



**FINANCIAL CONDITION REPORT ON EXAMINATION**

**OF THE**

**ATHENE ANNUITY & LIFE ASSURANCE COMPANY**

**OF**

**NEW YORK**

**AS OF DECEMBER 31, 2021**

**EXAMINER:**

**KINGS ANKRAH**

**DATE OF REPORT:**

**JUNE 16, 2023**

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KATHY HOCHUL  
Governor



ADRIENNE A. HARRIS  
Superintendent

June 16, 2023

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

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32404, dated April 8, 2022, and annexed hereto, an examination has been made into the condition and affairs of Athene Annuity & Life Assurance Company of New York, hereinafter referred to as “the Company” or “AANY”. The Company’s home and administrative office is located at One Blue Hill Plaza, Suite 1672, Pearl River, NY 10965. The Company’s mailing address is 7700 Mills Civic Parkway, West Des Moines, IA 50266. Due to the COVID-19 pandemic, the examination was conducted 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 violation and comment contained in this report are summarized below.

- The Company violated Section 1505(d)(3) of the New York Insurance Law by changing the billing terms of its SSA without notifying the superintendent in writing of its intention at least thirty days prior thereto. (See item 3D of this report.)
- As part of the 2021 audit of AANY, PwC determined that the capital and surplus of \$304.2 million as reported on AANY's 2021 Annual Statement was understated by \$10.1 million based on a judgmental difference in the fair value of a security. The adjusted capital and surplus amount would be \$314.3 million. (See item 6 of this report.)
- The examiner conducted a review of the pricing adequacy for various products subject to Section 4238(e) of the New York Insurance Law. During the review, concerns were noted with respect to the investment assumptions. In response to the Department's concerns, the Company agreed to refine its analysis in a manner acceptable to the Department and to provide a summary of the self-support assumptions prior to finalizing future contracts. (See item 5F of this report.)

## 2. SCOPE OF EXAMINATION

The examination of the Company was a full-scope examination as defined in the National Association of Insurance Commissioners' ("NAIC's") *Financial Condition Examiners Handbook, 2022 Edition* (the "Handbook"). The examination covers the four-year period from January 1, 2018, to December 31, 2021. 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, 2021, but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

The examination was conducted on a risk-focused basis in accordance with the provisions of the Handbook published by the 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 and Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

The examination was conducted in conjunction with the coordinated examination of the Company's indirect parent, Athene Annuity and Life Company ("AAIA"). The examination was led by the State of Iowa, with participation from the State of New York. Since the lead and participating states are both accredited by the NAIC, both states deemed it appropriate to rely on each other's work.

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 2018 through 2021, by the accounting firm of PricewaterhouseCoopers, LLP (“PwC”). The Company received an unqualified opinion in all years under examination. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company’s ultimate parent, Athene Holding Limited (“AHL”), has an internal audit department and 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”) and Model Audit Rule (“MAR”) for its subsidiaries. While the Company is not required to be in compliance with SOX and MAR, several processes of the Company have been included in SOX and MAR testing. Where applicable, SOX and MAR 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 violations contained in the prior report on examination. The results of the examiner’s review are contained in item 7 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 on May 19, 1965, as a stock life insurer under the laws of the State of New York and commenced business on October 20, 1966. Initial resources of \$2,850,000, consisting of common capital stock of \$950,000 and paid in and contributed surplus of \$1,900,000, were provided through the sale of 475,000 shares of common stock (with a par value of \$2 each) for \$6 per share.

On December 28, 2012, the Company's former parent, Presidential Life Corporation ("Presidential"), a Delaware Corporation, was acquired by Athene Annuity & Life Assurance Company ("AADE"), also a Delaware Corporation and a subsidiary of AHL, for approximately \$414 million. Immediately following the acquisition, Presidential converted into a Delaware Limited Liability Company, changed its name to Presidential Life LLC and distributed 100% of the issued and outstanding stock of the Company to AADE. The Company became a direct subsidiary of AADE, and AHL became the ultimate parent of the Company.

On October 1, 2013, the Company's name was changed from Presidential Life Insurance Company to its present name. On October 2, 2013, AHL acquired Aviva USA Corporation and its subsidiaries, including Aviva Life & Annuity Company ("ALAC"), an Iowa insurance company, from Aviva, PLC. Immediately following the acquisition, AADE contributed the Company to ALAC. ALAC became the immediate parent of the Company. ALAC then sold 100% of the issued and outstanding capital stock of its wholly owned subsidiary, Aviva Life and Annuity Company of New York ("ALACNY"), to the Company in exchange for cash of \$48.2 million. Following the Company's acquisition of ALACNY, \$103.4 million of ALACNY's surplus was reset under SSAP No. 72, as a reclassification from unassigned deficit to paid-in surplus. On March 3, 2014, ALACNY changed its name to Athene Life Insurance Company of New York ("ALICNY"). Also, in 2014, ALAC changed its name to Athene Annuity and Life Company ("AAIA"). As a result of the transactions, all outstanding shares of ALICNY are owned by the Company which in turn is wholly owned by AAIA.

As of December 31, 2021, the Company had common capital stock of \$2,500,875, gross paid in and contributed surplus of \$52,633,173 and unassigned funds (surplus) of \$249,095,439.

## B. Holding Company

The Company is a wholly-owned subsidiary of AAIA, an Iowa domestic insurer. AAIA is in turn a wholly-owned subsidiary of AADE, a Delaware domestic insurer. AADE is in turn a wholly owned subsidiary of AUSA, an Iowa company. AUSA is in turn a wholly-owned subsidiary of ALRe, a Bermuda company. ALRe is in turn a wholly-owned subsidiary of AHL, a Bermuda company.

The Company owns all the outstanding capital stock of ALICNY, a stock life insurance company domiciled in the State of New York.

On January 24, 2018, ALRe created AARE as a Bermuda reinsurer to serve as a reinsurance counterparty for most internal affiliated reinsurance.

Effective March 15, 2018, pursuant to a contribution agreement, AHL contributed AUSA and its subsidiaries to ALRe.

Effective December 14 and 31, 2018 pursuant to two separate contribution agreements, ALRe contributed the outstanding shares of AARE, 75% and 25% respectively, down to AUSA.

On February 4, 2019, AARE, a wholly-owned subsidiary of AUSA, made a tax election in accordance with Section 953(d) of the Internal Revenue Code, to be taxed as a US taxpayer, effective as of January 24, 2018.

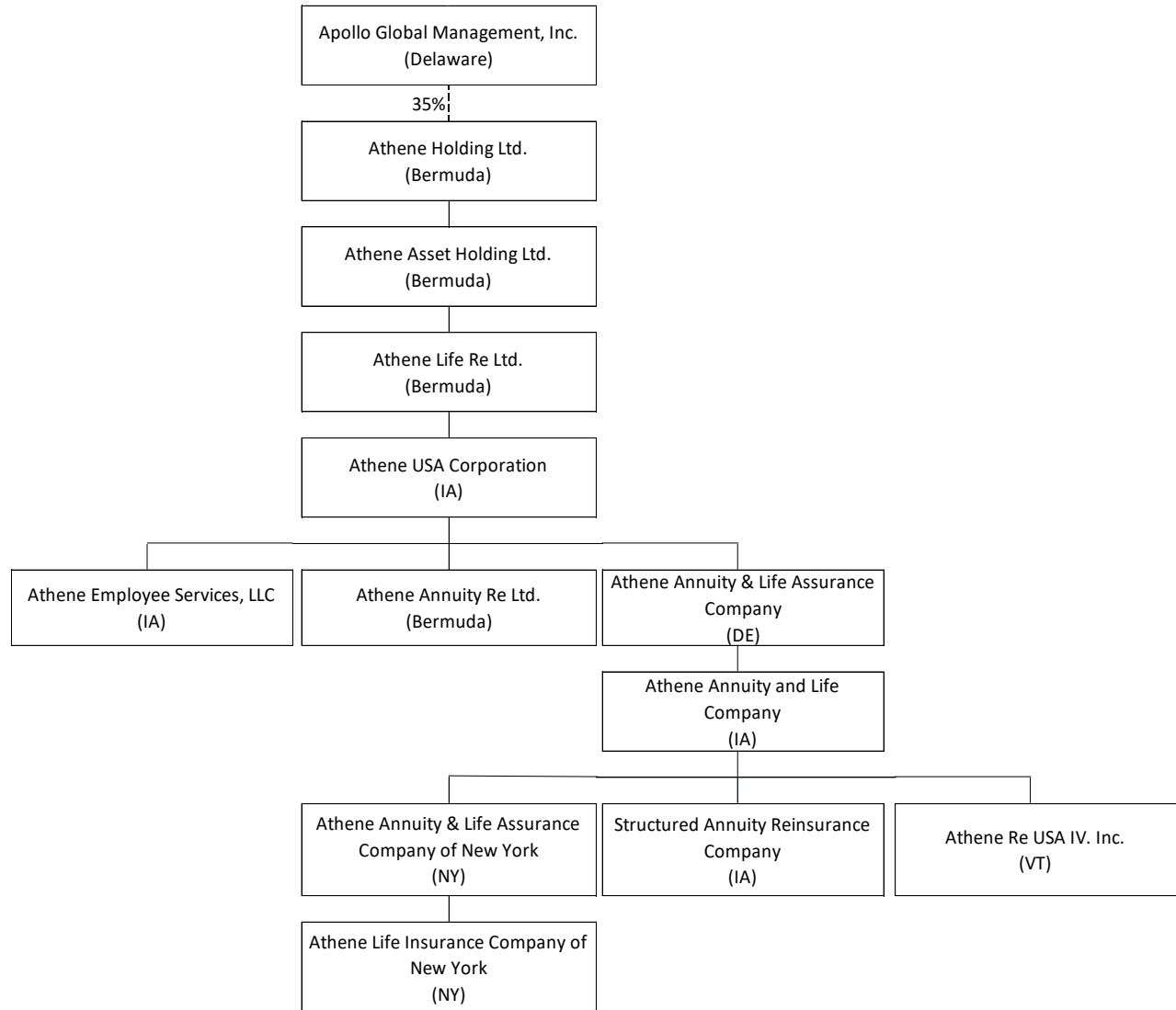
Effective December 31, 2018, Athene Life Insurance Company (Delaware) (“ALIC”) was merged into AADE and dissolved.

On March 8, 2021, Apollo Global Management, LLC (“AGM LLC”), AHL and other primary owners entered into a definitive agreement to merge in an all-stock transaction. As a result of these mergers the new AGM LLC changed its name to Apollo Global Management, Inc. (“AGM”) and new AGM shareholders will own approximately 76% of the combined company on a fully diluted basis, and Athene shareholders will own approximately 24% of the combined company. The Merger Transaction resulted in a simpler corporate structure, with a single class of common stock, and one share, one vote. The Merger Transaction closed in January 2022 with AHL becoming a direct wholly owned subsidiary of AGM.

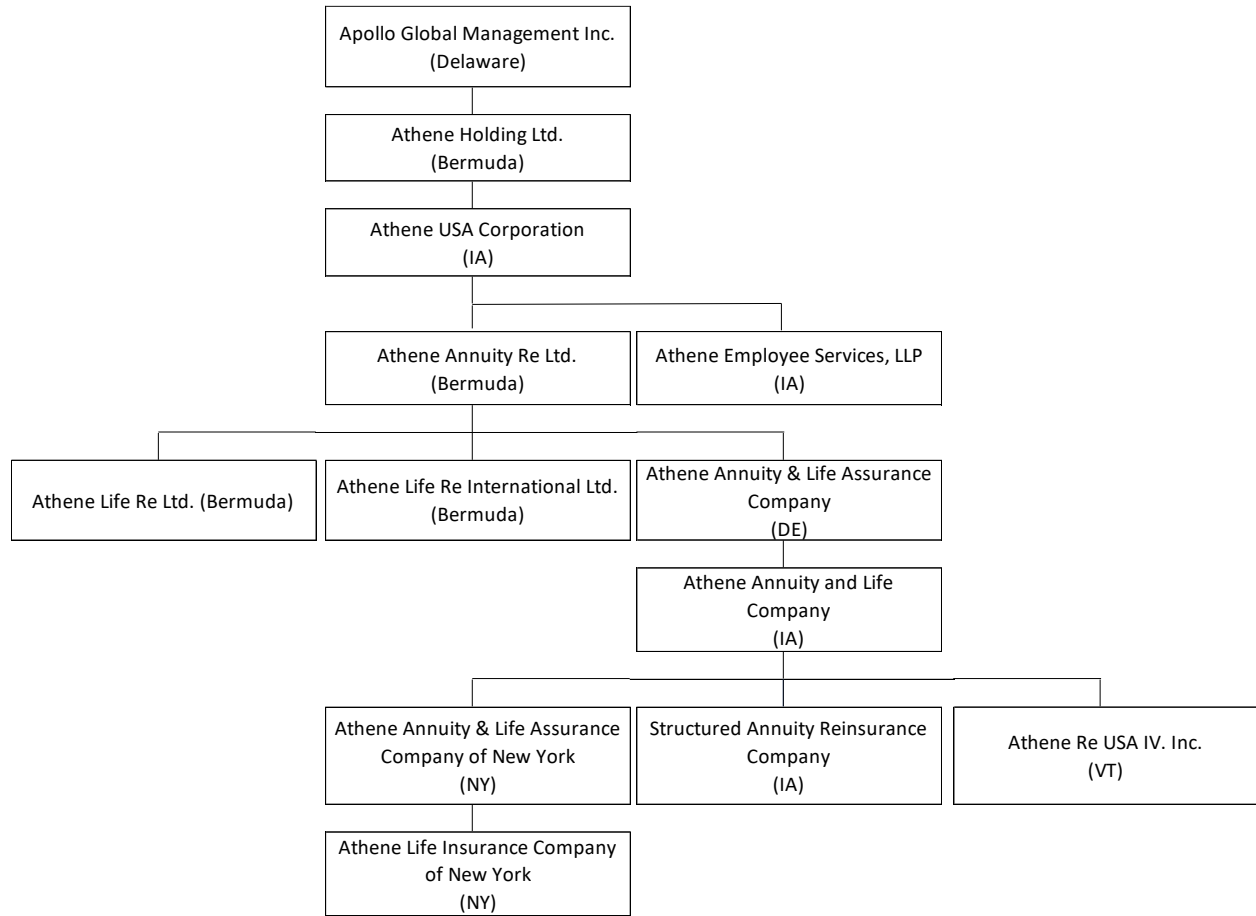


### C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2021, follows:



An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2022, follows:



#### D. Service Agreements

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

Type of Agreement and Department File Number	Effective Date	Provider(s) of Services	Recipient(s) of Services	Specific Services Covered	Expense* For Each Year of the Examination
Shared Services and Cost Sharing Arrangement  File No. 58224	01/01/2020	AES, AAIA	AANY, ALICNY, PLAS	Reinsurance, Underwriting, Human Resources, Legal, Audit, Information Technology, Accounting, Actuarial and personnel for range of other Services	2020 \$(3,393,416) 2021 \$(2,926,316)
Shared Services and Cost Sharing Arrangement (replaced by the agreement noted above)  File No. 56750	10/01/2018	AES, AAM, Rackspace Global Services (Information Technology)	AANY, ALICNY, ALAC, PLAS	Reinsurance, Underwriting, Human Resources, Legal, Audit, Information Technology, Accounting, Actuarial and personnel for range of other Services	2018 \$(3,589,260) 2019 \$(3,478,743)
Investment Management Agreement  File No. 51378	Amended and Restated 01/01/2015  Amended 11/01/2015	Athene Asset Management, L.P. (now known as Apollo Insurance Solution Group)	AANY	Investment Management	2018 \$(9,038,522) 2019 \$(9,536,347) 2020 \$(10,149,451) 2021 \$(11,453,014)

\* Amount of Expense Incurred by the Company

The Company participates in a federal income tax allocation agreement with its parent and certain other affiliates.

Section 1505(d)(3) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding Company system may not be entered into unless the insurer notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, . . .

(3) rendering of services on a regular or systemic basis . . . ”

The Shared Services and Cost Sharing Agreement (Effective January 1, 2020) states, in part:

“Accounting and Payments. Each Service Provider shall submit to each Service Recipient, within thirty (30) days following the end of each month (or such shorter period as the Parties may agree), a written statement, general ledger records, or such other documentation as agreed upon between the Parties evidencing the amount estimated to be owed by such Service Recipient for services and the use of facilities pursuant to this Agreement in that month (or such other period as the Parties may agree), and each Service Recipient shall pay to any Service Provider within fifteen (15) days following receipt of such written statement the amount set forth in the statement.”

A review of the settlement activity documents related to the Shared Services and Cost Sharing Agreement (“SSA”) between the Company and Service Provider indicated that settlements occur on a quarterly basis, rather than monthly as required by the filed and approved SSA.

The Company violated Section 1505(d)(3) of the New York Insurance Law by changing the billing terms of its SSA without notifying the superintendent in writing of its intention at least thirty days prior thereto.

The examiner recommends that the Company comply with its filed and approved SSA or amend the agreement to conform with its current billing practice.

On June 1, 2023, the Company filed with the Department for approval its application of Amendment No. 1 to its SSA revising the agreement’s settlement provision to more clearly reflect its actual settlement process.

#### E. Management

The Company’s by-laws provide that the board of directors shall be comprised of not less than 7 and not more than 13 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2021, 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, 2021, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Mitra Hormozi* New York, NY	Partner Walden, Macht, & Haran LLP	2018
Martin P. Klein Richmond, VA	Chief Financial Officer Athene Annuity and Life Company	2015
Grant Kvalheim Princeton, NJ	President and Chief Executive Officer Athene Annuity & Life Assurance Company of New York	2012
Lawrence J. Ruisi* Armonk, NY	Adjunct Professor of Accounting St. John's University	2017
Francis P. Sabatini* Killingworth, CT	President Sabatini Advisory Services, LLC	2013
Hope S. Taitz* Armonk, NY	Self-employed consultant ELY Capital Advisors, LLC	2012
Christopher R. Welp Clive, IA	Executive Vice President, Insurance Operations Athene Annuity & Life Assurance Company of New York	2016

\* 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, 2021:

<u>Name</u>	<u>Title</u>
Grant Kvalheim	President and Chief Executive Officer
Blaine T. Doerrfeld	Senior Vice President, Senior Counsel and Secretary
Christopher R. Welp	Executive Vice President, Insurance Operations
Michael S. Downing	Executive Vice President, Chief Operating Officer

<u>Name</u>	<u>Title</u>
Christopher J. Grady	Executive Vice President, Retail Sales
Randall W. Epright	Executive Vice President, Chief Information Officer
Kristi K. Burma	Executive Vice President, Human Resources
Megan Claypool*	Senior Vice President, Chief Compliance Officer
Travis M. Tweed	Vice President, Treasurer

\*Designated consumer services officer per Section 216.4(c) of 11 NYCRR 216 (Insurance Regulation 64)

On March 31, 2022, Tyler Goode replaced Travis M. Tweed as Treasurer. On November 29, 2022, the roles of President and Chief Executive Officer were segregated with Michael Downing replacing Grant Kvalheim as President.

#### 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 all 50 states, and the District of Columbia. In 2021, 26.8% of life premiums, 99.8% of annuity consideration, and 92.6% accident and health premiums, were received from New York. Policies are written on a non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2021:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	26.8%	New York	99.8%
Florida	6.9	Florida	<u>0.1</u>
New Jersey	6.0		
North Carolina	5.9	Subtotal	99.9%
California	<u>5.0</u>	All others	<u>0.1</u>
Subtotal	50.6%	Total	<u>100.0%</u>
All others	<u>49.4</u>		
Total	<u>100.0%</u>		
<u>Accident and Health Insurance Premiums</u>			
New York	92.6%		
Connecticut	3.8		
Pennsylvania	<u>...2.4</u>		
Subtotal	98.8%		
All others	<u>1.2</u>		
Total	<u>100.0%</u>		

##### A. Statutory and Special Deposits

As of December 31, 2021, the Company had \$2,310,000 (par value) of United States Treasury Notes on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company. As reported in Schedule E of the 2021 filed annual statement, an additional \$4,389,464 was being held by the states of Arkansas, Florida,

Georgia, Massachusetts, Nevada, New Hampshire, New Mexico, North Carolina, South Carolina, Virginia and Wyoming.

B. Direct Operations

The Company issues only non-participating contracts.

The Company's principal products are deferred annuities, which are interest rate sensitive instruments and pension group annuity contracts. The Company ceased selling all life and accident and health products in 2013. As a result, the Company's life and accident and health business has been in runoff since 2013.

The Company's agency operations are conducted on a general agency basis.

C. Reinsurance

As of December 31, 2021, the Company had reinsurance treaties in effect with 11 companies, of which 7 were authorized. The Company's life, accident and health business is reinsured on a coinsurance, and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis. The Company's annuity business is reinsured with its affiliate AADE on a funds withheld coinsurance basis.

The maximum retention limit for individual life contracts is between \$50,000 and \$100,000, while six are quota share. The total face amount of life insurance ceded as of December 31, 2021, was \$230,648,895, which represents 48.97% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$2,168,494,630, was supported by letters of credit, trust agreements and funds withheld.

The Company did not assume any insurance during the period under examination.



## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2021, as contained in the Company's 2021 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, 2021 filed annual statement.

### A. Independent Accountants

The firm of PricewaterhouseCoopers, LLP ("PwC") was retained by the Company to audit the Company's combined statutory-basis statements of financial position of the Company as of December 31<sup>st</sup> 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.

PwC 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	\$2,732,008,676
Stocks:	
Preferred stocks	11,757,500
Common stocks	86,381,498
Mortgage loans on real estate:	
First liens	55,101,473
Other than first liens	8,375,000
Cash, cash equivalents and short-term investments	57,166,741
Contract loans	11,073,119
Derivatives	2,873,428
Other invested assets	56,053,606
Receivable for securities	407,417
Derivative collateral asset	310,000
Investment income due and accrued	24,985,957
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	19,627

Deferred premiums, agents' balances and installments booked but deferred and not yet due	604,878
Reinsurance:	
Amounts recoverable from reinsurers	4,224,646
Other amounts receivable under reinsurance contracts	890,974
Net deferred tax asset	6,113,818
Guaranty funds receivable or on deposit	59,274
From separate accounts, segregated accounts and protected cell accounts	<u>950,292,814</u>
Total admitted assets	<u>\$4,008,700,446</u>

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$ 399,532,590
Aggregate reserve for accident and health contracts	57,481
Liability for deposit-type contracts	7,435,311
Contract claims:	
Life	2,178,519
Premiums and annuity considerations for life and accident and health contracts received in advance	10,243
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	31,913,719
Interest maintenance reserve	16,494,783
Commissions to agents due or accrued	91,732
General expenses due or accrued	480,942
Transfers to separate accounts due or accrued	3,761,747
Taxes, licenses and fees due or accrued, excluding federal income taxes	1,624,522
Current federal and foreign income taxes	(1,491,322)
Unearned investment income	63,200
Amounts withheld or retained by company as agent or trustee	25,223
Remittances and items not allocated	2,892,091
Miscellaneous liabilities:	
Asset valuation reserve	32,448,504
Payable to parent, subsidiaries and affiliates	1,147,200
Funds held under coinsurance	2,258,350,547
Derivatives	2,479,853
Payable for securities	17,364
Unclaimed funds	11,181,903
Derivative collateral liability	6,640,000
From Separate Accounts statement	<u>927,134,806</u>
 Total liabilities	 <u>\$3,704,470,958</u>
 Common capital stock	 \$ 2,500,875
Gross paid in and contributed surplus	52,633,173
Unassigned funds (surplus)	<u>249,095,439</u>
Surplus	<u>\$ 301,728,613</u>
Total capital and surplus	<u>\$ 304,229,488*</u>
 Total liabilities, capital and surplus	 <u>\$4,008,700,446</u>

\* Surplus was understated by 10.1 million due to valuation error. (See item 6 of this report.)

D. Condensed Summary of Operations

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Premiums and considerations	\$ 21,118,830	\$184,106,929	\$242,101,960	\$563,772,814
Investment income	144,023,573	137,669,165	122,108,217	119,793,126
Net gain from operations from Separate Accounts	0	20,435,259	(14,850,339)	(10,985,026)
Commissions and reserve adjustments on reinsurance ceded	11,495,033	10,298,974	10,144,861	10,650,206
Miscellaneous income	<u>180,485</u>	<u>8,350</u>	<u>7,793</u>	<u>7,449</u>
 Total income	 <u>\$176,817,920</u>	 <u>\$352,518,677</u>	 <u>\$359,512,491</u>	 <u>\$683,238,570</u>
 Benefit payments	 \$ 45,078,166	 \$ 55,964,845	 \$ 47,307,536	 \$ 71,971,190
Increase in reserves	(8,468,487)	(28,324,490)	9,078,570	(10,640,624)
Commissions	4,973,409	2,912,211	4,071,792	3,142,558
General expenses and taxes	8,151,197	7,628,296	7,944,533	10,183,969
Increase in loading on deferred and uncollected premiums	(137,797)	(120,107)	(120,822)	(133,314)
Net transfers to (from) Separate Accounts	0	164,441,439	214,500,130	518,606,429
Miscellaneous deductions	<u>113,452,110</u>	<u>107,847,751</u>	<u>87,022,541</u>	<u>92,922,743</u>
 Total deductions	 <u>\$163,048,598</u>	 <u>\$310,349,944</u>	 <u>\$369,804,279</u>	 <u>\$686,052,952</u>
 Net gain (loss)	 \$ 13,769,322	 \$ 42,168,733	 \$(10,291,788)	 \$ (2,814,382)
Federal and foreign income taxes incurred	<u>4,417,430</u>	<u>7,340,256</u>	<u>5,626,581</u>	<u>2,203,526</u>
 Net gain (loss) from operations before net realized capital gains	 \$ 9,351,892	 \$ 34,828,477	 \$(15,918,369)	 \$ (5,017,909)
Net realized capital gains (losses)	<u>(3,094,993)</u>	<u>(1,849,964)</u>	<u>(8,581,769)</u>	<u>(3,263,625)</u>
 Net income	 <u>\$ 6,256,899</u>	 <u>\$ 32,978,513</u>	 <u>\$(24,500,137)</u>	 <u>\$ (8,281,533)</u>

E. Capital and Surplus Account

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital and surplus, December 31, prior year	\$ <u>267,526,504</u>	\$ <u>282,094,911</u>	\$ <u>318,195,454</u>	\$ <u>319,767,882</u>
Net income	\$ 6,256,899	\$ 32,978,513	\$ (24,500,137)	\$ (8,281,533)
Change in net unrealized capital gains (losses)	(19,105,747)	(2,159,418)	12,916,001	183,800
Change in net unrealized foreign exchange capital gain (loss)	138,029	(68,251)	38,867	65,814
Change in net deferred income tax	3,422,044	213,714	9,135,337	7,031,123
Change in non-admitted assets and related items	(2,759,987)	(2,185,308)	(13,956,508)	(2,596,868)
Change in asset valuation reserve	4,714,000	(3,656,508)	5,669,197	(9,721,195)
Surplus (contributed to), withdrawn from				
Separate Accounts during period	0	0	(16,125,342)	(12,431,000)
Other changes in surplus in Separate Accounts statement	0	8,181	16,120,996	12,428,937
Surplus adjustments:				
Paid in	15,307,895	322,659	341,231	326,808
Change in surplus as a result of reinsurance	6,595,274	7,994,136	12,725,338	(2,544,280)
Correction of prior period error	<u>0</u>	<u>2,652,825</u>	<u>(792,552)</u>	<u>0</u>
Net change in capital and surplus for the year	\$ <u>14,568,407</u>	\$ <u>36,100,543</u>	\$ <u>1,572,428</u>	\$ <u>(15,538,394)</u>
Capital and surplus, December 31, current year	\$ <u>282,094,911</u>	\$ <u>318,195,454</u>	\$ <u>319,767,882</u>	\$ <u>304,229,488*</u>

\* Surplus was understated by 10.1 million due to valuation error. (See item 6 of this report.)

F. Reserves

The examiner conducted a review of the pricing adequacy for various products subject to Section 4238(e) of the New York Insurance Law. During the review, concerns were noted with respect to the investment assumptions. In response to the Department's concerns, the Company agreed to refine its analysis in a manner acceptable to the Department and to provide a summary of the self-support assumptions prior to finalizing future contracts.

## 6. SUBSEQUENT EVENTS

As part of the 2021 audit of AANY, PwC determined that the capital and surplus of \$304.2 million as reported on AANY's 2021 Annual Statement was understated by \$10.1 million based on a judgmental difference in the fair value of a security. The adjusted capital and surplus amount would be \$314.3 million.

On its 2022 Annual Statement, AANY reported a prior period adjustment of \$10,074,001 to reflect the change in valuation of the security affecting the amount reported for its capital and surplus in 2021.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

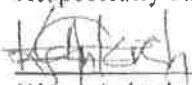
<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 325(a) of the New York Insurance Law by failing to maintain several statutorily required records at its home office.</p> <p>The examination revealed that the Company maintained several statutorily required records at its home office.</p>
B	<p>The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the market value pricing documentation for six calendar years from its creation or until after the filing of a report on examination.</p> <p>The examination revealed that the Company maintained the market value pricing documentation for six calendar years from its creation.</p>



## 8. SUMMARY AND CONCLUSIONS

Following are the violation, recommendation, and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1505(d)(3) of the New York Insurance Law by changing the billing terms of its SSA without notifying the superintendent in writing of its intention at least thirty days prior thereto.	10
B	The examiner recommends that the Company comply with its filed and approved SSA or amend the agreement to conform with its current billing practice.	10
C	The examiner conducted a review of the pricing adequacy for various products subject to Section 4238(e) of the New York Insurance Law. During the review, concerns were noted with respect to the investment assumptions. In response to the Department's concerns, the Company agreed to refine its analysis in a manner acceptable to the Department and to provide a summary of the self-support assumptions prior to finalizing future contracts.	20

Respectfully submitted,  
  
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.

  
Kings Ankrah

Subscribed and sworn to before me  
this 15<sup>th</sup> day of June, 2023  
Audrey Hall

**AUDREY HALL**  
Notary Public, State of New York  
No. 01HA6274900  
Qualified in Kings County  
Commission Expires January 28, 2025

Respectfully submitted,

\_\_\_\_\_  
/s/

Rory Cummings  
Associate Insurance Examiner

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

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

\_\_\_\_\_  
/s/

Rory Cummings

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_

***APPOINTMENT NO. 32404***

***NEW YORK STATE***

***DEPARTMENT OF FINANCIAL SERVICES***

*I, **ADRIENNE A. HARRIS**, 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*

***ATHENE ANNUITY & LIFE ASSURANCE 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 8th day of April, 2022*

***ADRIENNE A. HARRIS***  
*Superintendent of Financial Services*

By: *Mark McLeod*

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***MARK MCLEOD***  
***DEPUTY CHIEF - LIFE BUREAU***

