

# **OHIO DEPARTMENT OF INSURANCE**

**A**

**MARKET REGULATION DESK AUDIT**

**OF**

**NEW YORK LIFE INSURANCE AND ANNUITY**

**CORPORATION**

**NAIC # 91596**

**As Of**

**December 31, 2004**





**Bob Taft**, Governor  
**Ann Womer Benjamin**, Director

2100 Stella Court, Columbus, OH 43215-1067  
(614) 644-2658      [www.ohioinsurance.gov](http://www.ohioinsurance.gov)

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Honorable Ann Womer Benjamin  
Director  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a market regulation desk audit was conducted on the Ohio business of:

New York Life Insurance and Annuity Corporation  
200 Continental Drive  
Newark, Delaware  
NAIC Company Code: 91596.

The desk audit was conducted at the Ohio Department of Insurance office located at:

2100 Stella Court  
Columbus OH 43215.

A report of the desk audit is enclosed.

Respectfully submitted,

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David R. Beck  
Chief, Market Regulation Division

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Date



Accredited by the National Association of Insurance Commissioners (NAIC)

Consumer Hotline: 1-800-686-1526

Fraud Hotline: 1-800-686-1527

OSHIIP Hotline: 1-800-686-1578

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## **FOREWORD**

This desk audit was conducted under authority provided under Ohio Revised Code (“R.C.”) 3901.011.

## **SCOPE OF EXAMINATION**

On September 23, 2005, the Market Regulation Division, Ohio Department of Insurance (“Department”), opened a desk audit into the non-financial business practices of the New York Life Insurance and Annuity Corporation (“Company”) by sending the Company a call letter and initial request for information.

The desk audit was restricted to a review of Company activities for Ohio life insurance claims for the period of January 1, 2003 through December 31, 2004. The desk audit is reported by test and was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (“NAIC”) and the state of Ohio’s applicable statutes and rules.

Accordingly, the desk audit included the following areas of the Company’s operations:

- Company History
- Company Operations
- Certificate of Authority
- Paid Death Claims
- Denied Death Claims
- Complaint Handling

## **METHODOLOGY**

As part of the desk audit, the Department’s examiners reviewed the Company’s life insurance claim files and the Company’s corresponding procedures. This information was supplemented by interviewing Company managers, with written inquiries requesting clarification, and/or additional information.

Only Ohio policyholders’ files were reviewed. A series of tests were designed and applied to these files to determine the Company’s level of compliance with Ohio insurance statutes and rules. These tests are described and the results noted in this report.

The examiners used the National Association of Insurance Commissioners’ standard of:

7% error ratio on claim files (93% compliance rate)

to determine whether or not an apparent pattern or practice of non-compliance existed for any given test. The results of each test applied to a sample are reported separately. Each test is expressed as a “yes/no” question. A “yes” response indicates compliance and a “no” response

indicates a failure to comply. A “no” response may be referred to in this report as an “exception.”

In any instance where errors were noted, the examiners described the apparent error and asked the Company for an explanation. The Company responded to the examiners and either:

- Concurred with the findings,
- Had additional information for the examiners to consider, and/or
- Proposed remedial action(s) to correct the apparent deficiency.

If applicable, the examiners’ recommendations are included in this report.

### **SAMPLING**

Upon request, the Company supplied reports of policy and claim data in file formats, which could be used on IBM compatible personal computers. Except as otherwise noted, all tests were conducted on a sample of files randomly selected from a given report. The samples were pulled from populations consisting of Ohio policies and were selected using a standard business database application that provides a true random sample given that it supplies a random starting point from which to select the sample.

### **COMPANY HISTORY**

As part of our desk audit, the Company was asked to provide a brief corporate history. The following is the text of their response:

The Company was incorporated on November 3, 1980, under the laws of the State of Delaware. It is a wholly owned subsidiary of New York Life Insurance Company (“NYLIC”), a New York mutual insurance company and the sole shareholder.

The Company has no employees and, pursuant to a service agreement with NYLIC, utilizes the services of NYLIC officers and employees to conduct all operations, except investment management.

The Company is licensed to transact business in all fifty states and the District of Columbia. Products are distributed primarily through its agency force, with supplemental distribution through independent brokers and banks.

The Company’s principal lines of business are individual life and individual annuity products marketed to middle and upper income level individuals, small to medium size businesses and their owners, and professionals. The Company’s sales are predominately single and flexible premium annuities, fixed and variable deferred annuities, universal and variable universal life insurance, Corporate Owned Life Insurance (COLI) and Bank Owned Life Insurance (BOLI).

### **COMPANY OPERATIONS**

The Company is licensed in all fifty states and the District of Columbia. Their statutory home office is in Newark, Delaware.

The Company's 2003 and 2004 reported life direct written premiums and direct incurred losses paid during the desk audit period are as follows:

Life	Ohio		National	
	Direct Written Premiums	Incurred Losses	Direct Written Premiums	Incurred Losses
2003	\$65,488,064	\$11,122,287	\$1,947,286,023	\$278,722,268
2004	\$57,717,448	\$20,388,894	\$1,745,898,655	\$320,218,386

As of December 31, 2004, the officers of the Company were:

Chairman of the Board & CEO: Seymour Sternberg  
 President: Frederick James Sievert

### CERTIFICATE OF AUTHORITY

The Company operates under a Certificate of Authority issued in accordance with R.C. 3911.01, which permits it to transact appropriate business as defined by R.C. 3911.01. In the course of the desk audit, the examiners determined the Company's operations were in compliance with its Certificate of Authority.

### PAID CLAIMS

#### **Initial Contact**

**Standard:** The initial contact by the Company with the claimant is within the required time frame.

**Test:** Upon receiving notification of claim, did the Company provide all items, statements and forms within the time frame required by Ohio Adm. Code 3901-1-07(C)(5)?

#### **Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance with Ohio Adm. Code 3901-1-07(C)(5).

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the Company did not contact the claimant within the prescribed number of days from the date of notification of the insured's death.

#### **Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company's performance met this standard.

**Timely Investigation**

**Standard:** Investigations are conducted in a timely manner.

**Test:** Did the Company begin investigating the claim within the time frame required by Ohio Adm. Code 3901-1-07(C)(4)?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance with Ohio Adm. Code 3901-1-07(C)(4).

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the Company did not begin investigating the claim within the required time frame or could not document investigation of the claim with the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s performance met this standard.

**Timely Settlement**

**Standard:** Claims are settled in a timely manner.

**Test:** Was the claim settled within the policy provisions required in R.C. 3915.05(K)?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance with R.C. 3915.05(K).

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the Company did not provide settlement within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s performance met this standard.

**Timely Response to Correspondence**

**Standard:** The Company responds to claim correspondence in a timely manner.

**Test:** Did the Company respond to all claim correspondence within the time frames required within Ohio Adm. Code 3901-1-07(C)(2)?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance with Ohio Adm. Code 3901-1-07(C)(2).

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the file showed that the Company did not respond to claim correspondence subsequent to the initial contact within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s performance met this standard.

**Adequate Documentation**

**Standard:** Claim files are adequately documented.

**Test:** Were the claim files adequately documented to determine the date of death, receipt date of notification of the death, receipt date of proof of death and the dates of all correspondence?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a population of 50 files to test for compliance.

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if proper documentation could not be found within the claim file.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s performance met this standard.

**Claim Settlement**

**Standard:** Claim files are handled in accordance with policy provisions and state law.

**Test:** Were the claims correctly paid with interest where required by policy provisions and R.C. 3915.052?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance with R.C. 3915.052.

- The claim files were reviewed to verify dates in the claim process, the insured’s resident state at the time of death and at the time of policy issue.
- A claim file was considered an exception if the Company did not accurately calculate interest payments due.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	49	1	93%	98%

The standard of compliance is 93%. The Company’s performance met this standard.

**Cancelled checks and drafts**

**Standard:** Canceled benefit checks and drafts reflect appropriate claim handling practices.

**Test:** Do the cancelled checks and drafts show that the claim was paid according to Company policies, policy provisions, beneficiary requests and documentation within the claim file?

**Methodology:**

The Company supplied a listing of all paid death claims during the desk audit period. The examiners selected a sample of 50 files to test for compliance.

- Canceled benefit checks were reviewed and compared to claim files to verify correct payee, payment amounts, and payment dates.
- A claim was considered an exception if the Company did not follow Company procedures for claim payments or the provisions in the initial policy and if information on the canceled benefit check did not match information in the claim file itself.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
452	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s performance met this standard.

**DENIED DEATH CLAIMS**

The examiners conducted a review of the death claims that had been denied by the Company during the desk audit period. It appears all claim denials were justified and in accordance with policy language and applicable rules and regulations.

**COMPLAINT HANDLING**

The examiners conducted a review of the complaints filed against the Company during the desk audit period. The review was conducted to assure service issues are properly addressed. The audit findings were as follows:

During the examination period, a total of twenty-seven complaints were filed against the Company.

Eleven complaints were filed because consumers did not fully understand their contracts and needed additional assistance with their policies.

It is recommended that the Company review their agent training and educational procedures to make certain their licensed representatives are fully explaining the insurance and annuity products they are marketing and selling.

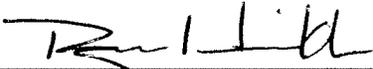
5 complaints were based on alleged agent misconduct. This problem has been addressed and the Company has terminated the agent in question.

4 complaints were the result of contract holders excluding themselves from a Class Action Lawsuit. Their voluntary exclusion from the Class made them ineligible for any relief from the Company at this time.

3 complaints were filed with regard to the "free-look" policy provision and, again, it is recommended that the Company review their agent training and educational procedures to make certain their licensed representatives are fully explaining the insurance and annuity products they are marketing and selling

The remaining 4 complaints involved clerical issues and were resolved appropriately.

This concludes the report of the Market Regulation desk audit of the New York Life Insurance and Annuity Corporation. The examiners would like to acknowledge the assistance and cooperation provided by the management and the employees of the Company.



Roger K. Hinkle  
Examiner in Charge



Date