STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

NEW YORK LIFE INSURANCE COMPANY

CONDITION: DECEMBER 31, 2004

DATE OF REPORT: MARCH 31, 2006

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EXAMINER:	DAVID HEE

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

April 30, 2009

Honorable John Oxendine
Chairman, Southeastern Zone
Commissioner of Insurance
State of Georgia

Honorable John Morrison
Chairman, Western Zone
Commissioner of Insurance and Securities
State of Montana

Honorable Eric Dinallo
Superintendent of Insurance
State of New York

Sirs:

In accordance with instructions and pursuant to the provisions of statute, we have made an examination of the affairs and condition of New York Life Insurance Company, hereinafter referred to as "the Company" or "New York Life," at its home office located at 51 Madison Avenue, New York, New York 10010.

The examination was conducted by the State of New York Insurance Department, hereinafter referred to as the "Department," with participation from the states of Nevada representing the Western Zone and Mississippi representing the Southeastern Zone of the National Association of Insurance Commissioners ("NAIC").

The report on examination is herewith respectfully submitted.

STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

David A. Paterson
Governor

Eric R. Dinallo
Superintendent

April 30, 2009

Honorable Eric Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22309, dated February 7, 2005 and annexed hereto, an examination has been made into the condition and affairs of New York Life Insurance Company, hereinafter referred to as "the Company" or "New York Life," at its home office located at 51 Madison Avenue, New York, New York 10010.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

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, 2004 filed annual statement. (See item 5 of this report)

The Company violated multiple sections of Department Regulation No. 60 by failing to: require with each application a copy of the Important Notice and a completed Disclosure Statement; examine each Disclosure Statement to ensure accuracy; reject the application in situations where the forms do not meet requirements or are inaccurate; provide a revised Disclosure Statement in those instances where the life insurance policy issued differed from that applied for; where a replacement has occurred or is likely to occur, present to the applicant not later than the time of application a copy of the Important Notice and a completed Disclosure Statement; furnish to the insurer being replaced a copy of any proposal used and the completed Disclosure Statement; maintain the documentation required by Department Regulation No. 60 for six calendar years or until after the filing of the applicable report on examination, whichever is later; and, date stamp the documentation required by Regulation to be maintained. (See item 6 of this report)

As part of Department-approved alternate replacement procedures designed to expedite the policy issuance process where no agency sales force is used, the Company is required to ascertain whether the applicant intended to replace any existing life insurance. However, the examiner's review revealed that in some instances the Company failed to elicit a response before proceeding to issue the policy. The Company violated Section 51.4 of Department Regulation No. 60 by failing to comply with the agreed-upon alternate procedures by failing to ensure that all applicants applying for AARP insurance answer the replacement question. (See item 6 of this report)

The examiner reviewed aspects of the Company's derivative usage program. The Company violated Section 178.5(a)(6) of Department Regulation No. 163 by failing to conduct initial legal reviews of certain derivative transactions at the time of execution prior to signing the confirmation, thereby binding the Company to a contract with potential enforceability and other legal issues. (See item 7 of this report)

The examiner's review found differences between derivatives valuations reported in Schedule DB and those provided by the Company's counterparties. Given that many of the variances noted were significant and that despite two separate requests the Company failed to provide a clear documentary trail of each purported reconciliation providing verifiable details for the various reconciling factors, and given the highly-leveraged nature of derivative instruments, the examiner recommends that the Company obtain and document an <u>independent</u> valuation in instances where a material variance between counterparty valuation and the valuation generated by its vendor provided valuation system remains after the Company has considered and documented, as part of a proper reconciliation process, acceptable variances due to differences between New York and London market prices, inclusion and/or exclusion of accrued interest and correction of uncontested valuation errors such as data input errors. (See item 7 of this report)

With respect to its reconciliations of the aforementioned valuation differences, the examiner recommends that the Company implement an internal control to document supervisory sign-off and dates of preparation and review for its derivatives reconciliations. In addition, it is recommended that each reconciliation be performed at or near the date of the valuation. (See item 7 of this report)

With respect to its derivatives values generated for internal reporting purposes, the examiner recommends that the Company remedy any deficiencies in the report modules of its derivatives valuation system, whether internally or externally caused, so that the values generated are consistent between those utilized for management purposes and those utilized for statement reporting purposes. (See item 7 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1999. This examination covers the period from January 1, 2000 through December 31, 2004. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2004 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2004 to determine whether the Company's 2004 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

Company history
Management and control
Corporate records
Fidelity bond and other insurance
Officers' and employees' welfare and pension plans
Territory and plan of operation
Market conduct activities
Growth of Company
Business in force by states
Mortality and loss experience
Reinsurance
Accounts and records
Financial statements

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

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

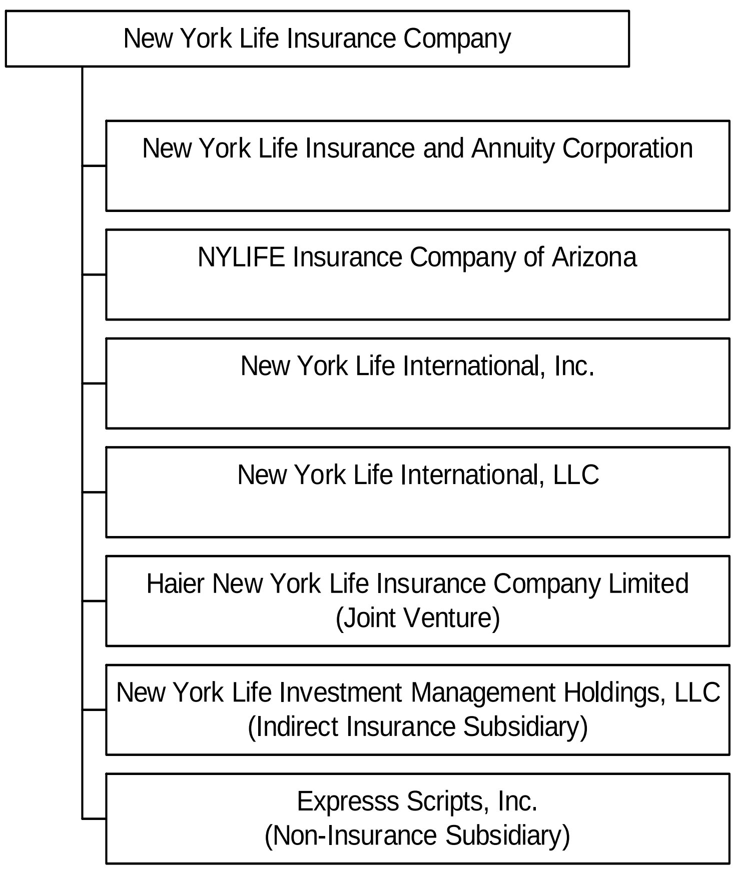
3. DESCRIPTION OF COMPANY

A. History

The Company was originally chartered in May 1841 as Nautilus Insurance Company and was authorized to write fire and marine insurance, inland navigation and transportation risks. The charter was amended in April 1843 to permit Nautilus Insurance Company to organize as a mutual company and write life insurance. The by-laws were amended in June 1845 to restrict the Company's business to "insurance on life and all and every insurance pertaining to life." The Company's name was officially changed to New York Life Insurance Company on April 5, 1849.

B. Subsidiaries

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2004 follows:



New York Life Insurance and Annuity Corporation

New York Life Insurance and Annuity Corporation ("NYLIAC"), incorporated in Delaware in 1980, is a direct, wholly owned subsidiary of the Company. NYLIAC writes life insurance, accident and health insurance and annuity business. It is licensed in all 50 states and the District of Columbia. NYLIAC offers non-participating life insurance including a wide variety of interest sensitive and variable life insurance products and annuity products (fixed and variable deferred and immediate annuities). NYLIAC also issues products specifically designed for the bank-owned and corporate-owned life insurance markets.

NYLIFE Insurance Company of Arizona

NYLIFE Insurance Company of Arizona ("NYLAZ") was incorporated and organized in Arizona in 1987 as a life and disability insurer. In 2004, NYLAZ obtained authority to issue variable life and variable annuity products. At December 31, 2004, NYLAZ was licensed in the District of Columbia and all states except Maine and New York. NYLAZ currently only issues a ten year guaranteed term life product called "Term to Age 90" which was introduced in 1998.

New York Life International, Inc.

New York Life International, Inc. ("NYLI Inc."), formerly a wholly owned subsidiary of the Company, was incorporated in Delaware in June 1988 to hold stock in financial services companies domiciled outside the United States and Canada. During 2001, NYLI Inc. formed a Delaware limited liability company, New York Life International, LLC ("NYLI LLC") and transferred substantially all of its assets, liabilities and operations to NYLI LLC. In connection with the reorganization, NYLI Inc. adopted a plan of liquidation under which NYLI Inc. would be dissolved no later than December 31, 2005. At December 31, 2004, NYLI Inc. held stock in a financial services company licensed to conduct business in Taiwan, which markets life, annuity and health insurance products and also held a representative office in Vietnam.

Pursuant to the plan of liquidation adopted in 2001, NYLI Inc. transferred its operations to New York Life International, LLC and was dissolved effective December 31, 2005.

New York Life International, LLC

NYLI LLC is a direct, wholly owned subsidiary of the Company that was organized on January 1, 2002 under the laws of Delaware as a limited liability company. Through its various subsidiaries, joint ventures and affiliates, NYLI LLC offers life, annuity, health insurance and pension products and services to individuals and groups in selected emerging markets. NYLI LLC's subsidiaries and affiliates currently do business in Hong Kong, India, Argentina, Mexico, the Philippines, South Korea, Taiwan, and Thailand. NYLI LLC also has a representative office in Hanoi, Vietnam and manages the Company's operations in China.

Haier New York Life Insurance Company Limited

Haier New York Life Insurance Company Limited ("HAIER") is a 50/50 partnership between the Haier Investment & Development Company Ltd., under the Haier Group of Qingdao, and the Company. HAIER was organized in China in November 2002 as a joint venture insurance company. The operations of Haier are conducted through the Company but are managed by its international business unit, NYLI LLC.

New York Life Investment Management Holdings, LLC

New York Life Investment Management Holdings, LLC ("NYLIM") is a direct, wholly owned subsidiary of the Company that was organized on December 17, 1999 under the laws of Delaware as a limited liability company. Through its various subsidiaries and affiliates, NYLIM provides a variety of investment related services, including: asset management services for the securities and real estate portfolios of the general and separate accounts of the Company, NYLIAC and NYLAZ; retail and institutional investment advisory services; mutual fund distribution and administrative services; pension and 401(k) products and related administrative services; and commercial financial services to corporate clients.

Express Scripts, Inc.

Express Scripts, Inc. (“ESI”), a public company, is a leading specialty managed care company and one of the largest independent pharmacy benefit managers in North America, providing a broad range of pharmacy benefit management services to health benefit plan sponsors. ESI was incorporated in 1986 in Missouri, and was re-incorporated in Delaware in March 1992. ESI was purchased by the Company in 1989 and became a publicly traded company in 1992. At December 31, 2004 the Company and NYLIFE LLC owned 24 million (split adjusted) shares of ESI for approximately a 16.4% ownership stake.

The Company had 26 service agreements in effect with affiliates during the examination period.

Type of Agreement	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination				
					2000	2001	2002	2003	2004
1. Service Agreement	12/11/1980	the Company	NYLIAC	Administrative Services**	$480,728,855	$467,776,550	$542,410,377	$584,108,654	$616,039,852
2. Service Agreement	9/30/1987	the Company	NYLIFE Insurance Company of Arizona	Administrative Services**	17,573,233	18,650,207	19,795,783	20,775,934	18,080,807
3. Service Agreement	3/5/1985	the Company	NYLIFE LLC	Administrative Services**	792,428	110,754	1,249,685	499,685	264,457
4. Service Agreement	3/1/1984	the Company	NYLIFE Securities, Inc.	Administrative Services**	35,076,602	33,370,567	29,154,558	27,467,238	26,438,601
5. Service Agreement	12/29/2000	the Company	Eagle Strategies Corp.	Administrative Services**	2,573,541	1,746,454	2,316,943	2,052,297	2,215,267
6. Service Agreement	11/27/1996	the Company	NYLINK Insurance Agency Inc.	Marketing and Sales Services	167,104	1,963,623	3,076,985	4,149,046	4,134,957
7. Service Agreement	3/27/1995	the Company	New York Life Settlement Corp.	Corporate Governance Services	42,265	25,506	24,247	24,000	24,000
8. Service Agreement	8/12/1988	the Company	New York Life International, LLC	Administrative Services**	54,752,476	61,103,933	58,070,642	57,382,313	76,256,514
9. Service Agreement	4/1/2000	the Company	NYLIM	Administrative Services**	(2,239,987)	138,521,557	121,667,334	116,859,184	166,951,636
10. Service Agreement	1/1/1999	the Company	MacKay-Shields Financial Corp.	Administrative Services**	1,447,920	6,315,830	1,283,889	2,341,256	2,980,801
11. Service Agreement	12/29/1999	the Company	NYLCAP Manager LLC	Administrative Services**	4,153,084	1,012,783	1,106,872	1,275,098	1,588,152
12. Service Agreement	3/10/1997	the Company	NYLIM Service Company, LLC	Administrative Services**	9,950,262	864,004	767,164	1,426,675	1,909,235
13. Service Agreement***	12/7/1993	the Company	NYLIFE Distributors Inc.	Administrative Services**	53,383,335	23,419	0	0	130,125
14. Service Agreement	2/22/1995	the Company	NYL Trust Co.	Administrative Services**	1,709,153	1,687,973	1,617,040	1,584,829	1,713,828
15. Service Agreement	6/16/2000	the Company	New York Life Trust Co., FSB	Administrative Services**	351,904	160,978	585,342	769,115	485,479
16. Service Agreement	4/16/2001	the Company	Madison Capital Funding, LLC	Administrative Services**	0	95,342	88,097	373,924	670,867

Type of Agreement	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination				
					2000	2001	2002	2003	2004
17. Service Agreement****	1/8/1988	the Company	New York Life International Invest., Inc.	Administrative Services**	1,066	1,375	Inactive	Inactive	Inactive
18. Service Agreement****	1/17/1992	the Company	NYLTemps Inc.	Administrative Services**	4,683,829	550,199	Inactive	Inactive	Inactive
19. Service Agreement****	1/15/1993	the Company	NYLIFE Healthcare Management, Inc.	Administrative Services**	21,969	Inactive	Inactive	Inactive	Inactive
20. Service Agreement****	5/24/1993	the Company	NYLIFE Refinery, Inc.	Administrative Services**	64,367	Inactive	Inactive	Inactive	Inactive
21. Service Agreement	7/26/1995	the Company	New York Life Capital Corp.	Administrative Services**	143,217	5,400	11,037	48,425	0
22. Service Agreement****	8/22/1997	the Company	Mainstay Management, Inc.	Administrative Services**	16,705,023	Inactive	Inactive	Inactive	Inactive
23. Service Agreement****	11/17/1997	the Company	Madison Square Advisors, LLC	Administrative Services**	1,525,766	Inactive	Inactive	Inactive	Inactive
24. Service Agreement****	6/1/1988	the Company	Avanti Corporate Health Systems, Inc.	Administrative Services**	198,080	Inactive	Inactive	Inactive	Inactive
25. Service Agreement****	1/1/1999	the Company	New York Life Benefit Services, Inc.	Administrative Services**	5,360,711	603,247	662,264	(58,972)	Inactive
26. Service Agreement****	5/19/1988	the Company	Monitor Capital Advisors	Administrative Services**	3,084,548	Inactive	Inactive	Inactive	Inactive

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

**Services provided include: accounting, accounts payable, actuarial, audit, communications, electronic data processing, employee benefit plan and personnel, administration, investment, legal, marketing, sales, software development, tax, treasury, and underwriting.

***The amount reported in 2000 under this agreement represents services provided by New York Life employees. Commencing in 2001, the services were provided by NYLIM. The expense amount reported in 2001 represents an error in allocation, while the 2004 amount represents services provided by one New York Life employee.

****These agreements are no longer active due to the prior recipient of the service having been dissolved or merged into other subsidiaries of the Company.

C. Management

The Company's charter provides that the board of directors shall be comprised of not less than 13 nor more than 27 directors. The directors are divided into three classes, as nearly equal in number as may be. Each class is elected on the second Wednesday of April for a term of three years. As of December 31, 2004, the board of directors consisted of 14 members. In accordance with the Company's by-laws, the board shall meet on the third Wednesday of such months as may be determined from time to time by the board, provided that at least four such meetings shall be held in each calendar year.

The 14 board members and their principal business affiliation, as of December 31, 2004, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Betty C. Alewine* Vero Beach, FL	Former President and Chief Executive Officer COMSAT Corporation	1998
Robert M. Baylis* Darien, CT	Retired	1996
Gary G. Benanav New York, NY	Vice Chairman New York Life Insurance Company	1999
James L. Broadhead* North Palm Beach, FL	Retired	1998
Kent B. Foster* Dallas, TX	Chairman and Chief Executive Officer Ingram Micro, Inc.	1995
Christina A. Gold* Denver, CO	President Western Union Financial Services, Inc.	2001

Name and Residence	Principal Business Affiliation	Year First Elected
Conrad K. Harper* New York, NY	Counsel Simpson Thacher & Bartlett LLP	1992
Leslie G. McCraw, Jr.* Greenville, SC	Retired	1995
Hector R. Ortino* Pepper Pike, OH	Chairman and Chief Executive Officer Ferro Corporation	2002
Richard R. Pivirotto* Greenwich, CT	President Richard R. Pivirotto Company, Inc.	1974
Joseph W. Prueher* Virginia Beach, VA	Retired	2001
Frederick J. Sievert Stamford, CT	President New York Life Insurance Company	1996
Seymour Sternberg Purchase, NY	Chairman and Chief Executive Officer New York Life Insurance Company	1995
Frederick O. Terrell* New York, NY	Managing Partner and Chief Executive Officer Provender Capital Group, LLC	2003

* 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, 2004:

Name	Title
Seymour Sternberg	Chairman of the Board and Chief Executive Officer
Frederick J. Sievert	President
Gary G. Benanav	Vice Chairman
Phillip J. Hildebrand	Executive Vice President and Co-Head of Life and Annuity
Theodore A. Mathas	Executive Vice President and Co-Head of Life and Annuity
Michael E. Sproule	Executive Vice President and Chief Financial Officer
Gary E. Wendlandt	Executive Vice President
Frank M. Boccio	Senior Vice President and Chief Administrative Officer of Life and Annuity
Jay S. Calhoun, III	Senior Vice President and Treasurer
Judith E. Campbell	Senior Vice President and Chief Information Officer
Jessie M. Colgate	Senior Vice President in charge of the Office of Governmental Affairs
John A. Cullen	Senior Vice President, Controller, and Chief Accounting Officer
Sheila K. Davidson	Senior Vice President and General Counsel
Solomon Goldfinger	Senior Vice President and Chief Financial Officer for Life and Annuity
Susan A. Thrope	Senior Vice President, Deputy General Counsel and Secretary
Anne F. Pollack	Senior Vice President and Chief Investment Officer
Robert L. Smith	Senior Vice President in charge of Special Markets
Joel M. Steinberg	Senior Vice President and Chief Actuary
Thomas J. Warga	Senior Vice President, General Auditor, and Chief Privacy Officer
Marc S. Schindelheim*	Corporate Vice President – Compliance

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

D. 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, the District of Columbia, Canada, and Puerto Rico. Most policies are written on a participating basis, with some written on a non-participating basis.

The Company writes whole life and term life insurance, single premium immediate annuities, group life and group accident and health membership association policies, and individual and group long-term care. The individual life and long-term care policies are marketed through the Company's agency force. The group products are primarily marketed through independent agents/agencies. The Company's separate account business is sold by Company employees and agents.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2004:

Life Insurance Premiums	
California	15.06%
New York	13.05%
Subtotal	28.11%
All others	71.89%
Total	100.00%

Annuity Considerations	
Delaware	43.14%
South Carolina	10.94%
Subtotal	54.08%
All others	45.92%
Total	100.00%

Accident and Health Insurance Premiums	
New York	11.73%
Texas	11.11%
Subtotal	22.84%
All others	77.16%
Total	100.00%

Deposit Type Funds	
Delaware	23.90%
New York	21.32%
New Jersey	17.71%
Subtotal	62.93%
All others	37.07%
Total	100.00%

E. Reinsurance

As of December 31, 2004, the Company had reinsurance treaties in effect with 25 companies, of which 21 were authorized or accredited. The Company's life and accident and health businesses are reinsured on either a coinsurance, modified-coinsurance, yearly renewable term, or catastrophic basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual whole life policies is as follows:

Single Life Maximum Retention Limit

Issue Age	Maximum Retention Limit (Overall Maximums in Parentheses)
0 - 65	$25,000,000
66 - 75	$12,500,000 plus up to an additional $2,500,000 subject to the approval of the Company's chief underwriter ($15,000,000)
76 and over	$5,000,000 plus up to an additional $2,500,000 subject to the approval of the Company's chief underwriter ($7,500,000)

Joint Life Second-To-Die Maximum Retention Limit

Issue Age	Maximum Retention Limit (Overall Maximums in Parentheses)
0 - 65	$35,000,000
66 - 75	$17,500,000 plus up to an additional $2,500,000 subject to the approval of the Company's chief underwriter ($20,000,000)
76 and Over	$7,500,000 plus up to an additional $2,500,000 subject to the approval of the Company's chief underwriter ($10,000,000)

The Company ceded its standard term policies to five reinsurers throughout most of the period covered by this examination. The Company retained 10% of the total face amount and ceded 18% to each of the five reinsurers for a total cession of 90%.

This changed in early 2004. The number of reinsurers dropped to three and the amounts now ceded to each reinsurer varies (5% to 25%) and the total amount ceded by product varies (40% to 60%).

Reinsurance recoverables from unauthorized companies, totaling $6,907,525, were offset by funds withheld and deferred premiums totaling $4,546,184. The Company reported a liability for reinsurance in unauthorized companies in the amount of $2,361,341. The total face amount of life insurance assumed as of December 31, 2004 was $132,272,511,652.

4. SIGNIFICANT OPERATING RESULTS

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

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

	December 31, 1999	December 31, 2004	Increase (Decrease)
Admitted assets	$68,811,663,923	$101,303,785,470	$32,492,121,547
Liabilities	$62,413,791,849	$ 91,596,003,209	$29,182,211,360
Surplus notes	$ 449,307,708	$ 1,115,397,093	$ 666,089,385
Group life contingency reserve	58,447,776	0	(58,447,776)
Unassigned funds	5,890,116,590	8,592,385,168	2,702,268,578
Total surplus	$ 6,397,872,074	$ 9,707,782,261	$ 3,309,910,187
Total liabilities and surplus	$68,811,663,923	$101,303,785,470	$32,492,121,547

The Company's invested assets as of December 31, 2004, exclusive of separate accounts, were mainly comprised of bonds (65.5%), mortgage loans (9.0%), stocks (8.2%), policy loans (6.8%) and other invested assets (6.4%).

The majority (91.5%) of the Company's bond portfolio, as of December 31, 2004, was comprised of investment grade obligations.

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

	Individual Whole Life		Individual Term		Group Life	
Year	Issued	In Force	Issued	In Force	Issued & Increases	In Force
2000	$ 9,696,270	$178,480,992	$24,335,663	$138,301,321	$11,553,357	$ 85,755,680
2001	$11,692,814	$184,270,507	$28,372,280	$147,034,880	$ 9,424,911	$142,518,949
2002	$12,582,563	$188,706,975	$34,096,368	$159,563,779	$12,668,079	$168,670,017
2003	$13,026,063	$190,428,172	$35,197,149	$176,384,762	$13,238,758	$181,134,121
2004	$14,504,396	$247,570,890	$42,085,081	$189,226,230	$13,473,825	$189,408,056

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

	Ordinary				
	2000	2001	2002	2003	2004
Outstanding, end of previous year	147,442	146,840	150,091	151,864	154,759
Issued during the year	8,121	9,676	10,514	11,730	10,087
Other net changes during the year	(8,723)	(6,425)	(8,741)	(8,835)	(7,522)
Outstanding, end of current year	146,840	150,091	151,864	154,759	157,324

	Group				
	2000	2001	2002	2003	2004
Outstanding, end of previous year	218	137	112	122	138
Issued during the year	10	18	11	16	6
Other net changes during the year	(91)	(43)	(1)	0	0
Outstanding, end of current year	137	112	122	138	144

The decrease in group accident and health policies in 2000 (and to a lesser degree 2001) was associated with the Company’s former NYLCare operations, which provided HMO and indemnity coverage. NYLCare was sold to Aetna in 1998, including the reinsurance of the indemnity operations that was included in the Company’s results. Upon the sale, New York Life did not issue any new policies and allowed the remaining inforce to run off since Aetna was renewing these policies under the Aetna brand. Consequently, New York Life’s group accident and health inforce from 1998 through 2001 showed significant decreases as a result of exiting this line of business.

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

	2000	2001	2002	2003	2004
Ordinary:					
Life insurance	$688,039,685	$1,026,609,806	$692,532,305	$407,768,873	$509,977,934
Individual annuities	13,145,348	22,249,601	16,281,793	164,646,370	77,979,169
Supplementary contracts	9,777,581	9,748,921	46,874,688	51,949,880	18,827,585
Total ordinary	$710,962,614	$1,058,608,328	$755,688,786	$624,365,123	$606,784,688
Group:					
Life	$ 15,671,492	$ 37,390,300	$ 42,901,790	$ 36,962,499	$ 45,562,674
Annuities	91,664,763	73,133,986	121,750,183	142,426,806	125,812,268
Total group	$107,336,255	$ 110,524,286	$164,651,973	$179,389,305	$171,374,942
Accident and health:					
Group	$ 8,433,565	$ 8,460,832	$ 6,685,271	$ 5,251,086	$ (388,619)
Other	(7,608,961)	15,440,482	640,422	(3,668,132)	5,813,776
Total accident and health	$ 824,604	$ 23,901,314	$ 7,325,693	$ 1,582,954	$ 5,425,157
All other lines	$ 306,394	$ 540,329	$ 720,688	$ 605,874	$ 1,246,254
Total	$819,429,867	$1,193,574,257	$928,387,141	$805,943,257	$784,831,042

The higher net gain from operations in 2001 for individual life is attributed primarily to a $487 million dividend distribution from the Company's subsidiary NYLIFE LLC as compared to a $100 million dividend in 2000. The decrease in 2003 net gain compared to 2002 is attributed primarily to a one time gain in 2002 from the release of $240 million of tax accruals previously recorded.

The increase in net gain in 2003 from the individual annuity line of business was due primarily to a $121 million tax benefit associated with a change in the valuation basis for strengthening structured settlement reserves.

The net gains and losses reported in the "other accident and health" line consist primarily of results from long term care business issued through special markets and from individual disability income business. The Company reported a loss in its long term care business for each year of the period under examination. During this period, results from its individual disability income business fluctuated significantly due to the timing of the reimbursements received from the coinsurance treaty under which the Company reinsures 100% of this business.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities and surplus as of December 31, 2004, as contained in the Company's 2004 filed annual statement, a condensed summary of operations and a reconciliation of the 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, 2004 filed annual statement.

A. ASSETS, LIABILITIES, AND SURPLUS AS OF DECEMBER 31, 2004

Admitted Assets

Bonds	$ 55,967,519,011
Stocks:	
Preferred stocks	166,707,240
Common stocks	6,841,761,941
Mortgage loans on real estate:	
First liens	7,503,536,596
Other than first liens	205,895,035
Real estate:	
Properties occupied by the company	247,036,105
Properties held for the production of income	201,940,729
Properties held for sale	13,179,476
Cash, cash equivalents and short term investments	2,590,251,639
Contract loans	5,793,739,887
Other invested assets	5,454,533,918
Receivable for securities	32,307,659
Derivatives	465,923,736
Investment income due and accrued	927,368,813
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	168,457,851
Deferred premiums, agents' balances and installments booked but deferred and not yet due	905,792,926
Reinsurance:	
Amounts recoverable from reinsurers	28,140,540
Funds held by or deposited with reinsured companies	4,534,704,496
Other amounts receivable under reinsurance contracts	2,232,425
Current federal and foreign income tax recoverable and interest thereon	4,384,435
Net deferred tax asset	481,579,197

Guaranty funds receivable or on deposit	1,033,271
Receivables from parent, subsidiaries and affiliates	236,784,862
Cash value on corporate owned life insurance	2,078,395,221
Amounts due for undelivered securities	460,851,630
Interest in annuity contracts	151,143,636
Collateral assignments	65,827,757
Receivable for benefit plans' cost stabilization reserve	5,000,000
Federal employees' group life conversion pool fund	3,160,428
Administrative and other fees due and unpaid	1,127,289
Prepaid real estate taxes	360,515
Miscellaneous	8,047,721
From separate accounts, segregated accounts and protected cell accounts	5,755,059,485
Total admitted assets	$101,303,785,470

Liabilities, Surplus and Other Funds

Aggregate reserve for life policies and contracts	$ 59,708,539,503
Aggregate reserve for accident and health contracts	1,608,004,996
Liability for deposit-type contracts	13,661,080,576
Contract claims:	
Life	336,531,458
Accident and health	74,823,155
Policyholders' dividends and coupons due and unpaid	11,400,281
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts	
Dividends apportioned for payment	1,347,537,423
Premiums and annuity considerations for life and accident and health contracts received in advance	70,234,244
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	20,344,272
Interest maintenance reserve	403,922,279
Commissions to agents due or accrued	9,753,963
Commissions and expense allowances payable on reinsurance assumed	25,000,000
General expenses due or accrued	429,069,027
Transfers to separate accounts due or accrued	(129,884,103)
Taxes, licenses and fees due or accrued, excluding federal income taxes	47,322,864
Current federal and foreign income taxes	132,794,292
Unearned investment income	3,273,482
Amounts withheld or retained by company as agent or trustee	382,525,622
Amounts held for agents' account	23,876,114
Remittances and items not allocated	125,348,018
Net adjustment in assets and liabilities due to foreign exchange rates	26,389,493
Liability for benefits for employees and agents if not included above	794,149,906
Borrowed money and interest thereon	1,585,770,477
Miscellaneous liabilities:	

Asset valuation reserve	1,748,875,137
Reinsurance in unauthorized companies	2,361,341
Payable to parent, subsidiaries and affiliates	13,220,693
Payable for securities	227,502,261
Liability for security lending	2,190,381,716
Derivatives	339,584,820
Special reserves on certain group policies	228,945,295
Obligations under structured settlement agreements	151,143,636
Indemnity reserve on surplus notes	100,000,000
General contingency reserve	65,636,918
Reserves required on certain group annuity separate accounts	43,052,490
Liability for interest on claims	22,663,906
Adjustment to agents' progress sharing plan liability	22,436,208
Conversion costs payable	6,635
From Separate Accounts statement	5,742,384,811
Total liabilities	$ 91,596,003,209
Surplus notes	$ 1,115,397,093
Unassigned funds	8,592,385,168
Total surplus	$ 9,707,782,261
Total liabilities and surplus	$101,303,785,470

B. CONDENSED SUMMARY OF OPERATIONS

	2000	2001	2002	2003	2004
Premiums and considerations	$ 5,809,318,076	$10,733,096,429	$ 8,398,120,817	$ 9,032,829,772	$ 8,633,398,921
Investment income	4,683,623,425	4,826,429,453	4,180,150,935	4,267,575,291	4,563,888,832
Net gain from operations from separate accounts	10,462	(118,555)	17,701	96,724	(8,672)
Commissions and reserve adjustments on reinsurance ceded	890,196,991	(23,945,989)	(6,168)	(20,616,324)	(33,962,676)
Miscellaneous income	4,571,337,309	79,477,930	79,081,644	75,308,157	4,683,439,585
Total income	$15,954,486,263	$15,614,939,268	$12,657,364,929	$13,355,193,620	$17,846,755,990
Benefit payments	$10,334,615,103	$ 8,038,198,884	$ 7,397,882,203	$ 7,213,369,763	$ 6,927,688,389
Increase in reserves	2,517,058,887	1,277,359,320	1,600,579,809	1,716,956,247	7,278,457,070
Commissions	203,673,568	247,853,536	208,077,714	251,209,545	304,005,140
General expenses and taxes	897,697,558	889,100,551	967,521,327	1,052,363,134	1,174,434,856
Increase in loading on deferred and uncollected premiums	(1,238,274)	2,788,947	5,995,682	9,475,639	5,393,101
Net transfers to (from) separate accounts	(427,929,714)	2,398,605,376	384,094,269	909,819,224	(154,732,767)
Miscellaneous deductions	(218,615,721)	115,601,651	(61,908,957)	30,521,200	42,262,230
Total deductions	$13,305,261,407	$12,969,508,265	$10,502,242,046	$11,183,714,752	$15,577,508,019
Net gain	$ 2,649,224,856	$ 2,645,431,003	$ 2,155,122,883	$ 2,171,478,868	$ 2,269,247,971
Dividends	1,512,061,226	1,407,747,208	1,292,448,709	1,349,379,874	1,412,998,161
Federal and foreign income taxes incurred	317,733,763	44,109,538	(65,712,967)	16,155,737	71,418,768
Net gain from operations before net realized capital gains	$ 819,429,867	$ 1,193,574,257	$ 928,387,141	$ 805,943,257	$ 784,831,042
Net realized capital gains (losses)	394,932,342	(14,938,512)	(400,363,236)	(120,559,067)	199,381,878
Net income	$ 1,214,362,209	$ 1,178,635,745	$ 528,023,905	$ 685,384,190	$ 984,212,920

C. SURPLUS ACCOUNT

	2000	2001	2002	2003	2004
Capital and surplus, December 31, prior year	$ 6,397,872,074	$7,023,982,142	$7,855,165,387	$7,985,450,915	$9,136,849,398
Net income	$ 1,214,362,209	$1,178,635,745	$ 528,023,905	$ 685,384,190	$ 984,212,920
Change in net unrealized capital gains (losses)	(1,203,426,623)	(1,215,595,806)	(336,774,632)	705,592,988	190,378,406
Change in net unrealized foreign exchange capital gain (loss)	0	(2,507,794)	(119,874,691)	(159,685,421)	(170,335,207)
Change in net deferred income tax	0	0	33,534,612	(5,321,724)	37,929,009
Change in non-admitted assets and related items	(103,244,674)	(104,209,630)	(274,485,115)	348,410,889	66,709,698
Change in liability for reinsurance in unauthorized companies	(870,863)	849,139	(100,284)	(617,729)	(1,620,287)
Change in reserve valuation basis	25,459,611	12,269,010	0	(337,233,613)	(96,341,008)
Change in asset valuation reserve	564,796,891	812,915,544	81,943,905	(788,870,981)	(362,817,472)
Surplus withdrawn from separate accounts during period	226,595	0	0	0	0
Other changes in surplus in separate accounts statement	(226,595)	0	807,292	(807,292)	12,430,981
Change in surplus notes	0	(174,670,787)	14,855	840,376,729	337,188
Cumulative effect of changes in accounting principles	0	261,726,833	272,434,286	0	5,675,219
Change in general contingency reserve	9,322,706	1,449,033	0	1,984,578	0
Ceding commission	35,105,005	(2,702,895)	(2,702,895)	(2,702,895)	(2,702,895)
Funding of NYL Foundation	(4,549,560)	(8,655,780)	(13,883,460)	(6,983,460)	0
Change in special reserves on certain group annuity contracts	3,967,700	(7,909,140)	(14,959,628)	(9,439,359)	(9,086,730)

Minimum pension liability adjustment	0	0	5,933,900	(18,688,417)	(13,790,759)
Change in indemnification reserve for surplus notes*	0	0	0	(100,000,000)	0
Change in general investment reserve	44,500,000	361,829	138,171	0	0
Adjustment in valuation of subsidiary balance sheet acquired	0	0	(2,854,692)	0	0
Adjustment for Senior NYLIC Benefit Plans	0	74,276,319	(26,910,000)	0	0
Non cash capital contribution to subsidiaries	0	10,885,525	0	0	0
Adjustment required to reflect additional minimum pension liability	0	(5,933,900)	0	0	0
Release of additional actuarial reserves – asset/liability analysis	34,000,000	0	0	0	0
Change in claims contingency reserve	28,600,000	0	0	0	0
Prior year reserve adjustments	2,799,428	0	0	0	0
Change in provision for State Insurance Guaranty Association assessments	716,449	0	0	0	0
Accrual of discount on Surplus Notes	31,400	0	0	0	0
Adjustment for deferred and uncollected premium calculation	(25,459,611)	0	0	0	0
Prior period correction**	0	0	0	0	(70,046,200)
Net change in capital and surplus for the year	$ 626,110,068	$ 831,183,245	$ 130,285,528	$1,151,398,483	$ 570,932,863
Capital and surplus, December 31, current year	$7,023,982,142	$7,855,165,387	$7,985,450,915	$9,136,849,398	$9,707,782,261

*The Company issued $1 billion of surplus notes on May 5, 2003. The $100,000,000 reserve is required by the Department for the payment of certain post closing amounts. Amortization of the reserve commences in 2006.

**In 2004, the Company reported an amount of $(70,046,200) as a prior period correction. Of this amount, $(29,744,307) represented a correction of an error in the method used to estimate losses associated with collaterally assigned life insurance policies owned by the Company; $(24,413,464) was due to correction of an under-accrual of life insurance benefits to executive officers; and $(15,888,429) was due to correction of an error in accounting for post-employment benefits.

6. 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 the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Section 51.4 of Department Regulation No. 60 states, in part:

> “Procedures designed to meet the purposes of this Part, that are approved in advance and determined by the Superintendent of Insurance not to be detrimental to policyholders and contractholders, may be substituted for this Part by an insurer where no sales agency force is used and the application is solicited and received by the insurer by mail or under other methods that are without agent involvement.”

Section 51.6(b) of Department Regulation No. 60 states, in part:

> “Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .
> (2) Require with or as part of each application a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and proof of receipt by the applicant of the ‘IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts’ and the completed ‘Disclosure Statement;’
> (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;
> (4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed ‘Disclosure Statement’ . . .
> (6) Where the required forms are received with the application and found to be in compliance with the Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the ‘IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts;’ the signed and completed ‘Disclosure Statement;’ and the notification of replacement

> to the insurer whose life insurance policy or annuity contract is to be replaced indexed by agent and broker, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later;
> (7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this Part or are not accurate, within ten days from the date of receipt of the application either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefor. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of Section 51.6(b)(6) herein . . .
> (9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the information relating to the life insurance policy or annuity contract as issued, including but not limited to the revised 'Disclosure Statement,' any revised or additional sales material used and acknowledgement by the applicant of receipt of such revised material."

Section 51.6(e) of Department Regulation No. 60 states:

> "Both the insurer whose life insurance policy or annuity contract is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt."

1) Individual Life Replacements

The examiner reviewed an initial sample of 64 life insurance replacements out of a total of 4,453 replacement transactions during the examination period. Based on the findings noted in the initial sample, the examiner requested and reviewed a second sample of 67 replacements. The following findings are based on a review of the 131 replacements in both samples:

In six of 131 (4.6%) replacement transactions reviewed, the Company did not have a copy of the "IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts" ("Important Notice") in its files. In eight (6.1%) cases the Company did not have a copy of the completed Disclosure Statement signed by the applicant and the agent. When requested to provide the missing required documents, the Company performed inquiries of the pertinent agents to obtain copies of the items, but still failed to provide the missing documents or any evidence that the applicants had received these documents.

The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require with or as part of each application proof of receipt by the applicant of the Important Notice and the completed Disclosure Statement.

In six cases (4.6%) the Company provided applicants with an incomplete Disclosure Statement. Various items of necessary information for making an informed purchase decision were not provided to the applicant such that he/she could make an accurate comparison of the benefits of the respective policies. Examples of incomplete disclosure information included missing comparisons as to premiums and surrender values, missing contestable period and suicide expiry information, and missing policy rider information.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statement to ascertain that it was accurate and met the requirements of this Part.

In 12 cases (9.2%) the information contained in the Disclosure Statements provided to the applicant either: (1) was not accurate or (2) did not match the information in the illustration contained in the file or the policy being issued. The files contained no evidence that the applications based on inaccurate Disclosure Statements were rejected by the Company, but instead showed that the related policy was issued to the applicant based on the inaccurate disclosure provided.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to reject the application in situations where the forms do not meet the requirements of this Part or are not accurate.

In 11 cases (8.4%) the policy eventually issued to the applicant differed materially from the policy applied for. In those instances, the Company did not provide a revised Disclosure Statement to ensure an accurate comparison of the actual policy issued to the policy being replaced.

The Company violated Section 51.6(b)(9) by failing to provide the applicant with a revised Disclosure Statement when the life insurance policy differed from the policy applied for.

In two cases (1.5%) the Important Notice and/or the Disclosure Statement were signed by the applicant after the date of the application. The Important Notice and Disclosure Statement should be presented to each applicant prior to his/her completing the application or at the time of application, in order for the applicant to receive the disclosures necessary for making an informed decision.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to present to the applicant, not later than at the time the applicant signs the application, the Important Notice and a completed Disclosure Statement where a replacement has occurred or is likely to occur.

In 28 cases (21.3%) the Company did not have any evidence that it had sent to the insurer whose coverage was being replaced a copy of any proposal, including the sales material, used in the sale of the proposed life insurance policy, and the completed Disclosure Statement. In 17 of these files, the Company did not have any corroborating information received from the company being replaced to support the comparison in the Disclosure Statement. Such failure prevented the examiner from verifying that the comparison information provided to the applicant was fair and accurate and that the company being replaced had been properly notified of a potential replacement and given an opportunity to provide policy comparison information. In addition to the 28 cases, in four other cases (3.1%) the Company failed to provide the required information to the company being replaced within 10 days of receipt of the application.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer whose coverage is being replaced a copy of any proposal used and the completed Disclosure Statement.

In 28 cases (21.3%) the Company failed to maintain in its files copies of some or all of the following: (1) any proposal, including sales material, used in the sale of the proposed life insurance policy; (2) proof of receipt by the applicant of the Important Notice; (3) the signed and completed Disclosure Statement; and/or (4) the notification to the insurer being replaced.

The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain the above information for six calendar years or until after the filing of the report on examination in which the replacement transaction was subject to review, whichever is later.

In 24 cases (18.3%) the Company did not date stamp the documentation required by Department Regulation No. 60 to be maintained. This failure prevented the examiner from reconstructing the process followed by the Company to comply with the Regulation.

The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp all such documentation upon receipt.

2) American Association of Retired Persons Life Insurance Replacements

The Company uses a direct mail channel to market its products to members of the American Association of Retired Persons ("AARP"), with which it has a marketing arrangement for selling to AARP members. Pursuant to Section 51.4 of Department Regulation No. 60, the Company submitted to the Department for its approval alternate replacement procedures for complying with Department Regulation No. 60, as a means of streamlining its AARP application process, one which does not involve the use of an agency force.

On July 30, 1999, the Department gave approval for a set of alternate replacement procedures to be used in place of the standard procedures required by Regulation No. 60. Among the alternate procedures was a requirement that all direct mail solicitation packages sent to New York residents contain in bolded text a notice regarding Important Replacement Information ("alternate Important Notice"). The alternate procedures also required that the life insurance application include a replacement question. If the question should be answered so as to indicate a replacement is intended, the Company is required to deliver to the certificateholder along with the certificate two copies of the Important Notice, with a request that the certificateholder sign and return one copy and retain the other copy for their records.

The examiner reviewed a sample of 235 application files. In 69 cases (29.4%), the Company failed to obtain a response from the applicant to the replacement question. In those instances, the Company did not follow up with the applicant to determine whether a replacement was intended, and hence, whether he/she should be provided with a copy of the Important Notice.

The Company violated Section 51.4 of Department Regulation No. 60 by failing to follow the agreed upon alternate procedures, when it failed to obtain an answer to the replacement question. By this failure, the Company may have failed to provide all certificateholders with copies of the Important Notice, which contains important replacement information including the right to a 60-day return period, in those instances where a replacement occurred.

B. Underwriting and Policy Forms

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

Based upon the sample reviewed, no significant findings were noted.

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.

Section 216.11 of Department Regulation No. 64 states, in part:

> "To verify compliance with this Part and related statutes, Insurance Department examiners will investigate the market performance of insurers. To enable department personnel to reconstruct an insurer's activities, all insurers subject to the provisions of this Part must maintain within each claim file all communications, transactions, notes and work papers relating to the claim . . . . Claim files must be so maintained that all events relating to a claim can be reconstructed by the Insurance Department examiners. Insurers shall either make a notation in the file or retain a copy of all forms mailed to claimants

The examiner reviewed a sample of 100 individual life death claims. In reviewing the claims, the examiner noted that in its standard individual life claim form the Company lists only one settlement option for payment of claims – the Continued Interest Account, a type of retained asset account. For further options, the claimant is referred to a Settlement Alternatives sheet. The examiner noted that in none of the claims in the sample did the Company maintain a copy of the Settlement Alternatives sheet. Instead, upon request to the Company to provide a copy of each sheet that was sent to each beneficiary within the claim sample, the examiner was provided with a copy of a generic Settlement Alternatives sheet. The Company asserted that it does not as a matter of procedure maintain a copy of the sheet sent to each beneficiary, since it deems the sheet to be an informational piece that does not need to be completed or returned by the beneficiary. Without the actual sheet sent to each beneficiary, the examiner could not reconstruct the claim file to determine if the correct settlement options were offered each beneficiary according to the specific policy. Important information, such as the current interest rates being offered under each settlement option, is contained in the missing sheets provided to each claimant.

The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain in its death claim files a copy of the Settlement Alternatives sheet. In reviewing each claim file, the examiner was unable to reconstruct the settlement options offered to each claimant, the interest offered under each option, or indeed even if the Settlement Alternatives sheet offering these available settlement options was mailed along with the claim package sent. The Settlement Alternative sheet is an integral part of each claim form, since the Company's standard claim form lists only one settlement option and refers to the Settlement Alternatives sheet, which is customized to each claimant to offer the correct available options and the appropriate current interest rates.

7. DERIVATIVE TRANSACTIONS

In conjunction with the Department's Capital Markets Bureau, the examiner reviewed select facets of the Company's hedging program, including its underpinning derivative usage and oversight, among investment-related functions reviewed.

Section 178.5(a)(6) of Department Regulation No. 163 states, in part:

> "(a) Before engaging in derivative transactions, an insurer shall establish adequate internal control procedures to deal with derivatives, which shall include but not be limited to . . .
>
> (6) systems or procedures for conducting initial and ongoing legal review of derivative transactions including assessments of contract enforceability."

Based on a review of a sample of derivative transactions, the examiner noted that for certain currency forward transactions the Company did not perform a thorough legal review of derivative transactions during the confirmation process prior to signing the confirmation. The legal review was limited to confirming approved counterparties on a monthly basis, **not** the full requisite legal review of each trade at time of execution.

The Company violated Section 178.5(a)(6) of Department Regulation No. 163 by failing to conduct initial legal reviews of certain derivative transactions at time of execution prior to signing the confirmation, thereby binding the Company to a contract with potential enforceability and other legal issues. A subsequent independent accountant review disclosed that the Company corrected the problem in 2005.

The Company uses a vendor provided valuation model to generate the fair market valuations of the derivative positions it reports in Schedule DB of the annual statement. These valuations consist of estimates of the fair value of the positions, some of which do not have an active market. In the course of confirming independently with the applicable counterparties the valuations for select derivative positions reported in Schedule DB of the 2004 annual statement, the examiner noted significant variances between the valuations submitted by the counterparties and those reported in Schedule DB for many of the positions selected for review.

The examiner requested derivatives valuation reconciliations for a select number of positions with large variances between counterparty valuations and Company valuations. The

Company initially provided a document prepared in September 2006 which provided summary amounts and explanations for the various types of differences. Among various types of reconciling items cited, the Company attributed a large portion of the variance in foreign currency related derivative valuations to intraday differences between the varying closing prices occurring in foreign exchange markets in Asia, Europe, and the United States. The Company attributed the inclusion of accrued interest in counterparty-provided valuations as another reconciling factor. As a reason for some of the discrepancies noted, the Company did acknowledge that in some cases accrued interest had not been accounted for as a reconciling factor.

While the Company summarized the amounts of the differences attributed to the respective reconciling factors, this initial response provided neither detailed calculations nor documentary proof of the purported reconciling factors, nor evidence that a reconciliation was performed at or near the date of the valuations provided by the counterparty. The reconciliation evidenced neither date of preparation nor supervisory signoff.

Subsequent to the on-site examination, the examiner requested that the Company provide a reconciliation performed near the date of the counterparty valuation, to support its contention that reconciliations are routinely performed in a timely manner. The Company provided a document that it indicated was prepared on or about the first week of January 2005. While the document showed that the Company detected and was aware of valuation variances and that it attributed the differences to the aforementioned reconciling factors, again, the documentary evidence failed to show a complete reconciliation with detailed calculations, documentary proof of the closing price variations, interest rates used, date of preparation of the document, or evidence of supervisory review.

Despite two requests to provide fully documented reconciliations, the Company failed to provide reconciliations that showed a clear documentary trail of the reconciliation process, along with evidence of appropriate supervisory signoff, dating, and approval. Given the highly-leveraged nature of derivative instruments, and given that the valuation differences prior to reconciling factors were fairly significant, it is incumbent on investors in derivatives that valuation differences be reconciled promptly and fully and that the reconciliation be subjected to appropriate supervisory review. Accordingly, the examiner recommends that the Company implement an internal control to document supervisory sign-off and dates of preparation and review for its derivatives reconciliations. In addition, it is recommended that each reconciliation be performed at or near the date of the valuation.

Given that many of the variances noted were significant and that despite two separate requests the Company failed to provide a clear documentary trail of each purported reconciliation providing verifiable details for the various reconciling factors, and given the highly-leveraged nature of derivative instruments, the examiner recommends that the Company obtain and document an <u>independent</u> valuation in instances where a material variance between counterparty valuation and the valuation generated by its vendor provided valuation system remains after the Company has considered and documented, as part of a proper reconciliation process, acceptable variances due to differences between New York and London market prices, inclusion and/or exclusion of accrued interest and correction of uncontested valuation errors such as data input errors. As noted in preceding paragraphs, a proper derivatives reconciliation should provide a clear documentary trail including, but not limited to, documentary proof of reconciling factors, detailed calculations, evidence of appropriate supervisory signoff and approval, and dates of preparation and approval.

As noted above, the Company uses a vendor provided program for generating estimated fair market values for the derivatives positions in its portfolio. The valuation system determines the fair market value of a derivative by taking the applicable value of all cash flows to be received and subtracting from that number the corresponding value of all cash flows to be paid. For internal management reporting purposes, the Company generates fair values of its derivative positions using a separate report function of the same system used for derivatives valuation for annual statement reporting purposes. Ostensibly, the calculations of the fair values used in the management reports were generated using the same formula. However, a review of the statement valuations for certain derivative positions showed differences with those generated for internal management reporting purposes, as noted by the Company's independent auditors in its assessment of the Company's internal controls over derivative usage. The examiner's review revealed that the internal management reporting module failed to perform the addition/subtraction of the pay and receive amounts properly, thereby producing an inaccurate valuation.

Although the Company contended that the differences were negligible, the failure to generate accurate information in the valuation process caused inaccurate data to be reported to management. The examiner recommends that the Company remedy any deficiencies in the report modules of its derivatives valuation system, whether internally or externally caused, so that the values generated are consistent between those utilized for management purposes and those utilized for statement reporting purposes. The Company has reported that it discontinued use of the module after the calculation error problem was discovered.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	The Company violated Section 2112(a) of the New York Insurance Law when it allowed 20 agents to sell the Company's policies without having the agents appointed with the Company. A review of agent licensing and appointments revealed no recurrence of this violation.
B	The Company violated Section 219.5(a) of Department Regulation No. 34-A when it failed to include the manner and extent of distribution, and a specimen copy of each advertisement in its advertising file. A review of a sample of the advertising conducted during the examination period revealed no recurrences of this violation.
C	The Company violated Section 219.4(e) of Department Regulation No. 34-A when it included the words "free," "no cost" or words of similar import in its advertising for some of its life insurance riders. A review of a sample of the advertising used during the examination period revealed no recurrences of this violation.
D	The Company violated Section 2122(a)(2) of the New York Insurance Law when its agents located in New York, called attention to NYLAZ and Provident Life and Accident Insurance Company both of which are unauthorized insurers. A review of a sample of the advertising conducted during the examination period revealed no recurrences of this violation.
E	The examiner recommends that the Company re-file policy form GPA L-38 due to changes in the requirements of the New York Insurance Law for variable language and health questions. The Company re-filed the form in question.
F	The Company violated Section 216.11 of Department Regulation No. 64 when it failed to include surrender request forms in 7.8% of surrender files reviewed. A review of a sample of surrenders revealed no recurrence of this violation.

Item	Description
G	The Company violated Section 3214(c) of the New York Insurance Law when it failed to pay interest on 83 New York group death claims at the Company's interest settlement option rate. A review of a sample of group death claims revealed no recurrence of this violation.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require with or as part of each application proof of receipt by the applicant of the Important Notice and the completed Disclosure Statement.	29
B	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statement and ascertain that it was accurate and met the requirements of this Part.	30
C	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to reject the application in situations where the forms do not meet the requirements of this Part or are not accurate.	30
D	The Company violated Section 51.6(b)(9) by failing to provide the applicant with a revised Disclosure Statement when the life insurance policy differed from the policy applied for.	30
E	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to present to the applicant, not later than at the time the applicant signs the application, the Important Notice and a completed Disclosure Statement where a replacement has occurred or is likely to occur.	31
F	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer whose coverage is being replaced a copy of any proposal used and the completed Disclosure Statement.	31
G	The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain in its files a copy of any proposal used in the sale of a proposed policy, proof of receipt of the Important Notice, the Disclosure Statement, and proof of notification to the insurer being replaced, for six calendar years or until after the filing of the report on examination in which the replacement transaction was subject to review, whichever is later.	31

H	The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp all replacement documentation required by this Part upon receipt.	31
I	The Company violated Section 51.4 of Department Regulation No. 60 by failing to follow the agreed upon alternate procedures with respect to AARP life policies, by its failure to obtain an answer to the replacement question.	32
J	The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain in its death claim files a copy of the Settlement Alternatives sheet.	34
K	The Company violated Section 178.5(a)(6) of Department Regulation No. 163 by failing to conduct initial legal reviews of certain derivative transactions at time of execution prior to signing the confirmation, thereby binding the Company to a contract with potential enforceability and other legal issues.	35
L	The examiner recommends that the Company implement an internal control to document supervisory sign-off and dates of preparation and review for its derivatives reconciliations. In addition, it is recommended that each reconciliation be performed at or near the date of the valuation.	36
M	Given that many of the derivative valuation variances noted were significant and that despite two separate requests the Company failed to provide a clear documentary trail of each purported reconciliation providing verifiable details for the various reconciling factors, and given the highly-leveraged nature of derivative instruments, the examiner recommends that the Company obtain and document an independent valuation in instances where a material variance between counterparty valuation and the valuation generated by its vendor provided valuation system remains after the Company has considered and documented, as part of a proper reconciliation process, acceptable variances due to differences between New York and London market prices, inclusion and/or exclusion of accrued interest and correction of uncontested valuation errors such as data input errors.	37
N	The examiner recommends that the Company remedy any deficiencies in the report modules of its derivatives valuation system so that values generated more accurately reflect fair values and are consistent with values utilized for management purposes.	37

Respectfully submitted,

_______________/s/_____________
David Hee
Principal Insurance Examiner

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

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

_______________/s/_____________
David Hee

Subscribed and sworn to before me

this__________ day of ____________________

The foregoing Report on Examination is hereby submitted:

David Hee State of New York Representing Northeastern Zone	Vincent Rapacciuolo, CFE State of Mississippi Representing Southeastern Zone

The foregoing Report on Examination is hereby submitted:

David Hee State of New York Representing Northeastern Zone	Pierre Glover State of Nevada Representing Western Zone

APPOINTMENT NO. 22309

STATE OF NEW YORK

INSURANCE DEPARTMENT

I, HOWARD MILLS , Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

DAVID HEE

as a proper person to examine into the affairs of the

NEW YORK LIFE INSURANCE COMPANY

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

COMPANY

with such other information as he shall deem requisite.

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

this 7th day of February , 2005

HOWARD MILLS
Acting Superintendent of Insurance

Acting Superintendent