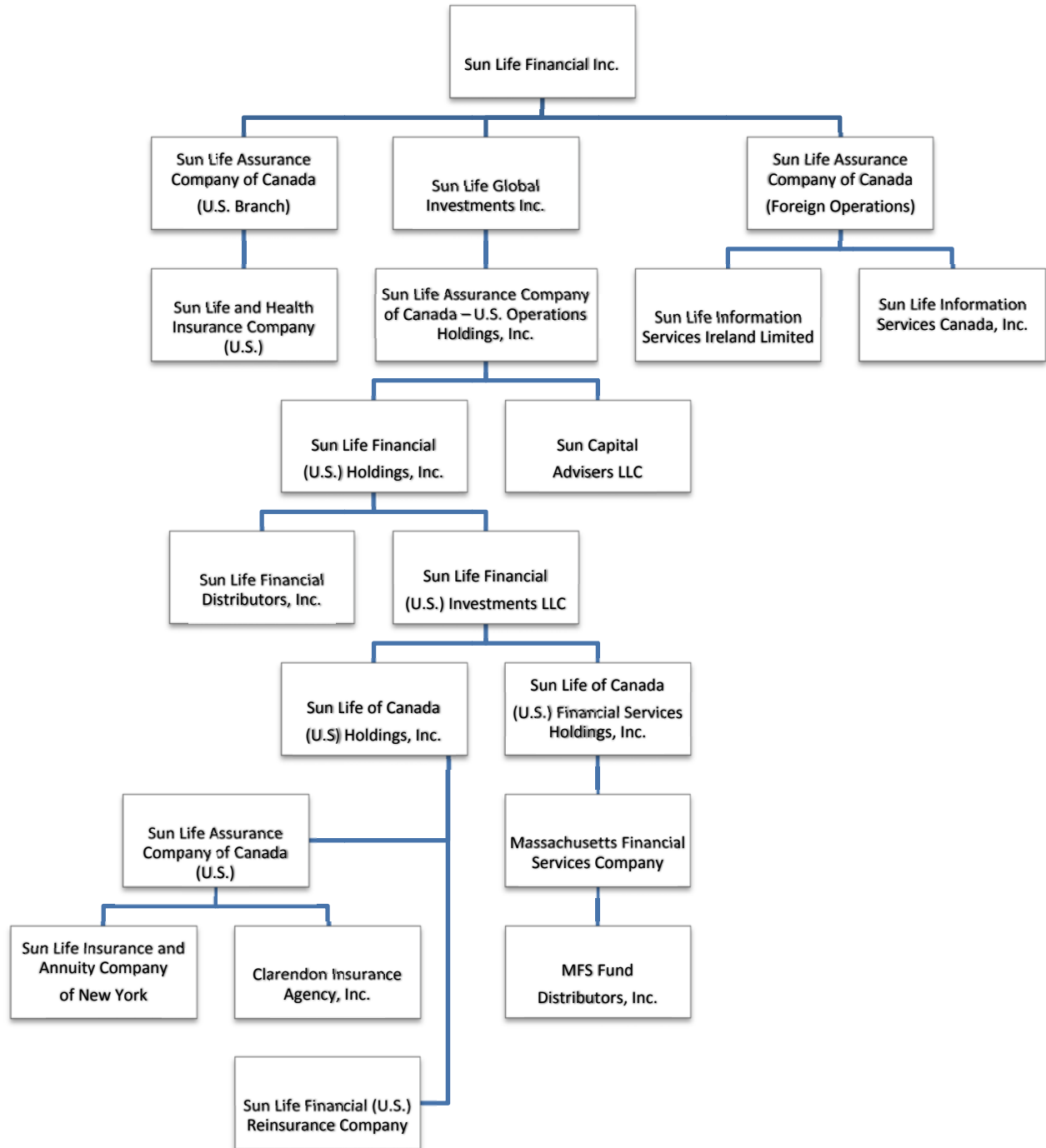
non-controlling ownership interests in Guggenheim Partners LLC, a privately held investment firm. Delaware Life was formed as an acquisition vehicle for the transaction with SLF. The sale was approved by the Department on July 30, 2013. After receiving all regulatory approvals, the sale transaction closed on August 2, 2013 with an effective date of July 31, 2013 for accounting purposes. Included in the sale, was the transfer of all the issued and outstanding shares of capital stock of SLUS, the holder of 100% of the issued and outstanding shares of the Company's capital stock.

B. Holding Company

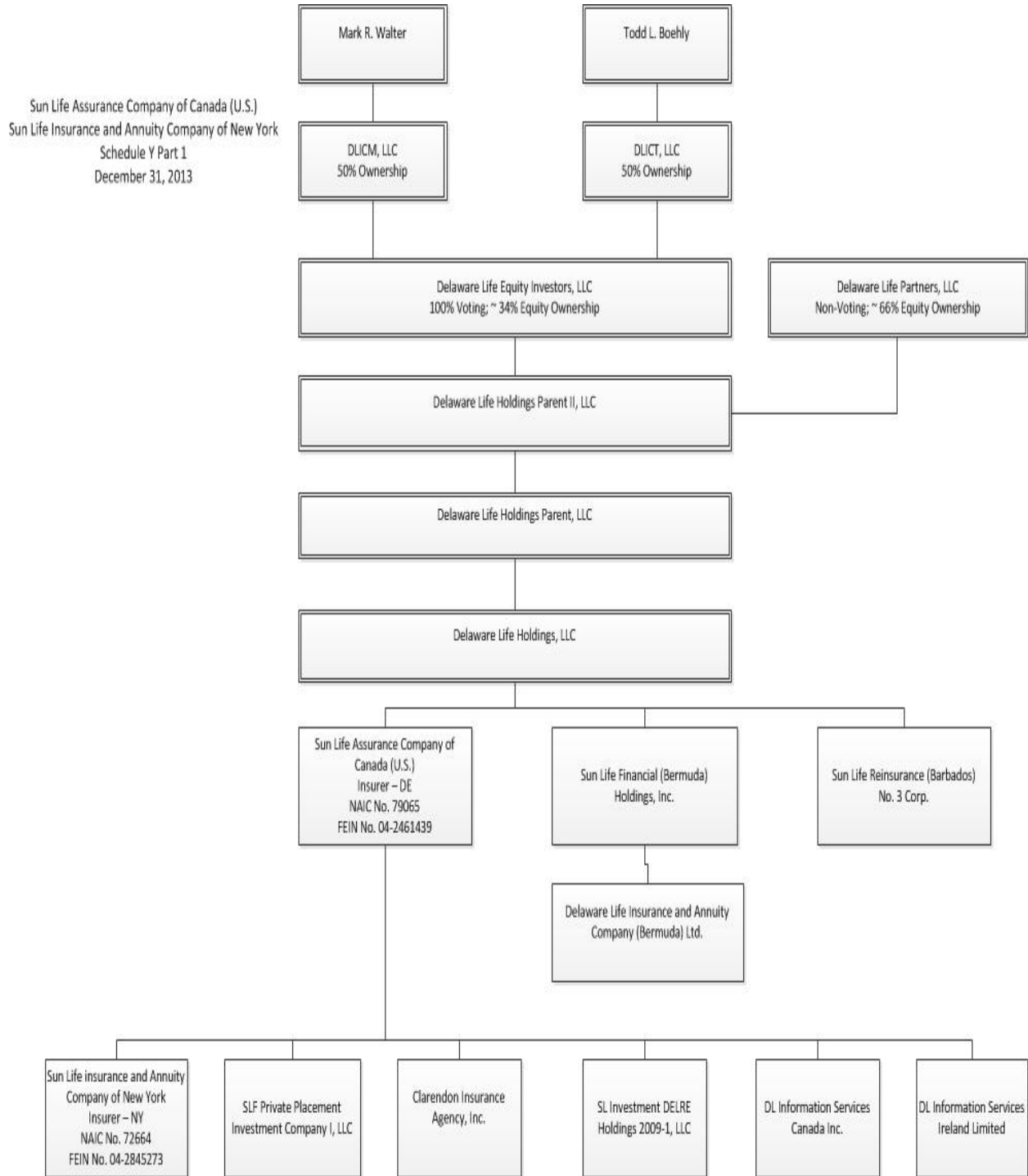
The Company is a wholly-owned subsidiary of SLUS, a Delaware life insurer. As of December 31, 2012, SLUS was a wholly-owned subsidiary of Sun Life of Canada (U.S.) Holdings, Inc., a Delaware holding company. The ultimate parent of the Company was SLF. Effective August 2, 2013, SLUS along with the Company was sold to Delaware Life.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2012 follows:



There was a change in control of the Company effective August 2, 2013. Following is an organization chart reflecting the relationship between the Company and significant entities in its holding company system after the sale and as of the date of this report:



D. Service Agreements

The Company had 13 service agreements in effect with affiliates during the examination period.

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|--|---|--|--|--|---|
| General Services Agreement Department File No. 26444 | Effective 07/01/99 Amended 12/01/06 | The Company | Sun Life Assurance Company of Canada ("SLOC") and SLUS | Marketing and other services related to the individual life and annuity and group life and disability products of SLOC and SLUS. | 2010 \$34,117,531 2011 \$26,845,833 2012 \$36,021,218 |
| Administrative Services Agreement Department File No. 29891 | Effective 11/21/00 Amended 12/31/01 12/01/06 | SLUS | The Company | Personnel, investment, actuarial, and administrative services. | 2010 \$(26,130,118) 2011 \$(28,552,213) 2012 \$(27,330,381) |
| Administrative Services Agreement Department File No. 30785A | Effective 01/01/03 Amended 02/01/04 12/01/06 10/01/09 12/31/09 Terminated 12/07/12 | The Company | Sun Capital Advisers LLC ("SCA") | Administrative services with respect to the Sun Capital Advisers Trust (Variable Account C). | 2010 \$ 829,295 2011 \$1,109,281 2012 \$1,120,833 |
| Administrative Services Agreement Department File No. 33326 | Effective 12/06/04 Amended 12/01/06 10/01/11 | Sun Life Information Services Canada, Inc. ("SLISC") | The Company | Administrative and support services in connection with the Company's insurance and annuity businesses. | 2010 \$(1,004,320) 2011 \$(1,048,700) 2012 \$(1,100,662) |
| Servicing Agreement Department File No. 34075 | Effective 02/15/05 Amended 12/01/06 Terminated 12/07/12 | The Company | Clarendon Insurance Agency, Inc. ("Clarendon") | Services in connection with Clarendon's role as principal underwriter for variable contracts issued by the Company. | 2010 \$ 396,381 2011 \$ 430,571 2012 \$ 448,977 |

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|---|--|---|--|--|--|
| Administrative Services Agreement Department File No. 37566 | Effective 05/31/07 | The Company | Sun Life and Health Insurance Company (U.S.) ("SLHIC") | Various administrative services on behalf of SLHIC in connection with policies covered under a related reinsurance agreement. | 2010 \$1,493,539 2011 \$ 753,611 2012 \$ 90,412 |
| Administrative Services Agreement Department File No. 41257 | Effective 03/01/09 | Sun Life Information Services Ireland Limited | The Company | Administrative and support services in connection with the Company's insurance and annuity businesses. | 2010 \$(1,408,997) 2011 \$(1,330,038) 2012 \$(1,012,611) |
| Administrative Services Agreement Department File No. 42559 | 12/31/09 Terminated 01/01/12 | The Company | MFS Fund Distributors, Inc. ("MFD") | Administrative services with respect to the MFS Variable Insurance Trust II, for which MFS Fund Distributors, Inc. is the distributor. | 2010 \$ 513,477 2011 \$ 600,327 2012 \$ 0 |
| Administrative Services and Distribution Services Agreement Department File No. 46009 | Effective 01/01/12 | The Company | Massachusetts Financial Services Company ("MFS") and MFD | Administrative and distribution services performed with respect to the MFS Variable Insurance Trust and the MFS Variable Insurance Trust II, for which MFS serves as the investment adviser and MFD serves as the distributor. | 2010 \$ 0 2011 \$ 0 2012 \$ 2,332,430 |
| Investment Advisory Agreement Department File No. 29889 | Effective 01/01/02 Amended 12/01/06 12/20/07 | SCA | The Company | Investment manager for the Company's general account investment portfolio. | 2010 \$(1,552,349) 2011 \$(1,511,393) 2012 \$(1,420,258) |
| Principal Underwriter's Agreement Department File No. 30978A ** | Effective 02/01/03 Amended 12/01/06 | Clarendon | The Company | Principal underwriter and general distributor for variable and fixed annuity products issued by the Company. | 2010 \$0 2011 \$0 2012 \$0 |

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|---|--|--|-----------------------------------|---|---|
| Wholesaling Agreement Department File No. 30978A | Effective 02/01/03 Amended 12/01/06 Amended 10/01/10 | Sun Life Financial Distributors, Inc. ("SLFD") | The Company | Assisting in the distribution of variable and fixed annuity products issued by the Company. | 2010 \$(3,143,012) 2011 \$(2,771,046) 2012 \$ (602,817) |
| Wholesaling Agreement Department File No. 42810 | Effective 10/01/10 | SLFD | The Company | Assisting in the distribution of universal life insurance contracts issued by the Company. | 2010 \$(4,601) 2011 \$ (312) 2012 \$ 0 |

* Amount of Income or (Expense) Incurred by the Company

** There was no activity under this agreement during the examination period. Also, there was no activity during the prior examination period. It is the Company's decision to keep the agreement active in case there is activity in the future.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than seven and not more than 25 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in March of each year. As of December 31, 2012, the board of directors consisted of seven members. Meetings of the board are held quarterly.

The seven board members and their principal business affiliation, as of December 31, 2012, were as follows:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> | <u>Year First Elected</u> |
|--|--|---------------------------|
| Scott M. Davis Winchester, MA | Senior Vice President and General Counsel Sun Life Insurance and Annuity Company of New York | 2004 |
| Larry R. Madge Lexington, MA | Senior Vice President, Chief Financial Officer and Treasurer Sun Life Insurance and Annuity Company of New York | 2011 |
| Peter R. O'Flinn* Bonita Springs, FL | Retired Co-chair LeBoeuf, Lamb, Greene and MacRae, LLP | 1999 |
| Barbara Z. Shattuck* New York, NY | Managing Director Hammond Hanlon Camp, LLC | 2003 |
| Michael E. Shunney Westborough, MA | Senior Vice President and General Manager, Employee Benefits Group Sun Life Insurance and Annuity Company of New York | 2008 |
| David K. Stevenson* Naples, FL | Retired Partner Arthur Anderson LLP | 2002 |
| Westley V. Thompson West Hartford, CT | President Sun Life Insurance and Annuity Company of New York | 2008 |

* Not affiliated with the Company or any other company in the holding company system

As a result of the Company being sold, the entire board of directors resigned effective August 2, 2013.

Following are the seven board members and their principal business affiliation, as of the date of this report:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> | <u>Year First Elected</u> |
|--------------------------------------|--|---------------------------|
| Todd L. Boehly Darien, CT | President Guggenheim Partners, LLC | 2013 |
| Donald C. Cacciapaglia Rye, NY | President and COO, Investment Management Guggenheim Capital, LLC | 2013 |
| Dennis A. Cullen* Northbrook, IL | Retired Managing Partner Chicago Asset Funding, LLC | 2013 |
| Homer J. Holland* Scottsdale, AZ | President and Chairman Holland Partners, Inc. | 2013 |
| Richard E. Kipper* Snowmass, CO | Retired President and CEO Major Legal Services, Inc | 2013 |
| David E. Sams, Jr. Vero Beach, FL | Chief Executive Officer Sun Life Insurance and Annuity Company of New York | 2013 |
| Mark R. Walter Chicago, IL | Chief Executive Officer Guggenheim Capital, LLC | 2013 |

* Not affiliated with the Company or any other company in the holding company system

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2012:

| <u>Name</u> | <u>Title</u> |
|---------------------|--|
| Westley V. Thompson | President |
| Kerri R. Ansello | Senior Counsel and Secretary |
| Larry R. Madge | Senior Vice President and Chief Financial Officer and Treasurer |
| Fred M. Tavan | Vice President and Chief Actuary |
| Scott M. Davis | Senior Vice President and General Counsel |
| David J. Healy | Senior Vice President, Sun Life Financial U.S. Operations |
| Robert E. Klein, Jr | Vice President, Voluntary Benefits |
| Kenneth A. McCullum | Senior Vice President and General Manager, Life and Annuities Inforce Management |
| Stephen C. Peacher | Executive Vice President and Chief Investment Officer |
| Michael E. Shunney | Senior Vice President and General Manager, Employee Benefits Group |
| Sean N. Woodroffe | Vice President, Human Resources |

George E. Maden, Vice President and Chief Compliance Officer, is the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

As a result of the Company being sold, new principal officers were appointed effective August 2, 2013.

The following is the listing of principal officers as of the date of the report:

| <u>Name</u> | <u>Title</u> |
|---------------------|---|
| Daniel J. Towriss | President, Chief Actuary and Chief Risk Officer |
| David E. Sams | Chief Executive Officer |
| Michael S. Bloom | Vice President and General Counsel and Secretary |
| Kenneth A. McCullum | Executive Vice President, Business Development and Inforce Management |
| Andrew F. Kenney | Chief Investment Officer |
| James D. Purvis | Chief Operating Officer |
| Robert Sabatino | Vice President, Information Technology and Operations |
| Michele B. Wilcon | Vice President, Human Resources and Internal Communications |
| Michael K. Moran | Treasurer |

Kathleen T. Baron, Assistant Vice President and Chief Compliance Officer, is the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

4. TERRITORY AND PLAN OF OPERATIONS

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 two states, namely New York and Rhode Island. In 2012, 93.9% of life premiums, 93.1% of annuity considerations and all accident and health premiums were received from New York. Policies are written on a non-participating basis.

A. Statutory and Special Deposits

As of December 31, 2012, the Company had \$400,000 (par value) of United States Treasury Bonds on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

B. Direct Operations

Prior to December 30, 2011, the Company's business was predominately variable annuity contracts. The Company also wrote individual fixed annuities, individual life insurance and group life insurance, group disability insurance, and group stop loss insurance. The individual life business consisted of universal and variable universal life insurance, as well as corporate and bank owned life insurance. 68.1% of the Company's 2011 direct premiums were derived from individual annuity considerations. Life insurance represented 15.7% of direct premiums and group accident and health insurance represented 16.2% of direct premiums.

On December 12, 2011, SLF announced that it would discontinue new sales of its domestic U.S. annuity and individual life products. Existing legal, business and contractual requirements required the Company to continue accepting limited applications for certain private placement variable annuities until mid-2012. Subject to these and other existing obligations, the Company ceased writing all individual life and all annuity new business effective December 30, 2011. On December 17, 2012, SLF announced the execution of a definitive agreement to sell these lines of business to Delaware Life. The Company continued to offer group life, group

disability, group dental and group stop-loss insurance up to December 31, 2012. The Company was sold effective August 2, 2013.

The sale of the Company did not include the Company's group products. The group policies will be transitioned to another SLF company, SLHIC.

Until 2012, the Company's agency operations were conducted on a general agency and broker basis. In 2010 and 2011, individual universal life insurance products and individual flexible premium fixed deferred annuity products were sold through independent producers; individual flexible premium combination fixed/variable deferred annuities were sold primarily through independent distributors, such as broker/dealers, and financial institutions. SLFD, a former affiliate of the Company, provided wholesaling and related support services to the Company with respect to marketing of the annuity products.

The Company's group insurance products were marketed and sold through independent licensed brokers, agencies, and third party administrators. Group sales representatives, who are SLUS employees, provided wholesaling and related support services with respect to marketing of the group products.

C. Reinsurance

As of December 31, 2012, the Company had reinsurance treaties in effect with 17 companies, of which 12 were authorized or accredited. The Company's life and accident business is primarily reinsured on a yearly renewable term basis. A small percentage of life insurance products are reinsured on a coinsurance or modified-coinsurance basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for an individual life contract is \$1,500,000. The total face amount of life insurance ceded as of December 31, 2012 was \$7,220,431,060, which represents approximately 32% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$1,752,592, was supported by letters of credit.

The total face amount of life insurance assumed as December 31, 2012 was \$2,490,729,918.

Effective May 31, 2007, the Company received regulatory approval to enter into a 100% coinsurance agreement, with related renewal rights and administrative services agreements with

its then affiliate, SLHIC. Under the agreement, the Company assumed 100% of all risks written in the state of New York that has not been reinsured to external parties. Under the corresponding administrative services agreement, the Company provided all administrative services for the covered policies. In addition, the renewal rights agreement allowed the Company, on renewal of the SLHIC policies, the right to offer each policyholder a policy issued by the Company.

As a result of the sale of the Company to Delaware Life, the Company entered into a recapture and termination agreement with SLHIC, effective July 31, 2013, under which SLHIC recaptured the business that was ceded to the Company; the 2007 reinsurance agreement, and the related renewal rights and administrative services agreements were then terminated.

Effective July 31, 2013, the Company entered into new reinsurance, administrative services, and renewal rights agreements with SLHIC. Pursuant to these agreements, the Company ceded 100% of the liabilities related to its group insurance policies to SLHIC on an indemnity coinsurance basis. SLHIC now provides administrative services in connection with the reinsured policies, and has the right, on the first anniversary of a policy following a transition period of no later than 12 months from the effective date of the renewal rights agreement, to offer to each policyholder a replacement policy issued by SLHIC. The agreements were approved by the Department on July 30, 2013.

5. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

| | December 31, <u>2009</u> | December 31, <u>2012</u> | Increase (Decrease) |
|--|-----------------------------|-----------------------------|------------------------|
| Admitted assets | <u>\$3,071,402,975</u> | <u>\$3,509,720,368</u> | <u>\$438,317,393</u> |
| Liabilities | <u>\$2,839,010,963</u> | <u>\$3,161,154,392</u> | <u>\$322,143,429</u> |
| Common capital stock | \$ 2,100,350 | \$ 2,100,350 | \$ 0 |
| Gross paid in and contributed surplus | 357,399,650 | 357,399,650 | 0 |
| Surplus from SSAP 10R | 10,124,418 | 0 | (10,124,418) |
| Unassigned funds (surplus) | <u>(137,232,406)</u> | <u>(10,934,024)</u> | <u>126,298,382</u> |
| Total capital and surplus | <u>\$ 232,392,012</u> | <u>\$ 348,565,976</u> | <u>\$116,173,964</u> |
| Total liabilities, capital and surplus | <u>\$3,071,402,975</u> | <u>\$3,509,720,368</u> | <u>\$438,317,393</u> |

The majority (57.0%) of the Company's admitted assets, as of December 31, 2012, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2012, exclusive of Separate Accounts, were mainly comprised of bonds (90.6%) and mortgage loans (6.8%).

The majority (97.4%) of the Company's bond portfolio, as of December 31, 2012, was comprised of investment grade obligations.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

| <u>Year</u> | <u>Individual Whole Life</u> | | <u>Individual Term</u> | | <u>Group Life</u> | |
|-------------|------------------------------|-----------------|------------------------|-----------------|-------------------------------|-----------------|
| | <u>Issued</u> | <u>In Force</u> | <u>Issued</u> | <u>In Force</u> | <u>Issued & Increases</u> | <u>In Force</u> |
| 2010 | \$204,294 | \$2,082,827 | \$14,158 | \$31,466 | \$1,225,211 | \$16,586,497 |
| 2011 | \$ 74,943 | \$2,103,811 | \$ 4,601 | \$38,781 | \$2,601,890 | \$17,550,265 |
| 2012 | \$ 9,736 | \$2,041,209 | \$ 404 | \$37,126 | \$5,002,577 | \$20,341,882 |

The decreases in sales of individual whole life and individual term life insurance in 2011 and 2012 reflect the Company's decision to stop writing universal life insurance with secondary (no lapse) guarantees followed by the decision to stop selling all individual life products in 2011.

As a result of discontinuing the sale of UL and individual life products, more focus was given to the sale of the Company's group products causing the increases in group life in 2011 and 2012.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

| | <u>Ordinary Annuities</u> | | |
|-----------------------------------|---------------------------|----------------|----------------|
| | <u>2010</u> | <u>2011</u> | <u>2012</u> |
| Outstanding, end of previous year | 43,361 | 42,106 | 40,390 |
| Issued during the year | 2,098 | 1,759 | 163 |
| Other net changes during the year | <u>(3,353)</u> | <u>(3,475)</u> | <u>(3,271)</u> |
| Outstanding, end of current year | <u>42,106</u> | <u>40,390</u> | <u>37,282</u> |

The decrease in annuity sales in 2012 resulted from the Company discontinuing new sales of this product effective December 30, 2011.

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

| | <u>Group</u> | | |
|-----------------------------------|-----------------|----------------|-----------------|
| | <u>2010</u> | <u>2011</u> | <u>2012</u> |
| Outstanding, end of previous year | 238,143 | 210,798 | 276,710 |
| Issued during the year | 69,094 | 56,344 | 135,469 |
| Other net changes during the year | <u>(96,439)</u> | <u>9,568</u> | <u>(78,133)</u> |
| Outstanding, end of current year | <u>210,798</u> | <u>276,710</u> | <u>334,046</u> |

The significant increase in group accident and health sales in 2012 is in line with the Company's decision to discontinue writing individual life and annuities in 2011 resulting in more focus being placed on the group business.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

| | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|---------------------------|---------------------|----------------------|-----------------------|
| Ordinary: | | | |
| Life insurance | \$ (1,908,577) | \$(1,868,214) | \$ (574,644) |
| Individual annuities | 31,715,331 | (6,685,417) | 25,420,652 |
| Supplementary contracts | <u>(115,316)</u> | <u>(47,988)</u> | <u>139,955</u> |
| Total ordinary | <u>\$29,691,438</u> | <u>\$(8,601,619)</u> | <u>\$24,985,963</u> |
| Group: | | | |
| Life | <u>\$ 5,260,246</u> | <u>\$ 2,751,232</u> | <u>\$ (1,770,343)</u> |
| Total group | <u>\$ 5,260,246</u> | <u>\$ 2,751,232</u> | <u>\$ (1,770,343)</u> |
| Accident and health: | | | |
| Group | <u>\$ 7,864,977</u> | <u>\$ 5,787,731</u> | <u>\$ 6,345,529</u> |
| Total accident and health | <u>\$ 7,864,977</u> | <u>\$ 5,787,731</u> | <u>\$ 6,345,529</u> |
| All other lines | <u>\$ 7,627,821</u> | <u>\$ 2,175,691</u> | <u>\$ 6,341,499</u> |
| Total | <u>\$50,444,483</u> | <u>\$ 2,113,035</u> | <u>\$35,902,647</u> |

The decrease in net loss from operations for ordinary life from 2011 to 2012 was primarily attributed to a decrease in policyholder benefits and expenses of \$7.1 million offset by a decrease of \$4.7 million in revenue and an increase in federal income taxes of \$1.1 million.

The significant decrease in net gain from operations for ordinary individual annuities from 2010 to 2011 was due primarily to a decrease in revenue of \$32.9 million and an increase in policyholder benefits and expenses of \$13.1 million offset by a decrease in federal income taxes of \$7.6 million.

The significant increase in net gains from operations for ordinary individual annuities in 2012 as compared to 2011 resulted primarily from decreases in policyholder benefits and expenses of \$283.1 million. This was offset by a decrease in revenue of \$234.7 million and an increase in federal income tax of \$16.1 million. The significant decreases in revenue and expenses in 2012 are consistent with the Company's decision to discontinue the sales of its annuity products at the end of 2011.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2012, as contained in the Company's 2012 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2012 filed annual statement.

A. Independent Accountants

The firm of Deloitte & Touche LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position as of December 31st of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

Deloitte & Touche LLP concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates.

Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

| | |
|--|------------------------|
| Bonds | \$1,297,803,174 |
| Stocks: | |
| Preferred stocks | 16,000,000 |
| Mortgage loans on real estate: | |
| First liens | 97,327,503 |
| Cash, cash equivalents and short term investments | 19,006,091 |
| Contract loans | 1,715,686 |
| Receivable for securities | 252,411 |
| Investment income due and accrued | 14,329,770 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in the course of collection | 8,995,721 |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 64,725 |
| Accrued retrospective premiums | 91,401 |
| Reinsurance: | |
| Amounts recoverable from reinsurers | 5,280,620 |
| Other amounts receivable under reinsurance contracts | 477,982 |
| Net deferred tax asset | 45,465,128 |
| Receivables from parent, subsidiaries and affiliates | 2,064,322 |
| Miscellaneous receivable | 1,073,998 |
| From separate accounts, segregated accounts and protected cell accounts | <u>1,999,771,836</u> |
| Total admitted assets | <u>\$3,509,720,368</u> |

C. Liabilities, Capital and Surplus

| | |
|--|----------------------------|
| Aggregate reserve for life policies and contracts | \$ 897,765,695 |
| Aggregate reserve for accident and health contracts | 65,603,354 |
| Liability for deposit-type contracts | 12,837,030 |
| Contract claims: | |
| Life | 5,489,235 |
| Accident and health | 8,170,875 |
| Premiums and annuity considerations for life and accident and health contracts received in advance | 122,671 |
| Contract liabilities not included elsewhere: | |
| Other amounts payable on reinsurance | 6,261,969 |
| Interest maintenance reserve | 16,141,148 |
| Commissions to agents due or accrued | 5,651,874 |
| General expenses due or accrued | 1,508,328 |
| Transfers to separate accounts due or accrued | (109,551,853) |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 6,677,120 |
| Current federal and foreign income taxes | 9,542,638 |
| Amounts withheld or retained by company as agent or trustee | 25,924 |
| Remittances and items not allocated | 264,893 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 18,378,665 |
| Reinsurance in unauthorized companies | 526,212 |
| Payable to parent, subsidiaries and affiliates | 2,119,852 |
| Liability for amounts held under uninsured accident and health plans | 54,000 |
| Funds held under coinsurance | 211,036,681 |
| Stale checks | 419,098 |
| Accrued interest on policy claims | 142,925 |
| Amounts payable miscellaneous | 150,756 |
| Escheatment liabilities | 2,107,392 |
| From Separate Accounts statement | <u>1,999,707,910</u> |
| Total liabilities | <u>\$3,161,154,392</u> |
| Common capital stock | \$ <u>2,100,350</u> |
| Gross paid in and contributed surplus | 357,399,650 |
| Unassigned funds (surplus) | <u>(10,934,024)</u> |
| Surplus | \$ <u>346,465,626</u> |
| Total capital and surplus | \$ <u>348,565,976</u> |
| Total liabilities, capital and surplus | <u>\$3,509,720,368</u> |

D. Condensed Summary of Operations

| | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|--|----------------------|----------------------|----------------------|
| Premiums and considerations | \$433,496,212 | \$389,312,215 | \$146,613,587 |
| Investment income | 55,486,259 | 61,771,511 | 61,366,298 |
| Commissions and reserve adjustments on reinsurance ceded | 10,318,509 | 4,858,851 | 2,851,007 |
| Miscellaneous income | <u>30,327,549</u> | <u>37,984,709</u> | <u>40,791,880</u> |
| Total income | <u>\$529,628,529</u> | <u>\$493,927,286</u> | <u>\$251,622,772</u> |
| Benefit payments | \$309,533,556 | \$338,572,911 | \$347,462,111 |
| Increase in reserves | (47,768,777) | (13,712,058) | (66,844,124) |
| Commissions | 33,350,956 | 29,929,641 | 18,940,577 |
| General expenses and taxes | 37,833,141 | 43,403,256 | 36,518,804 |
| Net transfers to (from) Separate Accounts | 132,263,632 | 81,995,524 | (147,576,827) |
| Fines and penalties of regulatory authorities | 6,229 | 0 | 0 |
| Miscellaneous deductions | <u>9,443,572</u> | <u>10,115,809</u> | <u>10,933,051</u> |
| Total deductions | <u>\$474,662,309</u> | <u>\$490,305,083</u> | <u>\$199,433,592</u> |
| Net gain (loss) | \$ 54,966,220 | \$ 3,622,203 | \$ 52,189,180 |
| Federal and foreign income taxes incurred | <u>4,521,737</u> | <u>1,509,168</u> | <u>16,286,533</u> |
| Net gain (loss) from operations before net realized capital gains | \$ 50,444,483 | \$ 2,113,035 | \$ 35,902,647 |
| Net realized capital gains (losses) | <u>5,091,508</u> | <u>3,163,628</u> | <u>1,746,008</u> |
| Net income | <u>\$ 55,535,991</u> | <u>\$ 5,276,663</u> | <u>\$ 37,648,655</u> |

Premiums and considerations decreased significantly in 2012 as a result of the Company discontinuing new sales of its individual life and annuity business at the end of 2011.

The steady decrease in commissions and reserve adjustments on reinsurance ceded is due to lower ceding commissions as a result of the decreased sales activities in the Company's life and annuity business.

The significant fluctuation in "increase in reserves" reported in 2011 as compared to 2010 was mainly attributable to an increase in Guaranteed Minimum Benefits on variable annuities reserves of \$19.0 million in 2011 compared to a decrease of \$7.1 million in 2010.

Reserves decreased significantly in 2012 compared to 2011 primarily because of the SLF strategic decision to discontinue new sales of its domestic U.S. variable annuity and individual life products effective December 30, 2011.

Federal and foreign income taxes incurred increased significantly in 2012 compared to 2011 due in the increase of taxable income from \$7.7 million in 2011 to \$38.5 million in 2012.

E. Capital and Surplus Account

| | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|---|-----------------------|-----------------------|-----------------------|
| Capital and surplus, December 31, prior year | \$ <u>232,392,012</u> | \$ <u>295,718,368</u> | \$ <u>304,854,243</u> |
| Net income | \$ 55,535,991 | \$ 5,276,663 | \$ 37,648,655 |
| Change in net unrealized capital gains (losses) | (203,424) | (279,781) | 1,095,564 |
| Change in net unrealized foreign exchange capital gain (loss) | 33,764 | 42,629 | (63,593) |
| Change in net deferred income tax | (17,614,480) | (1,636,928) | (2,722,557) |
| Change in non-admitted assets and related items | 19,382,427 | 3,657,829 | 9,524,066 |
| Change in liability for reinsurance in unauthorized companies | 672,053 | 64,798 | (81,815) |
| Change in asset valuation reserve | (5,090,562) | 1,609,876 | (4,775) |
| Surplus (contributed to), withdrawn from Separate Accounts during period | 0 | (1,200) | 0 |
| Other changes in surplus in Separate Accounts statement | 6,668 | (926) | 6,699 |
| Cumulative effect of changes in accounting principles | 0 | 0 | 15,063,971 |
| Surplus changes from SSAP 10R | 1,677,263 | 402,915 | (12,204,596) |
| Prior Period Adjustment | <u>8,926,656</u> | <u>0</u> | <u>(4,549,887)</u> |
| Net change in capital and surplus for the year | <u>63,326,356</u> | <u>9,135,875</u> | <u>43,711,733</u> |
| Capital and surplus, December 31, current year | \$ <u>295,718,368</u> | \$ <u>304,854,243</u> | \$ <u>348,565,976</u> |

7. 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. 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.

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

“(d) All applications...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 Department Regulation No. 95 states, in part:

“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.”

The examiner reviewed 25 individual life death claims. The claim form used by the Company to process these claims did not contain a fraud warning statement as required by Section 403(d) of the New York Insurance Law.

The Company violated Section 403(d) of the New York Insurance Law by using a claim form to process individual life death claims that did not contain the required fraud warning statement.

The examiner reviewed 40 annuity death claims. In processing annuity death claims, the Company provides a claim packet to claimants. The claim packet includes a claim form and a separate document that lists the fraud warning statements that are required by several states, including New York. The New York fraud warning statement meets the requirement of Section 86.4(a) of Department Regulation 95; however, the fraud warning statement is not located above the signature of the person executing the claim as required by Section 86.4(d) of Department Regulation No. 95. Instead, the Company has the following statement above the signature:

“By signing below, I hereby acknowledge that I have read and understood the Fraud Warnings included in this package, with this form.”

The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim.

During the review of individual life death claims, 31 out of 41 (76%) beneficiaries were provided with a claim form that contained the letterhead of SLF. Additionally, 6 out of 11 (55%) short term disability claimants were provided with a claim form that contained the letterhead of SLOC. The Company was not identified as the insurer anywhere on these forms.

The examiner recommends that the Company be clearly identified as the insurer on the ordinary life and short term disability claim forms pertaining to New York policies, where such is the case.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the violation and recommendation 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> |
|-------------|--|
| A | <p>The examiner recommended that the Company's audit committee periodically (at least annually) review the allocation of such compensation to the Company under the service agreements and report its findings to the board of directors of the Company.</p> <p>A review of the minutes of the Company's audit/nominating committee indicated that, as of December 1, 2011, a Report on Allocation of Principal Officer Salary is presented to the audit/nominating committee annually for review. The report provides an overview of the principal officers' compensation expenses that are allocated to the Company during the prior year, including the process for allocating such expenses.</p> |
| B | <p>The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy forms that were not filed with and approved by the Superintendent.</p> <p>The Company discontinued all new sales of life insurance and annuity products as of December 30, 2011. Subsequently, on August 2, 2013, the Company was acquired by Delaware Life. In the event the Company resumes new sales in the future, the Company has indicated that all policy forms will be filed with the Superintendent for approval prior to being used.</p> |

9. 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 Section 403(d) of the New York Insurance Law by using a claim form to process individual life death claims that did not contain the required fraud warning statement. | 28 |
| B | The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim. | 28 |
| C | The examiner recommends that the Company be clearly identified as the insurer on the ordinary life and short term disability claim forms pertaining to New York policies, where such is the case. | 28 |

Respectfully submitted,

_____/s/
Courtney Williams
Associate Insurance Examiner

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

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

_____/s/
Courtney Williams

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30988

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:

COURTNEY WILLIAMS

as a proper person to examine the affairs of the

SUN LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

and to make a report to me in writing of the condition of said

COMPANY

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York

this 3rd day of September, 2013

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:


MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

