



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

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

JUNE 30, 2011

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
GENWORTH LIFE INSURANCE COMPANY OF NEW YORK
AS OF
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EXAMINER:

ANTHONY MAURO

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

Andrew M. Cuomo
Governor

James J. Wrynn
Superintendent

June 30, 2011

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 30391, dated October 26, 2009 and annexed hereto, an examination has been made into the affairs of Genworth Life Insurance Company of New York, hereinafter referred to as “the Company,” or “GLICNY” at its home office located at 666 Third Avenue, New York, NY 10017.

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 material findings, comments, violations and recommendations contained in this report are summarized below.

- The Company violated Section 1409(a) of the New York Insurance Law by operating four separate accounts wherein each account invested in a note comprising greater than 10% of the assets of the separate account. (See item 5 of this report)
- The Company violated Section 1405(a)(7)(C) of the New York Insurance Law by having an investment in a foreign issuer that caused the aggregate value all such investments to exceed 8% of the separate account's admitted assets. (See item 5 of this report)
- The Company violated Section 4240(a)(5)(ii) of the New York Insurance Law by providing to contractholders, within separate accounts that failed to comply with the investment limitations contained in the Insurance Law, guarantees not limited to the extent of the assets allocated to the separate account. (See item 5 of this report)
- The Company violated Section 4240(a)(2)(C) of the New York Insurance Law by: failing to invest for each separate account in good faith and with the degree of care that an ordinarily prudent person in a like position would use under similar circumstances; failing to properly diversify the investments in each separate account; acquiring investments without performing the appropriate due diligence in pricing such assets prior to investment; and concentrating funds in a single investment whose assets, if purchased directly by each separate account, would have violated Insurance Law limitations. (See item 5 of this report)
- By letter dated May 29, 2009, the Company committed to following Department guidelines prohibiting the use of Circular Letter No. 6 (2004) filing process for innovative products, products utilizing non-pooled separate accounts and products with deposits in excess of \$25 million. (See item 5 of this report)
- The Company violated Section 39.1(a) of Department Regulation No. 144 when it failed to display the Long Term Care Partnership program logo on the product being advertised, marketed, offered, or sold. (See item 4 of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2005 through December 31, 2007. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2007 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 Regulation Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 6 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on February 23, 1988 under the name First GNA Life Insurance Company of New York, and was licensed and commenced business on October 31, 1988.

Effective April 1, 1993, General Electric Capital Corporation (“GE Capital”), a subsidiary of the General Electric Company (“GE”), completed the acquisition of the Company’s ultimate parent, GNA Corporation (“GNA”), by purchasing 100% of GNA’s capital stock.

Effective February 1, 1996, the Company changed its name from First GNA Life Insurance Company of New York to GE Capital Life Assurance Company of New York. At that time the Company was a direct wholly-owned subsidiary of General Electric Capital Assurance Company (“GECA”) and an indirect wholly-owned subsidiary of GE Financial Assurance Holdings, Inc. (“GEFAHI”) and of General Electric Company (“GE”), the Company’s ultimate parent.

In November 2003, GE announced its intention to pursue an initial public offering of a new company named Genworth Financial, Inc. (“Genworth”) that would comprise most of its life and mortgage insurance operations.

In May 2004, in connection with the initial public offering of the common stock of Genworth, GEFAHI transferred substantially all of its assets, including two New York domestic life insurers, American Mayflower Life Insurance Company of New York (“AML”) and the Company, to Genworth Life Insurance Company (“GLIC”). GLIC became the Company’s indirect parent, and as a result, the Company became an indirect wholly owned subsidiary of Genworth.

In March 2006, GE disposed of its remaining ownership interest in Genworth. As a result of these transactions, Genworth and its subsidiaries, including the Company, are no longer affiliated with GE or its affiliates. Genworth is now the ultimate controlling person of the Company.

Effective January 1, 2006, the Company adopted its present name Genworth Life Insurance Company of New York.

On January 1, 2007, AML was merged with and into the Company.

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 and is licensed to transact business in 8 states, namely Connecticut, Delaware, Florida, Illinois, New Jersey, New York, Rhode Island, Virginia and the District of Columbia. In 2007, 94% of life premiums, accident and health premiums, annuity considerations, and deposit type funds were received from New York.

The Company offers long term care insurance, single premium deferred annuities, single premium immediate annuities, variable annuities, term life and universal life policies. During 2006 the Life Income Protection Series, a new variable annuity product, was issued. Structured settlements were discontinued and will be included in future periods as a run-off block. The current focus is on the sale of deferred, immediate and variable annuities. Life insurance policies are written on a participating and non-participating basis.

The Company's agency operations are conducted on a general agency basis. Products are distributed through a variety of channels, including career agents, independent agents, banks, and marketing organizations.

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

Section 215.13(a) of Department Regulation No. 34 states, in part:

“(a) The name of the actual insurer and the form number or numbers advertised shall be identified and made clear in all of its advertisements. . . .”

Section 39.1(a) of Department Regulation No. 144 states, in part:

“Policies/certificates sold in conjunction with the program must be approved by the Superintendent of Insurance of New York State as meeting the minimum standards required under this Part and other pertinent authority as required by law. Policies/certificates approved as meeting the requirements stated herein shall be designated as qualified by the presence of a program logo that shall be displayed on any products advertised, marketed, offered, or sold. . . .”

A clause in the Insurer Partnership Agreements (“IPAs”) between the insurer and the New York State Department of Health requires that the partnership program logo be displayed on participating long term care advertisements. The IPA clause states in part:

“The Partnership Logo shall appear in all participating insurer advertising according to the requirements of the Partnership.”

Twenty-one (21) agents distributed 162,900 copies of a single advertisement for the New York State Partnership for Long Term Care through the mail. The advertisement, which was provided to the agents by an outside marketing firm, failed to display the partnership logo, failed to identify the Company as the actual insurer, and failed to identify the policy form number associated with the policy that was being offered.

The Company violated Section 215.13(a) of Department Regulation No. 34 when it failed to identify itself as the actual insurer and failed to include the policy form number on the advertisement.

The Company violated Section 39.1(a) of Department Regulation No. 144 when it failed to display the Long Term Care Partnership program logo on the product being advertised, marketed, offered, or sold.

The Company failed to comply with its IPA agreement with the New York State Department of Health when it failed to include the partnership logo on the advertisement mailed by its agents.

The examiner recommends that the Company take additional measures to ensure that its agents use only approved advertisements; such measures include remedial compliance training related to the Company's policy over the use of advertising, sales materials and lead generation pieces. In addition, the Company should reiterate to its agents the requirement that all agent-created advertising and lead generation materials be submitted to the Company for approval prior to use and send reminder notices on a periodic basis.

Section 51.6(b)(4) of Department Regulation No. 60 states, in part:

“Within ten days of receipt of the application furnish 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 a completed “Disclosure Statement.”

A review of 67 life and annuity replacement transactions revealed that the Company utilizes a Letter of Acceptance (“LOA”) as notification (“10 day letter”) to the insurer whose policy is being replaced. The LOA does not satisfy the requirements of Section 51.6(b)(4) because there is no language in the LOA which clearly indicates a replacement transaction is taking place. The LOA contains no indication that a copy of the proposal or sales material used in the sale and the completed Disclosure Statement were enclosed with the notification letter, and further, the examiner was unable to otherwise determine what documents, if any, were forwarded to the replaced insurer.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 when it failed to furnish the insurer whose coverage was being replaced, a copy of any proposal,

including the sales material used in the sale, and the completed Disclosure Statement within ten days of receipt of the application.

The examiner recommended to the Company that it review and revise its current replacement procedures. On September 12, 2008, the Company submitted to the Department revised replacement procedures, including a revised 10 day letter which clearly indicates that a replacement has taken place and also lists the documents included with the letter. In addition, new procedures regarding record retention were instituted with regard to maintenance of scanned documents.

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.

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

5. POST APPROVAL REVIEW OF FUNDING AGREEMENT
AND SEPARATE ACCOUNT TRANSACTIONS

Section 4240 of the New York Insurance Law states, in part:

“(a) . . . a domestic life insurance company may establish one or more separate accounts and allocate thereto, pursuant to agreements for separate accounts, amounts paid to it . . . (vi) to accumulate or hold in such separate account funds credited under funding agreements delivered pursuant to section three thousand two hundred twenty-two of this chapter; provided that any such separate account shall be maintained in accordance with the following . . .

(2) With respect to investments allocated to a separate account . . .

(C) The insurer shall invest and reinvest for such separate account in good faith and with that degree of care that an ordinarily prudent person in a like position would use under similar circumstances . . .

(5) No guarantee of the value of the assets allocated to a separate account, or any interest therein, or the investment results thereof, or the income thereon, shall be made to a contractholder by the insurer, without limitation of liability under all such guarantees to the extent of the interest of the contractholder in assets allocated to said separate account . . .

(ii) if the applicable agreements provide that the assets in such separate account shall not be chargeable with liabilities arising out of any other business of the insurer, unless such investments are subject to the requirements and limitations on investments imposed by articles thirteen and fourteen (except section one thousand four hundred two) of this chapter applied as though the aggregate assets allocated to such separate account were the insurer's total admitted assets. . . .”

Section 1409 of the New York Insurance Law states, in part:

“(a) Except as more specifically provided in this chapter, no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities (including for this purpose certificates of deposit, partnership interests and other equity interests) of any one institution.”

Section 1405 of the New York Insurance Law states, in part:

“(a) The assets of a domestic insurer that is authorized to make investments under this section may be invested in the following types of investments, in addition to investments otherwise authorized, subject in the case of investments made under this section to the limitations set forth below and the provisions of subsections (c), (d) and (e) of this section . . .

(7) Foreign investments.

(C) Investments in foreign countries . . . provided that, after giving effect to any investment made under this subparagraph, the aggregate amount of investments qualified under this subparagraph and then held by such insurer shall not exceed eight percent of the insurer's admitted assets. . . ." (effective April 23, 2008, the limitation was changed to sixteen percent)

Section 1410 of the New York Insurance Law states, in part:

"(b)(2) An insurer may use derivative instruments under this section to engage in hedging transactions, replication transactions, and for certain limited income generation transactions authorized pursuant to this section . . .

(d) An insurer may enter into income generation transactions under this section only through the sale of call options on securities, provided that the insurer holds, or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the underlying securities during the entire period the option is outstanding . . .

(l) An insurer may enter into replication transactions provided that:

(1) the insurer would otherwise be authorized to invest its funds under this chapter in the asset being replicated;

(2) the asset being replicated is subject to all provisions and limitations (including quantitative limits) on the making thereof specified in this chapter with respect to investments by the insurer, as if the transaction constituted a direct investment by the insurer in the asset being replicated; and

(3) as a result of giving effect to the replication transaction, the aggregate statement value of all assets being replicated does not exceed ten percent of the insurer's admitted assets."

As noted within the separately-issued financial condition examination report dated May 19, 2009 for this Company, the Department reviewed certain funding agreement and related separate account transactions entered into by the Company. The report further noted that, while the report on financial condition was being issued at that point, the Department was continuing to review the matter of these transactions and that the matter was being referred to general counsel for further analysis.

The transactions under review involved four separate accounts established by the Company for the purpose of issuing funding agreements. Each funding agreement was issued in the amount of \$100 million, the proceeds of which were used to purchase senior notes issued by one of four different trusts established for each funding agreement transaction. One of the trusts is a special purpose vehicle established in the Cayman Islands. Three of the trusts invested primarily in the senior tranche of three different portfolios of credit card receivables. The fourth trust invested in a guaranteed investment contract and a money market fund. The examiner found no evidence, however, that the Company obtained independent pricing of the trust notes prior to consummating each transaction.

Additionally, the trusts entered into credit default swap transactions (“swaps”) with Morgan Stanley as counterparty under which each trust was the writer (seller) of protection for a diversified portfolio of corporate loans or corporate and sovereign credits (“reference entities”). The examiner found no evidence that the Company obtained independent pricing of the swaps prior to consummating the swap transactions. Under the terms of the swaps, each trust is obligated to make payments to Morgan Stanley should defaults within each respective portfolio of reference entities exceed a certain “attachment point”. Under the terms of each funding agreement and separate account, the Company is required to contribute assets from the Company’s general account to each separate account in an amount sufficient to support their respective funding agreement obligations if the assets within that separate account are not sufficient for such purpose, thereby potentially obligating general account policyholders for any shortfall. As of the date of the financial condition examination report, unrealized losses on the notes issued by the trusts totaled approximately \$240 million.

While some defaults under the swaps have occurred, the trusts have thus far not had to make swap payments to Morgan Stanley because the losses have not exceeded the “attachment point” under each swap agreement. However, with each default, each portfolio moves closer to the attachment point, thereby increasing the likelihood of swap payments and adverse affects on the credit ratings of the underlying notes issued by the respective trusts. In December 2008, to avoid a potential credit rating downgrade, the Company renegotiated the respective attachment and detachment points with Morgan Stanley (in exchange for a fee of \$31.5 million) for two of the notes, in order to decrease the possibility of swap payments.

At December 31, 2008, the Company reported an annual statement asset in the amount of \$424,402,052 representing the total book value of the four notes issued by the trusts, including the restructured notes, which contrasted with a corresponding total fair value for the notes of only \$155,800,000. An independent appraisal, performed as of March 31, 2009, indicated that the total value of the notes was 52% of overall face value, consistent with the Company's own modeling. To date, the Company has not recorded any write-downs or impairments on the notes.

A. Investment Limitation Violations

As noted above, the Company is required under the terms of each funding agreement to contribute assets from the Company's general account to each separate account in an amount sufficient to support their respective funding agreement obligations should the assets within that separate account not be sufficient for such purpose. New York Insurance Law generally prohibits guarantees in separate accounts that are not limited to the contractholder's interest in assets allocated to the separate account, unless, as prescribed in Section 4240(a)(5)(ii) of the New York Insurance Law quoted above, "such investments are subject to the requirements and limitations on investments imposed by articles thirteen and fourteen of this chapter *applied as though the aggregate assets allocated to such separate account were the insurer's total admitted assets.*" (Italics added) The assets and investments of each separate account are therefore subject to Article 14 of the New York Insurance Law, operating as if each separate account were a "mini-general account".

The sole investment in each separate account was a note issued by a trust and comprised 100% or thereabout of the assets of each separate account. Therefore, the Company violated Section 1409(a) of the New York Insurance Law by operating four separate accounts wherein each account invested in a note comprising greater than 10% of the assets of the separate account.

One trust invested in a note issued by a trust incorporated in the Cayman Islands, with that note being the sole investment of the trust. The Company violated Section 1405(a)(7)(C) of the New York Insurance Law by having an investment in a foreign issuer that caused the aggregate value all such investments to exceed 8% of the separate account's admitted assets.

In response to the examination findings, the Company explained that it initially believed that the Separate Accounts fell purview to Section 4240(a)(5)(iii) of the New York Insurance

Law, which would not have required the Company to apply the investment limitations of Article 14 of the New York Insurance Law (the “NY Investment Limitations”) to the Separate Account assets. However, after various discussions with the Department, the Company appropriately removed the reference to Section 4240(a)(5)(iii) from its Plan of Operations (“Plan”) and the Department approved the Plan pursuant to Section 4240(a)(5)(ii). Due to miscommunication between the functional departments responsible for administering the Separate Accounts, the investments team operated under the assumption that Section 4240(a)(5)(iii) applied and, therefore, that the New York investment limitations were not a factor. As a result, the Company's investments team erroneously selected a single asset for each Separate Account, which resulted in breaches of the New York investment limitations.

B. Separate Account Guarantee Violation (Mini-General Account Violation)

As noted above, the Company violated Sections of Article 14 of the New York Insurance Law by exceeding the limitations therein with respect to the investments within each separate account. The Company failed to operate each separate account as a mini-general account complying with requirements and limitations imposed by Articles 13 and 14 of the Insurance Law. The Company therefore violated Section 4240(a)(5)(ii) of the New York Insurance Law by providing to contractholders, within separate accounts that failed to comply with the investment limitations contained in the Insurance Law, guarantees not limited to the extent of the assets allocated to the separate account.

C. Prudent Investor Standard Violation

The Company violated the standard of care set forth in Section 4240(a)(2)(C) by concentrating each separate account’s assets in a single, complicated structured investment that achieved diversification through synthetic credit exposure created by the sale of credit default swaps. The complexity of the Trust Notes raises several issues that lead to this conclusion.

Prudent investing standards dictate that, prior to entering a transaction of significant size, the investor should obtain an independent pricing of the investment where a ready market quote is not available. Additionally, inasmuch as the Insurance Law prescribes permitted investments and limitations for insurers to adhere to, these can be construed as prudent standards for insurers as deemed by the Law. The investments of each trust, whose note comprised the sole investment

of each separate account, would have been subject to the standards and limitations contained in the New York Insurance Law, had each separate account invested directly in those investments, and would have been in violation of the limitations within the Insurance Law.

The ability to independently price the note within each separate account would have allowed the Company to model the valuation of the note under extreme stress conditions as have occurred since their issuance. As of the end of the examination period, three notes saw a reduction in their valuations to approximately 50% of par value. Currently, after adjustments to the names comprising the credit default swaps and an aforementioned adjustment of the attachment points at an expense of over \$30 million, these notes have a market value at approximately only 70% of par value. If the notes are not repaid in full at the maturity of the funding agreements, the Company's general account will then become obligated to pay the amount of the deficiency. Such guarantee puts the ability to pay on the policies and obligations of the general account at risk.

Pricing the notes issued by each trust at the outset of the transaction by obtaining independent pricing was difficult because each one was designed for a particular transaction and sold to only one purchaser. While pricing for the cash asset within each trust was readily available in the market, pricing for the credit default swap was not. The examiner found no evidence that the Company obtained independent pricing of the credit default swaps prior to entering into the transactions. Subsequently, the Company provided information that showed that the Company sought pricing on the first credit default swap from a counterparty other than Morgan Stanley (the "Third Party Counterparty"). This process confirmed that (a) the pricing generated by the Company's internal model was consistent with the pricing by the Third Party Counterparty and (b) the pricing provided by Morgan Stanley was consistent with the pricing by the Third Party Counterparty. Thereafter, the Company relied on its own pricing models to evaluate the credit default swaps. Given the significance of the credit default swaps to the overall value and ratings of the notes, it would have been prudent for the Company to seek additional independent valuation of the credit default swaps.

As set forth in Section 1410(b)(2) of the New York Insurance Law, insurers may only use derivatives for three purposes: hedging, replication and certain limited income generating transactions. If one were to look through the structure of the notes, the cash asset combined with the sale of a credit default swap was like a replication transaction. However, it was not prudent

to have the entire portfolio of assets consisting of a single replication transaction. In addition, it is not clear that the Company could have achieved replication treatment using the particular cash assets in the trusts (asset backed securities secured by credit card receivables or a guaranteed investment contract).

Therefore, the Company violated Section 4240(a)(2)(C) of the New York Insurance Law by: failing to invest for each separate account in good faith and with the degree of care that an ordinarily prudent person in a like position would use under similar circumstances; failing to properly diversify the investments in each separate account; acquiring investments without performing the appropriate due diligence in pricing such assets prior to investment; and concentrating funds in a single investment whose assets, if purchased directly by each separate account, would have violated Insurance Law limitations.

D. Commitment by GLICNY

By letter dated May 4, 2009, the Department communicated to the Company the concerns the Department had regarding the Company's use of the Circular Letter No. 6 (2004) filing process, and specifically with regard to the funding agreements discussed above issued through this process and the related separate accounts.

By return letter dated May 29, 2009, the Company committed to conforming to Department guidelines prohibiting the use of Circular Letter No. 6 (2004) filing process for innovative products, products utilizing non-pooled separate accounts and products with deposits in excess of \$25 million.

6. 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:

<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 219.2(b) of Department Regulation No. 34-A when it failed to maintain a system of control over its advertisements. The examiner recommends that the Company establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies.</p> <p>The examination revealed that the Company established a system of control over the content, form and method of dissemination of all advertisements of its policies.</p>
B	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A and Section 215.17(a) of Department Regulation No. 34 for failing to maintain a complete file of all advertisements at its home office.</p> <p>The examination revealed that the Company maintained a complete advertisement file at its home office.</p>
C	<p>The Company did not file the Certificate of Compliance required pursuant to Department Regulation No. 34-A for the three years under examination. The examiner recommends that the Company file all required Certificates of Compliance in the future.</p> <p>The Company subsequently filed the Certificates of Compliance for the years covered by the prior examination and filed certificates in a timely manner for the period covered by the current examination period.</p>
D	<p>The Company violated Section 51.6(b)(2) of Department Regulation No. 60 when it accepted from its agents incomplete Disclosure Statements that failed to indicate whether any sales material was used in the sale of its annuity contracts.</p> <p>The examination revealed that the Company has established procedures to ensure that it does not accept incomplete Disclosure Statements submitted by its agents.</p>
E	<p>The Company violated Section 51.6(b)(6) of Department Regulation No. 60 when it failed to maintain proof of receipt by the applicant of the IMPORTANT Notice Regarding Replacement.</p> <p>The examination revealed that the Company maintains proof of receipt by the applicant of the IMPORTANT Notice Regarding Replacement.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 for failing to furnish the required documentation to the replaced insurer within the 10-day period.</p> <p>The examiner's review revealed a similar violation of this Section of Regulation 60. (See item 4 of this report)</p>
G	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law when it used unapproved policy forms during the examination period.</p> <p>On January 26, 2006, the Company filed the policy forms with the Department.</p>

7. SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 215.13(a) of Department Regulation No. 34 when it failed to identify itself as the actual insurer and failed to include the policy form number on the advertisement.	7
B	The Company violated Section 39.1(a) of Department Regulation No. 144 when it failed to display the Long Term Care Partnership program logo on the product being advertised, marketed, offered, or sold.	7
C	The Company failed to comply with its IPA agreement with the New York State Department of Health when it failed to include the Long Term Care Partnership logo on the advertisement mailed by its agents.	7
D	The examiner recommends that the Company take additional measures to ensure that its agents use only approved advertisements; such measures include remedial compliance training related to the Company's policy over the use of advertising, sales materials and lead generation pieces. In addition, the Company should reiterate to its agents the requirement that all agent-created advertising and lead generation materials be submitted for approval prior to use and send reminder notices on a periodic basis.	7
E	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 when it failed to furnish the insurer whose coverage was being replaced, a copy of any proposal, including the sales material used in the sale, and the completed Disclosure Statement within ten days of receipt of the application.	7
F	The examiner recommends that the Company review and revise its current replacement procedures. On September 12, 2008, the Company submitted to the Department revised replacement procedures, including a revised 10 day letter which clearly indicates that a replacement has taken place and also lists the documents included with the letter.	8
G	The Company violated Section 1409(a) of the New York Insurance Law by operating four separate accounts wherein each account invested in a note comprising greater than 10% of the assets of the separate account.	12

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H	The Company violated Section 1405(a)(7)(C) of the New York Insurance Law by having an investment in a foreign issuer that caused the aggregate value all such investments to exceed 8% of the separate account's admitted assets.	12
I	The Company violated Section 4240(a)(5)(ii) of the New York Insurance Law by providing to contractholders, within separate accounts that failed to comply with the investment limitations contained in the Insurance Law, guarantees not limited to the extent of the assets allocated to the separate account.	13
J	The Company violated Section 4240(a)(2)(C) of the New York Insurance Law by: failing to invest for each separate account in good faith and with the degree of care that an ordinarily prudent person in a like position would use under similar circumstances; failing to properly diversify the investments in each separate account; acquiring investments without performing the appropriate due diligence in pricing such assets prior to investment; and concentrating funds in a single investment whose assets, if purchased directly by each separate account, would have violated Insurance Law limitations.	15
K	By letter dated May 29, 2009, the Company committed to conforming to Department guidelines prohibiting the use of Circular Letter No. 6 (2004) filing process for innovative products, products utilizing non-pooled separate accounts and products with deposits in excess of \$25 million.	15

APPOINTMENT NO. 30391

STATE OF NEW YORK
INSURANCE DEPARTMENT

*I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:*

ANTHONY MAURO

as a proper person to examine into the affairs of the

GENWORTH LIFE INSURANCE COMPANY OF NEW YORK

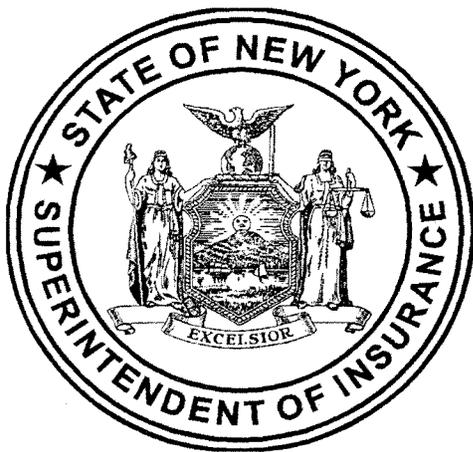
and to make a report to me in writing of the condition of the said

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 26th day of October, 2009



JAMES J. WRYNN
Superintendent of Insurance

James J. Wrynn
Superintendent