

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

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

KINGS ANKRAH

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
TARGET MARKET CONDUCT REPORT ON EXAMINATION
OF THE
GENWORTH LIFE INSURANCE COMPANY OF NEW YORK
AS OF
DECEMBER 31, 2018

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MAY 22, 2020

EXAMINER:

KINGS ANKRAH

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

February 3, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Dear Adrienne Harris:

In accordance with instructions contained in Appointment No. 32184, dated January 12, 2021, and annexed hereto, a Target Market Conduct examination has been made into the condition and affairs of Genworth Life Insurance Company of New York, hereinafter referred to as “the Company.” The Company’s home office is located at 600 Third Avenue, Suite 2400, New York, NY 10016. Due to covid-19 pandemic, the examination was conducted partially at the Company’s main administrative office located at 6620 West Broad Street, Richmond, VA 23230, and partially remotely.

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 243.2(b)(1)(iii) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the three contracts for six calendar years after the date the contract is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer. (See item 3A-2 of this report.)
- The Company violated Section 51.6(c)(2) of 11 NYCRR 51 (Insurance Regulation 60) by failing to provide the replacing insurer with the existing policy information necessary to complete the Disclosure Statement within 20 days of receipt of the request. (See item 3A-3 of this report.)

2. SCOPE OF EXAMINATION

This examination covers the Company's replacement activities during the period beginning January 1, 2016, to December 31, 2018. The examination was conducted in accordance with the provisions of New York statutes, rules and regulations, and with the National Association of Insurance Commissioners' *Market Regulations Handbook* or such other examination procedures, as deemed appropriate, in the review of replacement transactions.

The result of the examiner's review is included in item 4 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. MARKET CONDUCT ACTIVITIES

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

The examiner reviewed the sales activities of the agency force including trade practices and solicitation surrounding external replacements of annuity contracts and life insurance policies that occurred from January 1, 2016 through December 31, 2018, primarily to assess the Company's replacement practices and procedures with respect to how replacing insurers replacement requests are processed by the Company, and to ensure competent and timely processing of such requests of its life insurance policies and annuity contracts that are replaced externally by other insurers.

1. The examiner reviewed the Company's compliance with Section 51.6(c)(2) of 11 NYCRR 51 (Insurance Regulation 60). This section requires that the Company respond to other insurers within 20 days of request for information necessary to replace the Company's policies. This section requires that the other company proposing to replace a policy, report the current company to the Department for failure to respond within 20 days. The examiner reviewed electronic reports of complaints that replacing insurers log against each other, for failing to comply with this requirement. The Company's 2016-2018 Section 51.6(c)(2) files show 273 of such complaints from other insurers, 171 of which are contracts and policies that were actually issued by the Company and subject to this target examination; the remaining (102) contracts and policies were either issued by its affiliates or were Long Term Care contracts and therefore out of the scope of this examination. No other issues were noted in the complaints file.

The examiner also reviewed company-submitted information for its market conduct profiles ("MC Profiles") for the years 2016, 2017 and 2018 and reconciled such information to the support replacement data files provided by the Company in response to the Pre-Exam request. In the company-submitted MC Profiles information the Company reported that its 497 life insurance policies and 3,605 of annuity contracts were replaced by other insurers during the three-year period.

However, the examiner's review of the 497 life insurance policies' and 3,605 annuity contracts' support files revealed that 63 life insurance policies and 4,096 annuity contracts were

replaced. While this market conduct examination was in process, the Company investigated the discrepancies and found that at that time, the Company did not know that its Customer Service Representatives (CSR) were not adding the replacement code properly in the administrative system. In effect, the discrepancies were caused by human coding errors, not system coding error.

The Company has provided revised counts and support files showing that during the 2016, 2017 and 2018 period, 1,073 life policies and 4,673 annuities were externally replaced, and these revised counts would be reflected in its 2019 Market Conduct Profile.

The examiner obtained a copy of the Company's Regulation 60 Procedures and compared it with the copy they filed with Department's Market Conduct Unit and noted that both copies are the same; the examiner also confirmed that its Regulation 60 principal officer's contact information is current. The examiner then obtained a walkthrough of replacement processes at the Company's main administrative office located at 6620 West Broad Street, Richmond, VA 23230. The Company's Regulation 60 department is in the town of Lynchburg, VA, but the staff presenters came and performed the walkthrough at the Richmond office location. There is one Regulation 60 department, but replacement duties are sub-divided into Annuity replacement unit and Life replacement unit. The walkthrough presentation indicated that proper adherence to the established guidelines would reduce common replacement process errors.

Nonetheless, the Company's CSR lack of understanding of replacement requirements, which contributed to reasons for this market conduct examination, and the CSR's replacement coding errors, clearly indicate inadequate replacement training, or lack thereof.

The examiner recommends that the Company provide adequate replacement training to the staff and improve its current replacement training policy and procedures, to ensure that those who are responsible for replacement transactions are adequately trained and have the knowledge and experience necessary for such responsibilities.

2. The examiner reviewed samples of company-issued 30 annuity contracts and 37 life insurance policies selected from the Section 51.6(c)(2) other insurers' electronic complaints reports and from pre-exam 2016-2018 life insurance and annuity replacement data.

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

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

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

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

Section 243.3 of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

"(a) (4) If the insurer does not retain the original paper record, or if there was no original paper record, a duplicate or back-up system sufficient to permit reconstruction of the record shall be established at a separate location. The record may be retained in any form permitted by this Part."

The examiner reviewed sample 30 replaced annuity files' replacement documents, including copies of the sampled replaced (existing/old) contracts. The review revealed that three (10.0%) of the 30 annuity replacement files (contracts: #500673604, #500687601, and #500627330) did not contain copies of the requested contracts. The Company stated that the contracts were not available due to the age of the contracts because all three contracts were issued prior to 2006 and were housed on an older administrative system. It added that it was not their practice during that time to retain a copy of the contract in the contract file; that when they needed to produce the contract under the older system, they would have printed directly from that older system. However, once the older system was "sunset", they could no longer print from that system. The company's explanations were not acceptable because a copy of an active policy or contract must be retained or an exact copy reproduced, pursuant the requirements of this Part.

The Company violated Section 243.2(b)(1)(iii) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the three contracts for six calendar years after the date the contract 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.

The examiner recommends that the Company retain copies of annuity contracts, and life insurance policy files, in accordance with Section 243.2(b)(1)(iii) or be able to reproduce the exact copies pursuant to Section 243.3(a) of this Part.

3. The examiner also reviewed a sample of 37 life replaced policies taken from the 2016, 2017 and 2018 life insurance policies that were externally replaced by other insurers during the same period.

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

“(c) 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 insurance agent or broker of record of the existing life insurance policy or annuity contract being replaced and the agent or broker and insurer replacing the life insurance policy or annuity contract. This information shall include the insurer's customer service telephone number, the current status of the existing life insurance policy or annuity contract, and the currently illustrated dividends/interest and other non-guaranteed costs and benefits.”

The examiner’s review of the sampled 37 externally replaced life policies revealed that in 3 out of the 37 (8.11%) life replacement files, the Company failed to respond within 20 days of a replacement notification and furnish the required information simultaneously to the insurance agent, broker and insurer replacing the life insurance policy.

Furthermore, the examiner notes that the failure to provide copies of these contracts resulted in the examiner’s inability to compare the features of the replaced (existing) contracts with those of the replacing (proposed) contracts.

The Company violated Section 51.6(c)(2) of 11 NYCRR 51 (Insurance Regulation 60), by failing to provide the replacing producer and insurer with the existing policy information necessary to complete the Disclosure Statement within 20 days of receipt of the request.

4. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Company provide adequate replacement training to the staff and improve its current replacement training policy and procedures, to ensure that those who are responsible for replacement transactions are adequately trained and have the knowledge and experience necessary for such responsibilities.	5
B	The Company violated Section 243.2(b)(1)(iii) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the three contracts for six calendar years after the date the contract 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.	6
C	The examiner recommends that the Company retain copies of annuity contracts, and life insurance policy files, in accordance with Section 243.2(b)(1)(iii) or be able to reproduce the exact copies pursuant to Section 243.3(a) of this Part.	6
D	The Company violated Section 51.6(c)(2) of 11 NYCRR 51 (Insurance Regulation 60), by failing to provide the replacing producer and insurer with the existing policy information necessary to complete the Disclosure Statement within 20 days of receipt of the request.	7

Respectfully submitted,

_____/s/
Kings Ankrah
Senior Insurance Examiner

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

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

_____/s/
Kings Ankrah

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 32184

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

*I, **LINDA A. LACEWELL**, 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:*

KINGS ANKRAH

as a proper person to examine the affairs of the
GENWORTH 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 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 12th day of January, 2021

LINDA A. LACEWELL
Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

