



**MARKET CONDUCT REPORT ON EXAMINATION**

**OF**

**THE NORTHWESTERN MUTUAL LIFE**

**INSURANCE COMPANY**

**AS OF DECEMBER 31, 2017**

**EXAMINER:**

**FLORA EGBUCHULAM**

**DATE OF REPORT:**

**OCTOBER 9, 2019**

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KATHY HOCHUL  
Governor



ADRIENNE A. HARRIS  
Superintendent

September 28, 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. 31774, dated May 31, 2018, and annexed hereto, an examination has been made into the condition and affairs of The Northwestern Mutual Life Insurance Company, hereinafter referred to as “the Company,” at its home office located at 720 East Wisconsin Avenue, Milwaukee, WI 53202.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

This 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 2112(d) of the New York Insurance Law by failing to notify the Superintendent within 30 days of such termination for three (3) of the 25 New York terminations for cause. (See item 4A-2 of this report.)
- The Company violated several sections of 11 NYCRR 51 (Insurance Regulation 60) by failing to: (i) obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced; (ii) obtain proper replacement authorization from the applicants and to submit such information to the insurer whose contracts or policies were being replaced; (iii) present to the applicant, at the time the applicant signed the application, a copy of the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts; (iv) examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Regulation; and (v) maintain copies of the sales materials or proposals used in the sale of the replacing life insurance policy and annuity contracts. (See item 4A-3 of this report.)
- The Company violated several sections of 11 NYCRR 53 (Insurance Regulation 74), including violations of sections 53-3.1(d); 53-3.2(b)(6); 53-3.3(d); 53-3.5(a) and 53-3.2(a)(7) of 11 NYCRR 53 (Insurance Regulation 74), by failing to illustrate policy forms that were certified to be illustrated; by using illustrations that did not contain the dividend option election; by providing applicants with incomplete illustrations; by issuing policies with illustrations that were not signed and dated by the applicants and sales agents, and by failing to provide a copy of the illustration to the applicant at the time of application. (See item 4A-4 of this report.)
- The Company violated Section 3201(b)(1) of the New York Insurance Law by using several unapproved forms to issue life insurance policies and annuity contracts. (See item 4B-1 of this report.)
- The Company violated Section 2611(a) of the New York Insurance Law by failing to obtain the written informed consents prior to subjecting applicants to an HIV-related testing. (See item 4B-3 of this report.)

- The Company violated Section 3211(b)(2) of the New York Insurance Law when it used the words “forfeited and void”, rather than “terminate and lapse”, to disclose, on the premium notices mailed to policyholders, that unless payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit. (See item 4C-2 of this report.)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2011, to December 31, 2017. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2017, but prior to the date of this report (i.e., the completion date of the examination).

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

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or matters which require explanation or description.

### 3. DESCRIPTION OF COMPANY

#### A. History

The Company was incorporated as a mutual life insurance company under the laws of the State of Wisconsin on March 2, 1857 and commenced business on November 25, 1858. The Company received its New York license on June 1, 1868.

This is the Company's first statutory examination by the Department.

#### B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities, and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all 50 states and the District of Columbia.

In 2017, 8.3% of life insurance premiums, 4.5% of annuity considerations, 7.5% of accident and health insurance premiums, and 3.6% of deposit-type funds were received from New York. Policies are written on a participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2017:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	8.3%	Wisconsin	7.4%
California	7.7	Illinois	6.9
Illinois	7.1	Florida	6.4
Florida	6.1	Texas	6.0
Texas	<u>6.0</u>	New York	<u>4.5</u>
Subtotal	35.2%	Subtotal	31.2%
All others	<u>64.8</u>	All others	<u>68.8</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

<u>Accident and Health Insurance Premiums</u>		<u>Deposit Type Funds</u>	
New York	7.5%	Minnesota	23.0%
California	7.1	Illinois	7.2
Florida	<u>6.2</u>	Wisconsin	6.3
		New York	<u>3.6</u>
Subtotal	20.8%	Subtotal	40.2%
All others	<u>79.2</u>	All others	<u>59.8</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

The principal lines of business sold during the examination period are individual life insurance, individual annuity products, and group disability coverage. The products offered include whole life, term life, universal life, and CompLife (a combination of whole and term life insurance) policies, deferred and immediate variable annuity products, and group short-term and long-term disability contracts. The Company generated most of its premium income (75.9%) from individual life products, which accounted for (89%) of the Company's total policy benefit reserves as of December 31, 2017.

The Company's agency operations are conducted on a general agency/branch office basis. The Company's distribution system consists of over 9,600 full and part time field financial representatives who distribute the Company's products through its operating subsidiary, Northwestern Long-Term Care Insurance Company, as well as non-insurance operating subsidiaries, including Northwestern Mutual Investment Services, LLC, and Northwestern Mutual Wealth Management Company, a federally chartered limited purpose savings bank.



#### 4. MARKET CONDUCT ACTIVITIES

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

##### A. Advertising and Sales Activities:

The examiner reviewed a sample of the Company's advertising files and sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

1. Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) states:

*“The words *free, no cost, without cost, no additional cost, at no extra cost, without additional cost*, or words of similar import, may not be used with respect to any benefit or service being made available with the policy. An advertisement may specify the charge for a benefit or a service, or may state that a charge is included in the premium, or use other appropriate language.”*

The examiner reviewed a sample of 34 advertisements used to market life insurance and annuity products during the examination period. The review showed that 3 of the 34 advertisements (8.8%) contained the words or phrase “at no extra charge” to describe the options and benefits being made available with the deferred annuity, universal life, and variable universal life products. Rather than specify the charge for the benefit or service, or state that a charge is included in the premium, the Company used these words or phrase, which may potentially be deemed misleading and capable of being deceptive to consumers.

The Company violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to specify the charge for the benefit or service, or state that a charge is included in the premium for the guaranteed coverage for the deferred annuity, universal life, and variable universal life products.

2. Section 2112(d) of the New York Insurance Law states, in part:

*“Every insurer . . . doing business in this state shall, upon termination of the certificate of appointment . . . of any insurance agent licensed in this state, or upon termination for cause for activities . . . of the certificate of appointment, of employment, of a contract or other insurance business relationship with any insurance producer, file with the superintendent within thirty days a statement, in*

such form as the superintendent may prescribe, of the facts relative to such termination for cause . . .”

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

“The records shall be readily available and easily accessible to the superintendent in accordance with Insurance Law, Section 310. . . . Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of Insurance Law, Section 308 unless the insurer can demonstrate that there is a reasonable justification for that delay.”

The Company terminated for cause 47 agents during the examination period, and 25 were New York licensees. The Company failed to notify the Superintendent within 30 days of such termination for three (3) of the 25 New York terminations for cause (12.0%).

The Company violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent within 30 days of such termination for three (3) of the 25 New York terminations for cause.

On January 31, 2019, the examiner requested the files of a sample of ten out of a population of 47 agents who were terminated for cause during the examination period. The Company advised that it did not maintain the records for any of the agents that were terminated for cause. The Company furnished the records on September 10, 2020.

The Company violated Section 243.2(e) of 11 NYCRR 243 (Insurance Regulation 152) by failing to make available, files of agents terminated for cause within a reasonable time frame.

3. Section 51.5(c) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) states, in part:

“Where a replacement has occurred or is likely to occur:  
(1) obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced . . .”

Section 51.5(c) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Where a replacement has occurred or is likely to occur:  
(1) obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced . . .”

The examiner reviewed 93 internal and external life insurance replacement files and 94 internal and external annuity replacement files and noted several instances that failed to meet the requirements of Insurance Regulation 60.

The review of the annuity files revealed that the Company failed to obtain a list of all existing life insurance policies or annuity contracts proposed to be replaced in 3 (3.2%) of the 94 annuity files and in one (1.1%) of the 93 life insurance files reviewed.

The Company violated Section 51.5(c)(1) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Section 51.5(c)(1) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced.

Section 51.5(c) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) states, in part:

“Where a replacement has occurred or is likely to occur:  
 (2) . . . Submit to the insurer whose policy or contract is being replaced a list of all life insurance policies or annuity contracts proposed to be replaced . . . together with the proper authorization from the applicant . . .”

Section 51.5(c) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Where a replacement has occurred or is likely to occur: . . .  
 (3) submit to the insurer that issued the policy or contract that is being replaced a list of all life insurance policies or annuity contracts proposed to be replaced, as well as the policy or contract number for such policies or contracts, together with the proper authorization from the applicant . . .”

In 22 of the 93 (23.7%) life insurance replacements files and in 17 of the 94 (18.1%) annuity replacement files reviewed, the Company failed to obtain proper replacement authorization from the applicants.

The Company violated Section 51.5(c)(2) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Sections 51.5(c)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to obtain proper replacement authorization from the applicants and to submit such information to the insurer whose contracts or policies were being replaced.

Section 51.5 of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Each insurance agent and broker shall: . . .

(c) where a replacement has occurred or is likely to occur: . . .

(2) notify the insurer that issued the policy or contract that is being replaced and the insurer replacing the life insurance policy or annuity contract of the proposed replacement; . . .”

The examiner’s review of the annuity replacements showed that the Company failed to inform the insurer that issued the contract that was being replaced.

The Company violated Section 51.5(c)(2) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to notify the insurer that issued the policy that was being replaced.

Section 51.5 of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) states, in part:

“Each insurance agent and broker shall: . . .

(c) where a replacement has occurred or is likely to occur: . . .

(4) present to the applicant, not later than at the time the applicant signs the application, the ‘IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts’ and leave a copy of such form with the applicant for the applicant's records; . . .”

In 16 of the 93 (17.2%) life insurance replacement files and in 10 of the 94 (10.6%) annuity replacement files reviewed, a copy of the Important Notice was presented to the applicant later than at the time of application.

The Company violated Section 51.5(c)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to present to the applicant, at the time the applicant signed the application, a copy of the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts.

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

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

(3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the ‘Disclosure Statement’, and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part; . . .”

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

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

(4) examine the sales material, including any proposal, used in the sale of the life insurance policy or annuity contract, and the ‘Disclosure Statement’, and ascertain that they are accurate and meet the requirements of the Insurance Law and regulations promulgated thereunder; . . .”

In 46 of the 93 life insurance policy replacements reviewed (49.5%) and in 73 of 94 annuity contract replacements reviewed (77.7%), the examiner noted the following various inconsistencies on the Disclosure Statements: failure to record the valuation date; failure to record the proposed contract’s valuation date and amounts; failure to provide the reasons for recommending the replacement; failure to record the surrender charge or recording the incorrect surrender charge on the existing contract; failure to record the contestable period and the suicide period expiry dates, indicating that approximation was used in the internal replacement when that was not the case; using two disclosure forms, Appendix 10A and Appendix 10B, to complete one replacement transaction involving less than three existing policies or contracts and, as a result, there were no parallel comparisons of the features and benefits of the proposed with the old contract; and indicating that sales material was used when none was used, or indicating that sales material was not used when sales material was used.

The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Regulation.

4. Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this Subpart, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.”

Section 53-3.5(c) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“If the basic illustration or revised illustration is sent to the applicant or policyowner by mail from the insurer, it shall include instructions for the applicant or

policyowner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. It is not necessary to obtain the signature of the agent or broker. The insurer's obligation under this Subpart shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. . . .”

The Company’s Insurance Regulation 74 filings indicate that policy forms TT.TERM.(0513), TT.TERM.L20.(0513), TT.WL.(0513), and TT.ACL.(0513) would be marketed with illustration when selling term life, whole life, and adjustable CompLife policies. The examiner reviewed 50 underwriting files of policies issued with the identified form and noted that 10 of the 50 files (20%) had no illustration. When inquired, the Company indicated that illustrations were mailed to the applicants pursuant to Section 53-3.5(c) requirements, but it failed to provide copies of the prepared illustrations and the mailing records as evidence of such compliance.

The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) by failing to illustrate policy forms that were certified to be marketed with illustrations.

Section 53-3.2(a) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“An illustration used in the sale of a life insurance policy and subject to this Subpart shall satisfy the applicable requirements of this Subpart, be clearly labeled ‘life insurance illustration’ and contain the following basic information: . . .  
(7) dividend option election . . .”

The examiner reviewed 11 universal life policies issued during the examination period and noted the prepared illustrations for all policies did not contain the dividend option election. Although dividends may not expect to be paid, the related approved policy forms—TT.CUL.A.(1113), TT.SUL.(1113), TT.SPUL.P.(1113), TT.SUL.(0513), TT.CUL.A.(0805), and TT.CUL.P.(0805)—all contain the dividend option.

The Company violated Section 53-3.2(a)(7) of 11 NYCRR 53 (Insurance Regulation 74) by using illustrations that did not contain the dividend option election.

Section 53-3.2(b) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not: . . .  
(6) provide an applicant with an incomplete illustration . . .”

The review of the underwriting files showed that 5 of the 50 files (10%) contained incomplete illustrations that are missing several pages, for example, one file contains only page “6 of 8” of the prepared illustration. The Company indicated that it complied with Section 53-3.5(c) but failed to provide the missing pages that were prepared for the identified applicants; the Company also failed to provide evidence of when the missing pages were supplied to the applicants.

The Company violated Section 53-3.2(b)(6) of 11 NYCRR 53 (Insurance Regulation 74) by providing applicants with incomplete illustrations.

Section 53-3.3(d) of 11 NYCRR 53 (Insurance Regulation 74) states:

“Statements.

Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policyowner in the case of an illustration provided at the time of delivery, as required in this Subpart.

(1) A statement to be signed and dated by the applicant or policyowner reading as follows: ‘I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent or broker has told me they are not guaranteed.’

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: ‘I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.’”

In 8 of the 50 underwriting policy files reviewed (16%), the prepared illustrations were not signed and dated by the policyowner and the agent.

The Company violated Section 53-3.3(d) of 11 NYCRR 53 (Insurance Regulation 74) by issuing policies with illustrations that were not signed and dated by the applicants and sales agents.

Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74) states, in part:

“If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this Subpart, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant. . . .”

In 13 of the 50 underwriting files reviewed (26%), the applicant was not provided a basic illustration at the time of application; in 2 other instances (4%), the illustration was prepared at a

date later than the application, but the agent had the applicants sign and backdate the illustrations to the dates of applications.

The Company violated Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74) by failing to provide a copy of the illustration to the applicant at the time of application.

## B. Underwriting and Policy Forms

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

### 1. Section 3201(b)(1) of the New York Insurance Law states, in part:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. . . .”

The examiner’s review of underwriting and replacement files revealed that the Company issued 109 life insurance policies with the following twelve unapproved versions of term life and whole life applications, application supplements and amendments, and policy inserts:

- i. Supplement to application 90-4(0015) - used to issue one 1 life policy
- ii. Supplement to application 90-4(0105) - used to issue 7 life policies;
- iii. Supplement to application 90-4(0313) - used to issue 39 life policies;
- iv. Application form 90-1231 (0186) REV 2012 - used to issue 2 life policies;
- v. Amendment to application 17-0694(REV 9-83) - used to issue 3 life policies;
- vi. Policy insert TT.TERM. (0105) - included in one 1 life policy;
- vii. Policy insert TT.TERM. (0513) - included in 22 life policies;
- viii. Policy insert TT.TERM.L20.(0513)(REV0116) - included in 4 life policies;
- ix. Policy insert TT.TERM.L20(0513) - included in 12 life policies;
- x. Policy insert TT.TERM.1P80.(0513)(REV0116) - included in 7 life policies;
- xi. Policy insert TT.WL.65L(0513) - included in one (1) life policy; and
- xii. Policy insert TT.ACL.(0513) - included in 10 life policies.

In addition to the above forms related to life insurance policies, and with respect to juvenile coverage amount of insurance, the monetary limitations of Section 3207 of the New York Insurance Law must be set forth in either the policy, or in a rider or an endorsement. The Company is choosing to do it by endorsement. The juvenile endorsement is issued whenever the insured under the base policy is under the age of 14 ½ or when a children’s term rider is attached to a policy.



The Company noted that the juvenile coverage limitation endorsement, Amendment Form No. AMDT.JUV.NY(0708) was used during the examination period; and that this form was attached to each juvenile policy that was issued during the said period. The Company did not submit and obtain the Department's approval of this form before it was used and attached to 16,191 policies that were issued to insureds under age 14 ½.

The underwriting review also revealed that 80 annuity contracts were issued with the following four unapproved application forms and contract covers:

- i. Application 90-1550(0111)REV – used to issue 1 annuity contract.
- ii. Contract cover RR.VA.BFR.NGF.(0313).RPMT – used in 37 replacing annuity contracts.
- iii. Contract cover RR.VA.BBK.NGF.(0313).RPMT – used in 28 replacing annuity contracts.
- iv. Contract cover RR.VA.AFB.NGF.(0313).RPMT – used in 14 replacing annuity contracts.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using several unapproved policy forms to issue life insurance policies and annuity contracts.

Section 3203(a) of the New York Insurance Law states, in part:

“All life insurance policies, . . . delivered or issued for delivery in this state, shall contain in substance the following provisions, or provisions which the superintendent deems to be more favorable to policyholders: . . .

(13) in any policy under which additional amounts may be credited pursuant to subsection (b) of section four thousand two hundred thirty-two of this chapter, that such additional amounts shall be nonforfeitable after the effective date of their crediting except for any charges imposed under the policy which are not greater than those allowed under subsection (n-1) or any market value adjustment made pursuant to subsection (n-2) of section four thousand two hundred twenty-one of this chapter; and

(14) in any policy under which additional amounts may be credited for any period pursuant to subsection (b) of section four thousand two hundred thirty-two of this chapter, that the policy shall state the frequency at which additional amounts are credited, which shall be no less frequently than annually, except that policies that credit additional amounts in an equity index account may do so in such account no less frequently than every three years;

(15) that states on the policy data or policy specifications page of a participating cash value policy that dividends are not guaranteed, and the insurer has the right to change the amount of dividend to be credited to the policy which may result in lower dividend cash values than were illustrated, or, if applicable, require more premiums to be paid than were illustrated.

(16) that states on the policy data or policy specifications page of a life insurance policy subject to subsection (b) of section four thousand two hundred thirty-two of this chapter, to the extent applicable, that additional amounts are not guaranteed and the insurer has the right to change the amount of interest credited to the policy and the amount of cost of insurance or other expense charges deducted under the policy which may require more premium to be paid than was illustrated or the cash values may be less than those illustrated. . . .”

The Department’s record shows that form numbers TT.CUL. A. (1113), TT. SPUL (1113), TT. SPUL.P(1113), and TT.SUL. (1113) were submitted to the Department for approval via Insurance Circular Letter No. 6 (2004) Prior Approval Certification. Therefore, the forms were approved on the basis that the forms complied with all applicable statutes, regulations, and circular letters. However, a post-approval review of these forms showed that the forms are incomplete and do not comply with all applicable statutes, regulations and circular letters, as outlined below.

Forms TT.CUL. A. (1113), TT. SPUL (1113), TT. SPUL.P(1113), and TT.SUL. (1113) are missing all the languages required by Sections 3203(a)(13) and 3203(a)(14) of the New York Insurance Law.

Forms TT.CUL. A. (1113) and TT.SUL. (1113) are not complete because the data pages are missing the following language required by Section 3203(a)(15) of the New York Insurance Law: “and the insurer has the right to change the amount of dividend to be credited to the policy which may result in lower dividend cash values than were illustrated, or, if applicable, require more premiums to be paid than were illustrated.”

Forms TT.CUL. A. (1113) and TT.SUL. (1113) are not complete because the data pages do not contain the language required by Section 3203(a)(16) of the New York Insurance Law.

The Company violated Sections 3203(a)(13), 3203(a)(14), 3203(a)(15) and 3203(a)(16) of the New York Insurance Law by failing to include all the languages required by these sections on the identified policy forms.

The examiner’s review of the annuity replacement files showed that 24 of the files contained application form No. ICC 14 90-1900 (0313), which is identical to application form No. 14 90-1900 (0313) REV that was approved via Insurance Circular Letter No. 6 (2004) Prior Approval Certification but without the prefix “ICC.” The Company indicated that the prefix “ICC” was an internal labeling error, but was unable to state how many New York contracts may have been issued using the “ICC” application.

The examiner recommends that the Company put controls in place to prevent such labeling errors from occurring on applications used to issue contracts for delivery in New York.

2. Section 3207(b) of the New York Insurance Law states, in part:

“ . . . [A]n insurer shall not knowingly issue such a policy or policies for an amount which, together with the amount of life insurance under any other policy or policies then in force upon the life of such minor, is in excess of the limit of fifty thousand dollars or the limit of fifty per centum or the limit of twenty-five per centum in the case of a minor under the age of four years, and six months of the amount of life insurance in force upon the life of the person effectuating the insurance at the date of issue of the policy on the life of such minor, whichever limit is the greater . . . ”

The examiner reviewed a sample of 50 juvenile life policies and noted that 3 of the 50 policies (6.0%) were issued in face amounts that exceeded the maximum limits of life insurance in force on minors under Section 3207(b) of the New York Insurance Law. The Company stated that a total of 288 juvenile policies were issued during the examination period with face amounts above the maximum limits allowed by the statute.

The Company violated Section 3207(b) of the New York Insurance Law by issuing policies on the lives of minors with face amounts that exceeded the maximum limits allowed by statute.

3. Section 2611(a) of the New York Insurance Law states:

“No insurer or its designee shall request or require an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.”

The examiner reviewed a sample of 79 life insurance underwriting files where applicants were subjected to an HIV-related test. In 4 of the 79 cases reviewed (5.1%), the Company failed to obtain the proper written informed consents and to provide general information about AIDS and the transmission of HIV-infection prior to subjecting the applicants to an HIV-related test.

The Company violated Section 2611(a) of the New York Insurance Law by failing to obtain the written informed consents prior to subjecting applicants to an HIV-related testing.

### C. Treatment of Policyholders

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

1. Section 86.4 of 11 NYCRR 86 (Insurance Regulation 95) states, in part:

“(a) . . . [A]ll claim forms for insurance, . . . provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:

‘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.’ . . .

(d) Location of warning statements and type size. The warning statements . . . 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.

(e) . . . [I]nsurers may use substantially similar warning statements provided such warning statements are submitted to the Criminal Investigation Unit for prior approval.”

The examiner reviewed various types of claims processed during the examination period and noted that the Company used claim forms where the fraud warning statement was not placed immediately above the space provided for the signature of the person executing the claim form, or where the fraud warning statement was a mixture of the statutory fraud warning statement and the statement that the Department approved for the Company’s alternate fraud warning language in 1996.

The examiner reviewed 40 life insurance death claims and 66 annuity death claims and noted that in all 106 claims (100%), the fraud warning statement was not placed immediately above the space provided for the signature of the person executing the claim form, and the fraud warning statement was a mixture of the statutory fraud warning statement provided under Section 86.4 of 11 NYCRR 86 (Insurance Regulation 95) and the alternate fraud warning statement that the Department had approved for the Company in 1996. The Company is approved to either use the approved language or use the statutory language. The examiner’s review of 55 paid and 30 denied

disability claim files also showed that the Company used the same noncompliant claim forms and unapproved fraud warning language.

The Company violated Sections 86.4(a) and 86.4(e) of 11 NYCRR 86 (Insurance Regulation 95) by using language that deviated from the statutorily required fraud warning statement and the alternate fraud warning language that the Company filed with and was approved by the Department in 1996.

The Company also violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by using claim forms where the required fraud warning statement was not placed immediately above the space provided for the signature of the person executing the claim form.

2. Section 3211 of the New York Insurance Law states, in part:

“(a)(1) No policy of life insurance or non-cancellable disability insurance delivered or issued for delivery in this state . . . shall terminate or lapse by reason of default in payment of any premium, installment, or interest on any policy loan in less than one year after such default, unless, for scheduled premium policies, a notice shall have been duly mailed at least fifteen and not more than forty-five days prior to the day when such payment becomes due, or for life insurance policies in which the amount and frequency of premiums may vary, no earlier than and within thirty days after the day when the insurer determines that the net cash surrender value under the policy is insufficient to pay the total charges that are necessary to keep the policy in force. A separate notice shall not be required for insurance that is supplemental to a policy of life insurance. . . .”

(b) The notice required by paragraph one of subsection (a) hereof shall:

(1) be duly mailed to the last known address of the policyowner, or if any other person shall have been designated in writing to receive such notice, then to such other person;

(2) . . . and shall also state that unless such payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.

. . .”

The examiner reviewed samples of terminated New York policy files and noted that 3 of 23 whole life (13%) and 10 of 57 term life termination files (18%) contained documents stating that “notice attempted not sent”; and the Company could not provide any evidence showing that a scheduled premium notice was duly mailed to the thirteen policyholders within 15 and no more than 45 days prior to the date such premiums become due. Also, in 5 of the 57 term life lapse transactions reviewed (9%), which had annual or quarter scheduled premium payments, the Company mailed the premium notice in 12 days, not within 15 but no more than 45 days.

The Company violated Sections 3211(a)(1) and 3211(b)(1) of the New York Insurance Law by failing to duly mail a premium notice to the last known address of the policyowner or the designated person within 15 and no more than 45 days prior to the date such premiums become due.

Section 3211(b) of the New York Insurance Law states, in part:

“The notice required by paragraph one of subsection (a) hereof shall: . . .  
 (2) state the amount of such payment . . . and shall also state that unless such payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or non-forfeiture benefit.”

The examiner reviewed samples of whole life, term life, and adjustable CompLife policyholder premium due notices and noted that the notices did not comply with Section 3211(b)(2) required disclosure language because the premium notices state that “the policy and all payments on it will be *forfeited* and *void* except for nonforfeiture benefits of the policy”. However, Section 3211(b)(2) requires “lapse and terminate” rather than “forfeited and void”.

The Company violated Section 3211(b)(2) of the New York Insurance Law when it used the words “forfeited and void”, rather than “terminate and lapse”, to disclose, on the premium notices mailed to policyholders, that unless payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.

The examiner recommends that the Company corrects its lapse notices with compliant language.

3. Section 54.11(a) of 11 NYCRR 54 (Insurance Regulation 77) states, in part:

“Any insurer delivering or issuing for delivery in this State any variable life insurance policies shall mail to each variable life insurance policyholder, at his or her last known address, the following reports:

(a) Within 60 days after each anniversary of the policy, a statement or statements of the cash surrender value, policy value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments . . . This statement shall state that, in accordance with the investment experience of the separate account, the policy values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this subdivision. . . .”

The examiner reviewed 20 variable life policyholder annual reports and noted that the reports did not prominently state that, in accordance with the investment experience of the separate account, the policy values and the variable death benefit may increase or decrease.

The Company violated 54.11 (1) of 11 NYCRR 54 (Insurance Regulation 77) by failing to completely and prominently display the required language on its variable life insurance policyholder annual reports. The notice mentions investment, but the required language is not complete and prominent.

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

“(a) In addition to any other requirement contained in Insurance Law Section 325, any other Section of the Insurance Law or other law, or any other provision of this Title, every insurer shall maintain its claims, rating, underwriting, marketing, complaint, financial, and producer licensing, and such other records subject to examination by the superintendent, in accordance with the provisions of this Part.

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

...

(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review. . . .”

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

“(1) Records and indices of records required to be maintained under this Part may be maintained in any durable medium.

(2) Where the original record was not a paper document, an insurer shall be able to produce information or data which accurately represents a record of communications between a person or entity and the insurer . . .

(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 20 paid up addition whole life policy files and noted that in 3 (15%) of the 20 policies, the administrative system’s policy history showed no evidence that the annual policy statements were sent to policyholders during the examination period. When the examiner subsequently requested copies of such records, the Company stated that the annual policy statements were not available, or that it was unable to locate the annual policy statements in the administrative system because they had been removed from the database.

The Company violated Sections 243.2(b)(8) and 243.3(a)(4) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain policy records or to accurately reconstruct copies of the annual policy statements sent to policyholders.



## 5. SUMMARY AND CONCLUSIONS

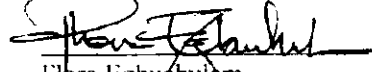
Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to specify the charge for the benefit or service, or state that a charge is included in the premium for the guaranteed coverage for the deferred annuity, universal life, and variable universal life products.	7
B	The Company violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent within 30 days of such termination for three (3) of the 25 New York terminations for cause.	8
C	The Company violated Section 243.2(e) of 11 NYCRR 243 (Insurance Regulation 152) by failing to make available, files of agents terminated for cause within a reasonable time frame.	8
D	The Company violated Section 51.5(c)(1) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Section 51.5(c)(1) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced.	9
E	The Company violated Section 51.5(c)(2) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Sections 51.5(c)(3) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to obtain proper replacement authorization from the applicants and to submit such information to the insurer whose contracts or policies were being replaced.	9
F	The Company violated Section 51.5(c)(2) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to notify the insurer that issued the policy that was being replaced.	10
G	The Company violated Section 51.5(c)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to present to the applicant, at the time the applicant signed the application, a copy of the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts.	10

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The Company violated Section 51.6(b)(3) of 11 NYCRR 51 (Insurance Regulation 60, Second Amendment) and Section 51.6(b)(4) of 11 NYCRR 51 (Insurance Regulation 60, Third Amendment) by failing to examine and ascertain that the Disclosure Statement was accurate and met the requirements of the Regulation.	11
I	The Company violated Section 53-3.1(d) of 11 NYCRR 53 (Insurance Regulation 74) by failing to illustrate policy forms that were certified to be marketed with illustrations.	12
J	The Company violated Section 53-3.2(a)(7) of 11 NYCRR 53 (Insurance Regulation 74) by using illustrations that did not contain the dividend option election.	12
K	The Company violated Section 53-3.2(b)(6) of 11 NYCRR 53 (Insurance Regulation 74) by providing applicants with incomplete illustrations.	13
L	The Company violated Section 53-3.3(d) of 11 NYCRR 53 (Insurance Regulation 74) by issuing policies with illustrations that were not signed and dated by the applicants and sales agents.	13
M	The Company violated Section 53-3.5(a) of 11 NYCRR 53 (Insurance Regulation 74) by failing to provide a copy of the illustration to the applicant at the time of application.	14
N	The Company violated Section 3201(b)(1) of the New York Insurance Law by using several unapproved policy forms to issue life insurance policies and annuity contracts.	15
O	The Company violated Sections 3203(a)(13), 3203(a)(14), 3203(a)(15) and 3203(a)(16) of the New York Insurance Law by failing to include all the languages required by these sections on the identified policy forms.	16
P	The examiner recommends that the Company put controls in place to prevent such labeling errors from occurring on applications used to issue contracts for delivery in New York.	17
Q	The Company violated Section 3207(b) of the New York Insurance Law by issuing policies on the lives of minors with face amounts that exceeded the maximum limits allowed by statute.	17
R	The Company violated Section 2611(a) of the New York Insurance Law by failing to obtain the written informed consents prior to subjecting applicants to an HIV-related testing.	17

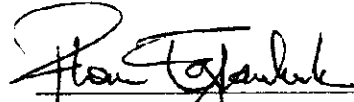
<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
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T	The Company also violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by using claim forms where the required fraud warning statement was not placed immediately above the space provided for the signature of the person executing the claim form.	19
U	The Company violated Sections 3211(a)(1) and 3211(b)(1) of the New York Insurance Law by failing to duly mail a premium notice to the last known address of the policyowner or the designated person within 15 and no more than 45 days prior to the date such premiums become due.	20
V	The Company violated Section 3211(b)(2) of the New York Insurance Law when it used the words “forfeited and void”, rather than “terminate and lapse”, to disclose, on the premium notices mailed to policyholders, that unless payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the right to any cash surrender value or nonforfeiture benefit.	20
W	The examiner recommends that the Company corrects its lapse notices with compliant language.	20
X	The Company violated 54.11 (1) of 11 NYCRR 54 (Insurance Regulation 77) by failing to completely and prominently display the required language on its variable life insurance policyholder annual reports. The notice mentions investment, but the required language is not complete and prominent.	21
Y	The Company violated Sections 243.2(b)(8) and 243.3(a)(4) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain policy records or to accurately reconstruct copies of the annual policy statements sent to policyholders.	22

Respectfully submitted,

  
Flora Egbuchulam  
Associate Insurance Examiner

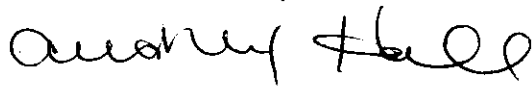
STATE OF NEW YORK     )  
  )SS:  
COUNTY OF NEW YORK    )

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

  
Flora Egbuchulam

Subscribed and sworn to before me

this 28<sup>th</sup> day of September, 2023



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

*APPOINTMENT NO. 31774*

*NEW YORK STATE*

*DEPARTMENT OF FINANCIAL SERVICES*

*I, MARIA T. VULLO, 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:*

*FLORA EGBUCHULAM*

*as a proper person to examine the affairs of the*  
*THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY*  
*and to make a report to me in writing of the condition of said*  
*COMPANY*

*with such other information as she shall deem requisite.*

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

*this 31st day of May, 2018*

*MARIA T. VULLO  
Superintendent of Financial Services*

*By:*

*mar m leod*

*MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU*

