STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

AVIVA LIFE AND ANNUITY COMPANY

OF NEW YORK

CONDITION: DECEMBER 31, 2007

DATE OF REPORT: MARCH 31, 2009

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EXAMINER:	JEFFREY GOOD

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

David Paterson
Governor

Eric R. Dinallo
Superintendent

April 17, 2009

Honorable Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22805, dated July 28, 2008 and annexed hereto, an examination has been made into the condition and affairs of Aviva Life and Annuity Company of New York, hereinafter referred to as “the Company,” at its home office located at 65 Froehlich Farm Boulevard, Woodbury, New York 11797.

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

On December 31, 2007, Indianapolis Life Insurance Company ("ILICO"), Bankers Life Insurance Company of New York's ("BLNY") immediate parent, acquired Aviva Life Insurance Company of New York ("ALICNY"). Immediately following that acquisition, ALICNY was merged with BLNY. BLNY was the surviving entity. Simultaneously with the merger, BLNY was renamed Aviva Life and Annuity Company of New York. (See item 3A of this report)

The Company continues to violate Section 127.3(a) of Department Regulation No. 102 by taking reserve credits under reinsurance treaties that were not duly executed by both parties by the "as of date" of the financial statement in which the credit(s) was taken. This violation appeared in the prior ALICNY report on examination. (See item 3E of this report)

The Company continues to violate Section 91.5(b) of Department Regulation No. 33 by using methods to allocate net investment income to annual statement lines of business without filing the methods with the Department prior to their use. This violation appeared in the prior ALICNY report on examination. (See item 4 of this report)

The examiner's review of the Company's market conduct activities did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Company. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This is the first examination of the Company as Aviva Life and Annuity Company of New York. The Company was formerly known as Bankers Life Insurance Company of New York ("BLNY"). The prior examination of BLNY was conducted as of December 31, 2003. On December 31, 2007, Indianapolis Life Insurance Company ("ILICO"), BLNY's immediate parent, acquired Aviva Life Insurance Company of New York ("ALICNY"). Immediately following that acquisition, ALICNY was merged with BLNY. BLNY was the surviving entity. Simultaneously with the merger, BLNY was renamed Aviva Life and Annuity Company of New York. The prior examination of ALICNY was conducted as of December 31, 2004. This examination covers the period from January 1, 2004 through December 31, 2007. As necessary, the examiner reviewed transactions 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 verification of assets and liabilities as of December 31, 2007 to determine whether the Company's 2007 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
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, recommendations and comments contained in the prior BLNY and ALICNY reports 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 incorporated as a stock life insurance company under the laws of the State of New York on April 17, 1958, and was licensed and commenced business on November 25, 1958, under the name Gotham Life Insurance Company of New York. Initial resources of $650,000, consisting of common capital stock of $300,000 and paid in and contributed surplus of $350,000, were provided through the sale of 3,000 shares of common stock (with a par value of $100 each) for $216.67 per share. In 1979, the Company changed its name to Bankers Life and Casualty Company of New York. In March 1994, the Company changed its name to Bankers Life Insurance Company of New York. In July 1995, Indianapolis Life Insurance Company ("ILICO") purchased the Company from Southwestern Life Insurance Company. In 1998, the Company became a subsidiary of the Indianapolis Life Group of Companies ("IL Group"), which was the downstream holding company of ILICO. On May 18, 2001, ILICO became a wholly owned subsidiary of AmerUs Group Co. ("AGC"). AGC was the successor company resulting from a merger between American Mutual Holding Company and its subsidiary, AmerUs Life Holdings, Inc., following American Mutual Holding Company's demutualization in September 2000. On March 5, 2002, IL Group was dissolved and all of the Company's shares reverted to ILICO which became the Company's immediate parent and AGC became the Company's ultimate parent. On November 15, 2006, AGC merged with Libra Acquisition Corporation, an Iowa corporation and an indirect wholly owned subsidiary of Aviva plc, a public limited company incorporated under the laws of England and Wales. AGC continued after the merger as the surviving corporation and an indirect wholly owned subsidiary of Aviva plc.

On December 31, 2007, ILICO acquired Aviva Life Insurance Company of New York ("ALICNY"), a New York domestic life insurance company. Immediately following that acquisition ALICNY was merged with Bankers Life Insurance Company of New York ("BLNY"). BLNY was the surviving entity. Simultaneously with the merger, BLNY was renamed Aviva Life and Annuity Company of New York.

Effective January 1, 2008, AGC merged with Aviva USA Corporation ("Aviva USA"), a non-life insurance company incorporated in the State of Delaware. AGC, incorporated in the

State of Iowa, continued as the surviving company and simultaneously changed its name to Aviva USA. Effective September 30, 2008, Aviva Life Insurance Company ("ALIC"), a Delaware domiciled insurance company in the Aviva holding company system, and ILICO, the Company's immediate parent, were merged with and into Aviva Life and Annuity Company ("ALAC"), an insurer domiciled in Iowa and ALAC became the Company's immediate parent. (See Subsequent Events, Section 7 of this report)

The Company received $10,000,000, $20,142,596, $15,000,000 and $3,000,000 in capital contributions from its parent during 2007, 2006, 2005 and 2004, respectively. The Company was in compliance with Section 1505(c) and Section 1505(d) of the New York Insurance Law by obtaining the Superintendent's prior approval and giving the Superintendent notice of all contributions made during the examination period. Capital and paid in and contributed surplus were $2,002,306 and $93,975,196, respectively, as of December 31, 2007.

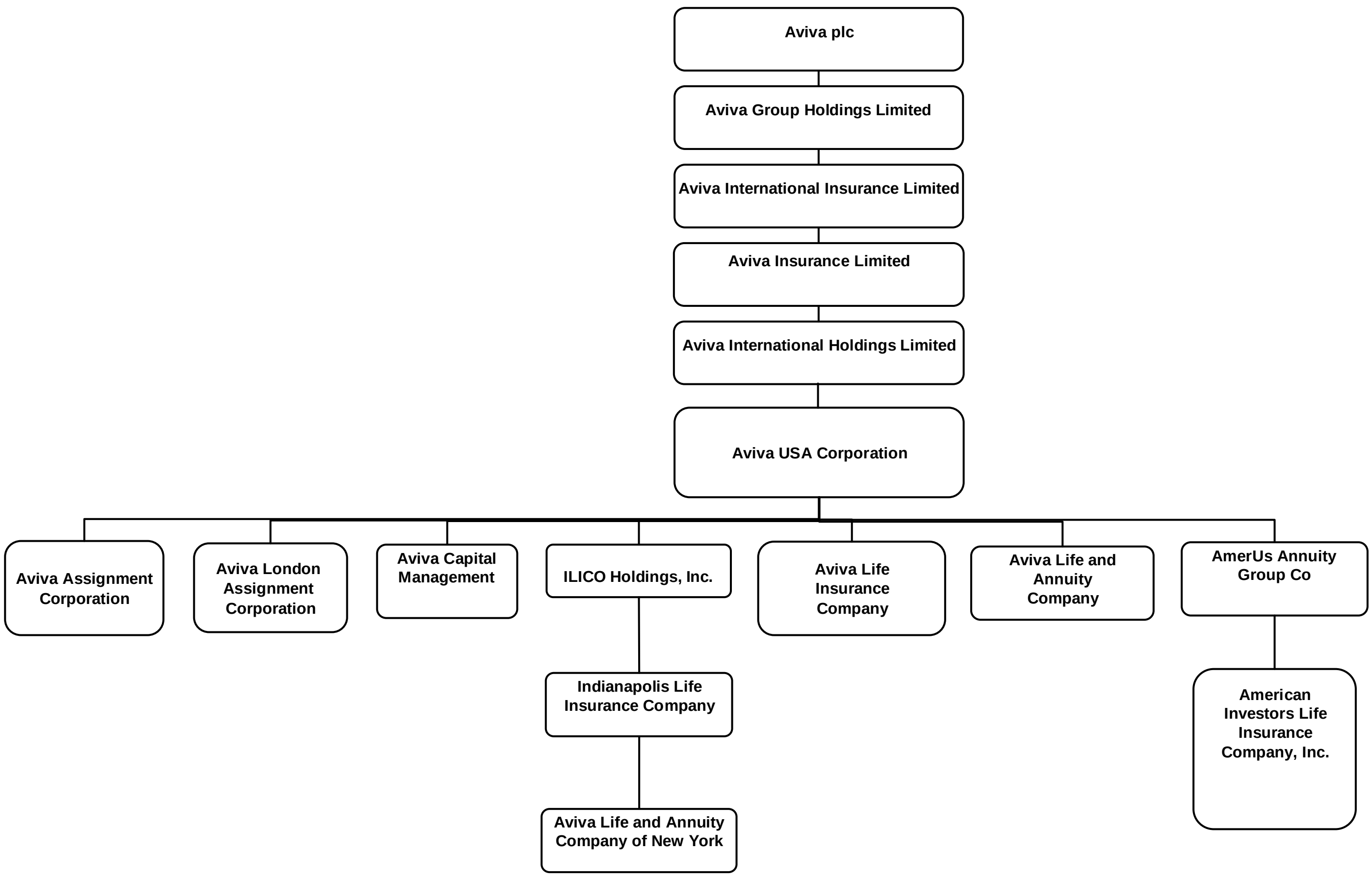
The parent contributed $25 million to the Company in December of 2008. (See Subsequent Events, Section 7 of this report)

B. <u>Holding Company</u>

As of December 31, 2007, all of the outstanding shares of the company's common stock were directly owned by ILICO, a stock life insurance company domiciled in the State of Indiana. ILICO was a wholly owned stock life subsidiary of ILICO Holdings, Inc., which was wholly owned by AGC, which was indirectly but wholly owned by Aviva plc, the ultimate parent, a public limited company incorporated under the laws of England and Wales.

During March of 2009, A.M. Best downgraded the issuer credit rating of Aviva plc and its rated subsidiaries from "a" to "a-" and the financial strength rating from A+ Superior to A Excellent. A.M. Best also downgraded the debt securities issued by Aviva plc. The outlook for all ratings is stable. (See Subsequent Events, Section 7 of this report)

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2007 follows:



The Company had eight service agreements in effect as of December 31, 2007. The Company reported the following information relating to inter-company transactions and services within the holding company system for the four year period under review:

Type of Agreement	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year
Administrative Services	3/11/98 Amended 8/15/03	BLNY	ILICO	Underwriting, new business and policyowner services.	2004 $5,356,288 2005 $4,358,242 ** 2006 $2,094,503 2007 $1,243,431
Administrative Services	1/1/02 Amended 1/1/06	AGC and AmerUs Life Insurance Company (“AULIC”)	BLNY	Full range of services including: human resources, legal, tax, audit, IT, finance, administration and actuarial.	2004 $(5,554,201) 2005 $(6,828,894) 2006 $(5,995,040) 2007 $(6,845,612)
Investment Advisory Agreement	2/28/00	AmerUs Capital Management Group, Inc. (“ACMG”)	BLNY	Investment advisory services.	2004 $(474,049) 2005 $(476,665) 2006 $(479,250) 2007 $(484,471)
Administrative Services	4/1/96	ILICO	BLNY	Accounting, tax, administrative, human resources, legal and corporate secretary.	2004 $(147,097) 2005 $0 2006 $0 2007 $0
Administrative Services	4/1/07	BLNY	ALICNY	Full range of services including: human resources, legal, tax, audit, IT, finance, actuarial, administration, etc.	2004 $0 2005 $0 2006 $0 2007 $282,208

Administrative Services	12/28/00 Amended 5/23/05	Aviva Service Corporation (“ASC”)	ALICNY	Full range of services including human resources, legal, tax, audit, IT, investment, finance, administration and actuarial.	2004 $(9,024,110) 2005 $(9,250,735) 2006 $(11,648,127) 2007 $(7,606,700)
Investment Advisory Agreement	4/1/07	ACMG	ALICNY	Investment advisory services.	2004 $ 0 2005 $ 0 2006 $ 0 2007 $(631,848)
Administrative Services	4/1/07	AGC, AULIC, AmerUs Annuity Group Co. and BLNY	ALICNY	Full range of services including human resources, legal, tax, audit, IT, investment, finance, administration and actuarial.	2004 $ 0 2005 $ 0 2006 $ 0 2007 $(517,424)

* Amount of income or (Expense) incurred by the Company.
** The large decrease in income after 2005 is due to ILICO policies being transferred to AmerUs in December 2005. In 2006 and 2007, BLNY was still supporting some ILICO policies.

The Company entered into an Administrative Service Agreement with Aviva USA on January 1, 2008, whereby Aviva USA will provide services to the Company. The agreement replaces all existing administrative services agreements under which the Company received services from affiliates. (See Subsequent Events, Section 7 of this report)

The Company filed its federal income tax return on a consolidated basis with other members of its holding company system. In connection therewith, the Company participated in a written federal tax allocation agreement effective December 31, 2007, with AGC, ILICO Holdings, Inc. and ILICO.

Prior to December 31, 2007, BLNY filed a consolidated return with ILICO and ALICNY filed a consolidated return with ALIC.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than nine and not more than 13 directors. Directors are elected for a period of one year until their successor is duly elected and qualified at the annual meeting of the stockholders held in May of each year. As of December 31, 2007, the board of directors consisted of nine members. Meetings of the board are held annually. Special meetings may be called and held from time to time by written notice not less than five days before the meeting.

The nine board members and their principal business affiliation, as of December 31, 2007, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
David A. Arledge Naples, Fl	Chairman of the Board Aviva USA Corporation	2003
Nader F. Darehshori* Wellesley, MA	President, Chief Executive Officer and Chairman Cambium Learning, Inc.	2007
Thomas C. Godlasky West Des Moines, IA	Chairman, President and Chief Executive Officer Aviva Life and Annuity Company of New York	2003
Mark V. Heitz Topeka, KS	Executive Vice President, Sales and Distribution Aviva USA Corporation	2007
James J. Kerwin St. James, NY	Executive Vice President Aviva Life and Annuity Company of New York	2007
Claudine B. Malone* McLean, VA	President and Chief Executive Officer Financial Management Consulting	2007
Siva I. Pathman Johnston, IA	Executive Vice President, Insurance Administration Aviva Life and Annuity Company of New York	2007
Philip G. Scott London, England	Chief Financial Officer Aviva plc	2007
Heidi L. Steiger* Tuxedo Park, NY	President Lowenhaupt Global Advisors	2006

* 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, 2007:

Name	Title
Thomas C. Godlasky	Chairman, President and Chief Executive Officer
James J. Kerwin	Executive Vice President
Gregory D. Boal	Executive Vice President-Chief Investment Officer
Michael D. Boltz	Executive Vice President-Chief Information Officer
Brian J. Clark	Executive Vice President-Chief Product Officer
Siva I. Pathman	Executive Vice President-Insurance Administration
Kathy J. Bauer	Senior Vice President-Human Resources
Kent M. Campbell	Senior Vice President-Distribution
Maureen H. Closson	Senior Vice President-Compliance
Richard C. Cohan, Jr.	Senior Vice President-General Counsel
John D. Currier	Senior Vice President-Annuity Product Development
Brenda J. Cushing	Senior Vice President-Finance
Rhonda R. Elming	Senior Vice President-Life Product Development
Mark K. Hammond	Senior Vice President-Chief Financial Officer & Treasurer
William W. Kenny	Senior Vice President-Taxation and Tax Counsel
Candace K. Linville	Senior Vice President-Insurance Administration
Timothy S. Reimer	Senior Vice President-Investments
Peter R. Scanlon	Senior Vice President-Alternative Distribution
Joan Perinelli*	Administrative Officer
Carolyn Gee	Director of Compliance -New York

* 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 authorized to write business in 17 states. In 2007, 93.8% of life premiums, annuity considerations and deposit type funds were written in the following five states; New York, 62.2%; Massachusetts, 19.9%; North Carolina, 4.2%; New Jersey, 3.9% and Texas, 3.6%. Policies are written on a non-participating basis.

The Company primarily sells individual and group life and annuity products. During the exam period the product portfolio included universal life, interest sensitive whole life, survivor universal life, term life, fixed indexed universal life, structured settlements and both single premium and flexible premium fixed interest annuities. During 2007, 46.2% of life premiums, annuity considerations and deposit type funds was from the ordinary life line of business and 27.8% was from the individual annuity line of business. Deposit-type contracts are a significant line of the Company's business. During 2007, the Company received $73.8 million in deposit-type funds.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2007:

Life Insurance Premiums	
New York	89.3%
New Jersey	3.3
Florida	2.4
Connecticut	.8
Pennsylvania	.4
Subtotal	96.2%
All others	3.8
Total	100.0%

Annuity Considerations	
Massachusetts	37.4%
New York	34.6
North Carolina	14.0
Texas	12.2
Arizona	.8
Subtotal	99.0%
All others	1.0
Total	100.0%

Accident and Health Insurance Premiums	
New York	92.7%
Florida	2.4
New Jersey	1.3
Connecticut	1.3
Nevada	.7
Subtotal	98.4%
All others	1.6
Total`	100.0%

Deposit Type Funds	
Massachusetts	40.5%
New York	39.4
New Jersey	10.1
Florida	3.9
Connecticut	3.1
Subtotal	97.0
All others	3.0
Total	100.0%

Effective December 16, 2008, the Company discontinued its structured settlement business and will no longer write any new business within this product category. This decision will allow the Company to focus on their core lines of business, which are life insurance and annuities. (See Subsequent Events, Section 7 of this report)

The Company's primary distribution channels are through brokerage general agents and bank platform distribution. In addition, a structured settlement distribution channel was used for structured settlement cases. Agents are appointed and contracted with the Company but are otherwise non-affiliated.

E. Reinsurance

As of December 31, 2007, the Company had reinsurance treaties in effect with 19 companies, of which 15 were authorized or accredited. The Company's life and accident and health business is reinsured on a coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $3,500,000. The total face amount of life insurance ceded as of December 31, 2007, was $21,356,473,914 which represents 83.54% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $72,937,530, was supported by letters of credit, trust agreements and funds withheld.

The total face amount of life insurance assumed as of December 31, 2007, was $203,874,126. The Company did not enter into any new assumed treaties during the examination period.

The Company entered into a reinsurance agreement on November 30, 2007 with Aviva Re USA, Inc. ("Aviva Re"), a newly established special purpose financial captive domiciled in the State of Vermont. The agreement ceded $67.5 million of the premium for all single and joint-life "Universal Life with No-lapse Guarantee" policies underwritten and issued by the Company during the period of July 1, 2005 through November 30, 2007. The agreement also covers any new policies written from December of 2007 through December 31, 2008. The Department sent a "No Objection" letter regarding this agreement on December 28, 2007.

Section 127.3(a) of Department Regulation No. 102 states:

> "No reinsurance agreement or amendment to an agreement may be used to take reserve credit by reducing a liability or by establishing an asset in any financial statement filed with the superintendent, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the 'as of date' of the financial statement."

A review of the 26 treaties that came into effect during the examination period revealed that 15 of the treaties were not executed by both parties of the contract by the "as of date" of the first financial statement in which reserve credits were taken for those contracts. One treaty that was effective August 1, 2004, was not executed until February of 2006. The Company did not report any reserve credits for this agreement in 2004, but it did report reserve credits for it in the 2005 annual statement. Six other treaties that were effective between February and July of 2005 were not executed by both parties until 2006. Five additional treaties were effective on June 1, 2006; however, both parties did not execute four out of the five treaties until 2007. The fifth treaty was not executed until January of 2008. Further, three treaties that were effective January 1, 2007 were not executed by both parties until January of 2008. The Company took reserve credits under these treaties prior to their execution date.

The Company continues to violate Section 127.3(a) of Department Regulation No. 102 by taking reserve credits under reinsurance treaties that were not duly executed by both parties by the 'as of date' of the financial statement in which credit(s) was taken. This violation appeared in the prior ALICNY report on examination.

It is recommended that the Company immediately initiate procedures to ensure that reinsurance agreements and any amendments thereto are properly signed by both parties by the 'as of date' of the financial statement in which credit(s) is taken.

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, 2003	December 31, 2007	Increase (Decrease)
Admitted assets	$935,978,089	$1,335,949,888	$399,971,799
Liabilities	$870,020,248	$1,245,524,419	$375,504,171
Common capital stock	$ 2,002,306	$ 2,002,306	$ 0
Gross paid in and contributed surplus	45,832,600	93,975,196	48,142,596
Aggregate write-ins for special surplus funds	31,436	31,436	0
Unassigned funds (surplus)	18,091,498	(5,583,469)	(23,674,967)
Total capital and surplus	$ 65,957,840	$ 90,425,469	$ 24,467,629
Total liabilities, capital and surplus	$935,978,089	$1,335,949,888	$399,971,799

The Company's invested assets as of December 31, 2007, were mainly comprised of bonds (91.5%) and cash and short-term investments (4.4%). The majority (95%) of the Company's $1,177,878,156 bond portfolio, as of December 31, 2007, was comprised of investment grade obligations.

As part of the continuing turmoil in the worldwide financial markets and continued deterioration of the credit market, effective September 30, 2008, the Company determined that certain losses were no longer temporary and reported a write down on certain securities to fair value totaling $15,098,332. (See Subsequent Events, Section 7 of this report)

Section 91.5(b) of Department Regulation No. 33 states, in part:

> "A licensed life insurer proposing to adopt an investment year method in the distribution of net investment income, or to revise such a method already in effect, shall on or before November 1 of the first year for which such method or revision is to be used file with the superintendent a full description of its plan . . . If the company's method . . . contemplates the use of a method other than the investment year method . . . such deviations or use require the approval of the superintendent as being equitable and as being necessary for reasons of feasibility before the method can be adopted."

During the period under examination, the Company used the Segmentation Method and and Investment Income Allocation Method to allocate net investment income to annual statement lines of business; neither method was approved by the Department.

The Company continues to violate Section 91.5(b) of Department Regulation No. 33 by using methods to allocate net investment income to annual statement lines of business without filing the methods with the Department prior to their use. This violation appeared in the prior ALICNY report on examination.

It is recommended the Company immediately initiate procedures to ensure compliance with Section 91.5(b) of Department Regulation No. 33.

The following is the net gain (loss) 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:

	2004	2005	2006	2007
Ordinary:				
Life insurance	$ 678,199	$(2,086,539)	$ (4,551,624)	$ 10,466,985
Individual annuities	3,447,065	(1,878,363)	(5,530,235)	(19,730,474)
Supplementary contracts	120,006	(50,209)	176,031	(138,895)
Total ordinary	$4,245,270	$(4,015,111)	$ (9,905,828)	$ (9,402,384)
Group:				
Life	$3,445,830	$ 178,413	$ (5,773,056)	$(13,343,196)
Annuities	(79,308)	(10,700)	(7,509)	(4,328,161)
Total group	$3,366,522	$ 167,713	$ (5,780,565)	$(17,671,357)
Accident and health:				
Group	$ 195	$ 115	$ 0	$ 0
Other	(510,538)	42,443	(436,348)	(1,651,177)
Total accident and health	$ (510,343)	$ 42,558	$ (436,348)	$ (1,651,177)
All other lines	$ 0	$ 106,542	$ 2,887,102	$ 11,252,497
Total (1)	$7,101,449	$(3,698,298)	$(13,235,639)	$(17,472,421)

(1) The Company's net loss increased $9,538 million to $(13,236) from 2005 to 2006. This is primarily the result of an increase in sales that resulted in a strain on surplus in 2006. Net losses increased $4,236 million to $(17,472) from 2006 to 2007 due to the establishment of the new reinsurance agreement, whereby net earned life premiums decreased by $75.2 million.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2007, as contained in the Company's 2007 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2007 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2007

Admitted Assets

Bonds	$1,177,878,156
Stocks:	
Preferred stocks	5,352,990
Common stocks	5,516,491
Mortgage loans on real estate:	
First liens	14,725,511
Cash, cash equivalents and short term investments	56,640,522
Contract loans	24,261,643
Derivative instruments	3,412,492
Investment income due and accrued	16,979,955
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	(1,689,565)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	7,494,395
Reinsurance:	
Amounts recoverable from reinsurers	8,956,648
Funds held by or deposited with reinsured companies	47,896
Other amounts receivable under reinsurance contracts	3,096,105
Net deferred tax asset	12,400,000
Guaranty funds receivable or on deposit	37,343
Receivables from parent, subsidiaries and affiliates	801,154
Due from non-affiliates	38,152
Total admitted assets	$1,335,949,888

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$1,068,606,642
Aggregate reserve for accident and health contracts	3,025,935
Liability for deposit-type contracts	120,030,422
Contract claims:	
Life	10,696,504
Accident and health	49,710
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts:	
Dividends apportioned for payment	856,770
Premiums and annuity considerations for life and accident and health contracts received in advance	669,634
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	3,457,450
Interest maintenance reserve	1,168,567
Commissions to agents due or accrued	6,517
General expenses due or accrued	1,040,600
Taxes, licenses and fees due or accrued, excluding federal income taxes	769,417
Current federal and foreign income taxes	8,989,902
Unearned investment income	761,473
Amounts withheld or retained by company as agent or trustee	(107,072)
Amounts held for agents' account	893,779
Remittances and items not allocated	5,806,459
Liability for benefits for employees and agents if not included above	5,941,495
Miscellaneous liabilities:	
Asset valuation reserve	8,233,622
Reinsurance in unauthorized companies	1,940,506
Payable to parent, subsidiaries and affiliates	196,637
Drafts outstanding	191,850
Aggregate write-ins for liabilities:	
Unclaimed funds	940,911
Guaranty fund liabilities	20,000
Derivative collateral	964,000
Miscellaneous Liabilities	372,689
Total liabilities	$1,245,524,419
Common capital stock	$2,002,306
Group life contingency reserve	31,436
Gross paid in and contributed surplus	93,975,196
Unassigned funds (surplus)	(5,583,469)
Surplus	$ 88,423,163
Total capital and surplus	$ 90,425,469
Total liabilities, capital and surplus	$1,335,949,888

B. CONDENSED SUMMARY OF OPERATIONS

	2004	2005	2006	2007
Premiums and considerations (1)	$131,700,778	$142,340,740	$189,361,768	$127,216,512
Investment income	57,279,409	60,741,929	65,247,863	73,837,218
Commissions and reserve adjustments on reinsurance ceded (2)	13,675,663	11,812,408	8,443,957	54,727,763
Miscellaneous income	442,364	229,822	216,514	142,377
Total income	$203,098,214	$215,124,899	$263,270,102	$255,923,870
Benefit payments (3)	$ 77,753,814	$ 88,332,214	$ 98,883,465	$141,856,238
Increase in reserves (2)	53,778,837	71,461,586	122,737,123	73,791,161
Commissions	22,080,888	22,123,882	21,207,755	18,596,373
General expenses and taxes	34,365,893	35,541,573	33,759,698	29,428,333
Increase in loading on deferred and uncollected premiums	(1,651,302)	(1,981,689)	(842,853)	(111,992)
Miscellaneous deductions	1,578	287,766	(96,657)	3,053
Total deductions	$186,329,708	$215,765,331	$275,648,531	$263,563,166
Net gain (loss)	$ 16,768,506	$ (640,432)	$(12,378,429)	$ (7,639,296)
Dividends	770,158	814,027	682,608	808,272
Federal and foreign income taxes incurred	8,896,900	2,243,836	174,602	9,024,851
Net gain (loss) from operations before net realized capital gains	$ 7,101,448	$ (3,698,295)	$(13,235,639)	$(17,472,419)
Net realized capital gains (losses)	(815,486)	(1,760,485)	(1,021,697)	(913,650)
Net income (4)	$ 6,285,962	$ (5,458,780)	$(14,257,336)	$(18,386,069)

(1) The decline in premium from 2006 to 2007 is partly due to a new reinsurance arrangement under which, the Company ceded $67.5 million of universal life with no-lapse guarantee premium to Aviva Re.

(2) Reserves increased from 2005 to 2006 primarily due to the growth in the Company's life insurance business and overall aging of the in-force business. The decline in reserves from 2006 to 2007 is partly due to a new reinsurance arrangement under which, the Company ceded $67.5 million of universal life with no-lapse guarantee premium to Aviva Re.

(3) The increase in surrenders is primarily due to internal conversions and an increase in the deferred annuity and tax sheltered annuity product lines due to more competitive products in the market.

(4) The Company's net loss increased $8,798 million to $(14,257) from 2005 to 2006. This is primarily the result of an increase in sales that resulted in a surplus strain in 2006 Net losses increased $4,129 million to $(18,386) from 2006 to 2007 due to the establishment of the new reinsurance agreement, whereby net earned life premiums decreased by $75.2 million.

C. CAPITAL AND SURPLUS ACCOUNT

	2004	2005	2006	2007
Capital and surplus, December 31, prior year	$65,957,840	$73,426,774	$ 80,599,454	$ 88,530,352
Net income	$ 6,285,962	$ (5,458,782)	$(14,257,336)	$(18,386,069)
Change in net unrealized capital gains (losses)	13,425	747,903	734,002	(573,217)
Change in net deferred income tax	4,744,977	3,935,340	5,448,973	10,051,510
Change in non-admitted assets and related items	(5,200,789)	(2,096,656)	(5,051,963)	(1,642,642)
Change in liability for reinsurance in unauthorized companies	0	0	0	(1,940,508)
Change in reserve valuation basis	0	0	664,631	0
Change in asset valuation reserve	(1,445,029)	(756,325)	0	(3,223,665)
Capital changes:				
Paid in	0	0	142,596	0
Surplus adjustments:				
Paid in	3,000,000	15,000,000	20,000,000	10,000,000
Dividends to stockholders	0	(4,198,801)	(58,143)	0
Aggregate write ins for gains and losses in surplus	70,387	0	308,134	7,609,708
Net change in capital and surplus for the year	$ 7,468,933	$ 7,172,679	$ 7,930,894	$ 1,895,117
Capital and surplus, December 31, current year	$73,426,773	$80,599,453	$88,530,348	$90,425,469

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.

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

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.

7. SUBSEQUENT EVENTS

Merger between AGC and Aviva USA

Effective January 1, 2008, AGC merged with Aviva USA, a non-life insurance company incorporated in the State of Delaware. AGC, incorporated in the State of Iowa, continued as the surviving company and simultaneously changed its name to Aviva USA. (See page 5 of this report)

Merger between ALICO and ILICO

Effective September 30, 2008, ALICO and ILICO, the Company's immediate parent, were merged with and into ALAC, an insurer domiciled in Iowa and ALAC became the Company's immediate parent. (See page 6 of this report)

Capital Contribution

The parent contributed $25 million to the Company in December of 2008. (See page 6 of this report)

A.M. Best downgrade of Aviva plc

During March of 2009, A.M. Best downgraded the issuer credit rating of Aviva plc and its rated subsidiaries from "a" to "a-" and the financial strength rating from A+ Superior to A Excellent. A.M. Best also downgraded the debt securities issued by Aviva plc. The outlook for all ratings is stable. (See page 6 of this report)

Administrative Service Agreement with Aviva USA

The Company entered into an Administrative Service Agreement with Aviva USA on January 1, 2008, whereby Aviva USA will provide services to the Company. The agreement replaces all existing administrative services agreements under which the Company received services from affiliates. (See page 9 of this report)

Structured Settlements

Effective December 16, 2008, the Company discontinued its structured settlement business and will no longer write any new business within this product category. This decision will allow the Company to focus on their core lines of business, which are life insurance and annuities. (See page 12 of this report)

Write down on securities to fair value

As part of the continuing turmoil in the worldwide financial markets and continued deterioration of the credit market, effective September 30, 2008, the Company determined that losses were no longer temporary and reported a write down on securities to fair value totaling $15,098,332. (See page 15 of this report)

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	The examiner recommended that the Company revise its tax allocation agreement to comply with the guidelines in Department Circular Letter No. 33(1979) and that the Company notify the Department within 30 days of such revision. The Company submitted a revised tax allocation agreement to the Department that was approved on June 2, 2006.
B	The examiner recommended that the Company notify the Superintendent prior to any surplus contributions by the parent in the future. The Company advised the Superintendent of future surplus contributions by the parent.
C	The Company violated Section 325(a) of the New York Insurance Law by failing to maintain the minutes of the board of directors meetings held in February and May of 2005 at its home office in Buffalo, New York. The Company's legal department put in place an oversight process to prevent a re-occurrence.
D	The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the Superintendent at least ten days before the day of such election. The Company provided the required filings to the Department and did so at least 10 days prior to the election.
E	The Company violated Section 4211(b) of the New York Insurance Law by failing to file a written notice of the election of directors with the Superintendent at least ten days prior to such successors taking office and exercising their duties. The Company provided the required filings to the Department and did so at least 10 days prior to the election.
F	The Company was reminded of its responsibility under Section 216.4(c) of Department Regulation No. 64 to ensure that a Consumer Services Officer is designated with the Department at all times.

Item	Description
	The Company understands its obligations in this respect and has a designated Consumer Services Officer. The Company will maintain a designated Consumer Service Officer with the Department at all times.
G	The Company violated Section 127.3(a) of the Department Regulation No. 102 by taking reserve credits under treaties that were not duly executed by both parties no later than the 'as of date' of the financial statement in which credit(s) was taken.
	The Company continues to violate Section 127.3(a) of Department Regulation No. 102 by taking reserve credits under reinsurance treaties that were not duly executed by both parties by the 'as of date' of the financial statement in which credit(s) was taken. This violation is repeated in this report on examination. (See page 14 of this report)
H	The examiner recommended that the Company enter into a written reinsurance contract with ReliaStar.
	The Company entered into a reinsurance contract with ING Re (successor in interest to ReliaStar) on June 15, 2006.
I	The Company violated Section 91.5(b) of Department Regulation No. 33 by using a segmentation method to allocate net investment income to annual statement lines of business without filing the method with the Department prior to its use.
	The Company continues to violate Section 91.5(b) of Department Regulation No. 33 by using methods to allocate net investment income to annual statement lines of business without filing the methods with the Department prior to their use. This violation is repeated in this report on examination. (See page 16 of this report)
J	The Company violated Section 91.4(a)(2) of Department Regulation No. 33 by failing to provide records with sufficient detail to show fully the system and actual basis of allocation for expenses that were allocated between companies and by line of business based upon the formula that was derived from certain pricing assumptions and appears to resemble weighted general indexes such as premiums, policy counts, and face amounts.
	The Company has revised its expense allocation methodology in compliance with Department Regulation No. 33.

Item	Description
K	The Company violated Section 91.4(f)(5) of Department Regulation No. 33 by using general indexes such as premiums, policy counts, and face amounts to allocate expenses. The Company has revised its expense allocation methodology in compliance with Department Regulation No. 33.
L	The Company violated Section 91.4(a)(5) of Department Regulation No. 33 by failing to treat expense allocations in the same manner between companies and lines of business. The Company revised its expense allocation methodology in compliance with Department Regulation No. 33.
M	The Company violated Section 219.4(a)(1) of Department Regulation No. 34-A by disseminating an illustration to New York policyholders that is misleading because it depicts an accelerated death benefit rider benefit that is not available under policy forms NYP2188 and NYP2189 or approved for use in New York. The Company has revised the illustration software to remove any reference to the benefit.
N	The Company violated Section 219.4(p) of Department Regulation No. 34-A by disseminating advertisements in New York that referenced incorrect policy forms. The Company has an advertising review process in place to prevent a reoccurrence.
O	The Company violated Section 219.4(m) of Department Regulation No. 34-A by failing to disclose that issuance of the Company's "Easy Issue" products and the payment of benefits there under may depend upon the answers given in the application and the truthfulness thereof. The subject advertisements have been replaced. The Company has an advertising review process in place to prevent a reoccurrence.
P	The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain a complete advertising file containing a specimen copy of every printed, published or prepared advertisement with a notation indicating the manner and extent of distribution. The Company has revised its procedures to obtain specimen copies and record the manner and extent of distribution.

Item	Description
Q	The examiner recommended that the Company implement procedures to ensure that the Company's replacement transactions are segregated from the parent's. The Company acknowledged the importance of the integrity of its replacement transaction database and augmented this process.
R	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by accepting Disclosure Statements that were incomplete and/or contained inaccuracies for either the proposed policy/contract and/or the existing policy(s) or contract(s). The Company revised its Regulation 60 process and obtained approval for same from the Department in March 2006. The Company has brought the responsibility for form accuracy and completion into a trained administrative unit. The compliance unit conducts periodic reviews of Regulation 60 cases for compliance with the regulation.
S	The Company violated Section 51.6(b)(1) of Department Regulation No. 60 and Section 243.2(b) of Department Regulation No. 152 by failing to maintain a list of all life insurance policies or annuity contracts proposed to be replaced as part of the policy record (i.e. the agent authorization form - Form NY 2060). The Company revised its Department Regulation No. 60 process and is now in compliance with the regulations.
T	The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require with or as part of each application: 1) proof of receipt by the applicant of the Important Notice; and/or 2) the completed Disclosure Statement. The Company revised its Department Regulation No. 60 process and is now in compliance with the regulation.
U	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to reject the application in situations where the Important Notice and/or Disclosure Statement forms were not received with the application. The Company revised its Department Regulation No. 60 process and is now in compliance with the regulation.
V	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine and ascertain that Disclosure Statements completed by its agents and submitted with applications during the examination period were accurate and complete.

Item	Description
	The Company revised its Department Regulation No. 60 process and is now in compliance with the regulation.
W	The examiner recommended that the Company implement procedures to ensure that Disclosure Statements are complete and accurate and provided to applicants on or before the date that the application is taken and that if such is not the case, that the Company immediately reject the application and so notify both the agent and the applicant indicating the reasons for the rejection in order to comply with the requirements of Department Regulation No. 60.
	The Company complied with this recommendation.
X	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to provide the existing insurer a copy of the sales material used in the sale of the proposed life insurance policy or annuity contract and the completed Disclosure Statement within ten days of receipt of the application.
	The Company revised its Department Regulation No. 60 process and is now in compliance with the regulation.
Y	The examiner recommended that the Company implement a remediation plan acceptable to the Department to mitigate the deficiencies noted above and provide relief to all policy and contract holders that did not receive complete, accurate and timely disclosure prior to completing an application to replace their existing policies and contracts.
	The Company prepared and submitted a replacement remediation plan to the Department for approval.
Z	The examiner recommended that the Company develop and implement an audit plan designed to review, test and monitor compliance with Department Regulation No. 60. Such plan should be approved by the Company's board of directors or its audit committee and the results of audits performed should also be reviewed by the board of directors or its audit committee.
	The Company developed and implemented an audit plan designed to review, test and monitor compliance with Department Regulation No. 60.
AA	The Company violated Section 3209(b)(1) of the New York Insurance Law by failing to provide prospective applicants written preliminary information required by Section 3209 of the New York Insurance Law and Section 53-2.1 of Department Regulation No. 74 at or prior to the time an application is taken.

Item	Description
	On July 17, 2006, the Company implemented a Preliminary Information Statement requirement to its sales process. The Company will continue to monitor compliance with this requirement and report on it to senior management.
AB	The Company violated Section 3209(g) of the New York Insurance Law and Section 53-1.4(a) of Department Regulation No. 74 by failing to maintain a complete compliance file at its home office for each policy form, containing one specimen copy of the preliminary information form and the policy summary form authorized by the insurer. The Company updated its compliance file accordingly and will continue to closely monitor compliance with this requirement.
AC	The Company violated Section 3211(b)(2) of the New York Insurance Law by disseminating premium notices that failed to contain required language pertaining to policy termination or lapse when the premium is not paid on or before the due date shown or within the specified grace period of the policy. The Company revised its premium billing notices in compliance with Section 3211(b)(2) of the New York Insurance Law.
AD	The Company violated Section 3211(g) of the New York Insurance Law and Section 53-3.6(a) of Department Regulation No. 74 by failing to provide annual reports or cash surrender value notices to policyholders. The Company sends annual cash surrender value notices to the applicable universal and whole life policyholders.
AE	The Company violated Section 4221(a)(7) of the New York Insurance Law by failing to provide a statement containing the loan value under the policy at least annually to universal life policyholders. The Company incorporated the term “loan value” into the annual statement for universal life policyholders in a manner consistent with the examiner’s guidance.
AF	The Company violated Section 2112(a) of the New York Insurance Law by failing to appoint agents that wrote business on its behalf during the examination period. The Company changed its procedures to process and document agent appointments.

Item	Description
AG	The Company violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent upon termination of the certificate of appointment for approximately 456 of its agents. The Company changed its procedures to process and document agent terminations.
AH	The examiner recommended that the Company continue to develop a comprehensive disaster recovery plan that is tested on a regular basis. The Company prepared a written disaster recovery plan which is tested periodically.
AI	The examiner recommends that the Company continue its business continuity planning efforts by developing a formal, written business continuity plan that is tested on a regular basis. The Company reported that the board of directors approved its business continuity plan on October 3, 2006. The plan is tested periodically.
AJ	The Company violated Section 4228(d)(5)(D) of the New York Insurance Law by paying total compensation on premiums and considerations recorded within a period of twelve consecutive months on business written under the supervision of any general agent, on business not personally produced by such agent, greater than ninety-nine percent of all qualifying first year premiums. The Company revised its commission systems to conform to Section 4228(d)(5)(D) of the New York Insurance Law.
AK	The Company violated Section 4228(f)(5) of the New York Insurance Law by failing to notify the Superintendent that it made one or more payments exceeding the limits in subsection (d) and by failing to report certain information pertaining to the excess compensation paid to HSBC. The Company will notify the Department of any future payments that exceed the limits in Section 4228(f)(5)(d) of the New York Insurance Law.
AL	The examiner recommends that the Company take immediate action to comply with Section 4228(f)(5) of the New York Insurance Law by making the prescribed notification to the Superintendent regarding payments made to any agent that exceeded the limits allowed under Section 4228(d) of the New York Insurance Law during the examination period.

Item	Description
	The Company advised the Department of an overpayment by letter dated March 30, 2006. The Company will notify the Department of any future payments that exceed the limits in Section 4228(f)(5)(d) of the New York Insurance Law.
AM	The examiner recommends that the Company revise its records retention plan in order to comply with Department Regulation No. 152.
	The Company revised its records retention policy to conform to Department Regulation No. 152.
AN	The Company violated Section 243.2(e) of Department Regulation No. 152 by failing to maintain its policy records in a manner that allows ready and easy access.
	The Company took steps to revise its policy records maintenance and inventory control to reduce the possibility of a reoccurrence of this violation.
AO	The Company violated Section 243.2(b)(5) of Department Regulation No. 152 by failing to maintain licensing records that show clearly the dates of appointment and termination of each licensee.
	The Company revised its appointment and termination process to record this information in its records.
AP	The examiner recommends that the Company take immediate action to resolve the known system errors so that the proper policy status and related assets and liabilities are reflected on the Company's policy administration, valuation (in-force), and general ledger systems.
	The Company complied with this recommendation.

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

Item	Description
A	The Company violated Section 127.2(a)(3) of Department Regulation No. 102 by entering into a reinsurance agreement which requires the Company to pay the reinsurer a portion of "extra allowances" for lapses up to two years. The Company addressed the examiner's comments by amending the reinsurance agreement effective July 1, 2005 to eliminate the provision requiring the Company to pay the reinsurer a portion of "extra allowances" for lapses up to two years. As a result, the Department advised the Company that it would be able to take reserve credits under the reinsurance agreement effective July 1, 2005.
B	Comment that reserve credits taken under the reinsurance agreement with Transamerica International Re Ltd., totaling $8,297,593, are hereby disallowed as of December 31, 2003. The Department advised the Company that it would be able to take reserve credits under the reinsurance agreement effective July 1, 2005.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The Company continues to violate Section 127.3(a) of Department Regulation No. 102 by taking reserve credits under reinsurance treaties that were not duly executed by both parties by the "as of date" of the financial statement in which the credit(s) was taken. This violation appeared in the prior ALICNY report on examination.	14
B	It is recommended that the Company immediately initiate procedures to ensure that reinsurance agreements and any amendments thereto are properly signed by both parties by the 'as of date' of the financial statement in which credit(s) is taken.	14
C	The Company continues to violate Section 91.5(b) of Department Regulation No. 33 by using methods to allocate net investment income to annual statement lines of business without filing the methods with the Department prior to their use. This violation appeared in the prior ALICNY report on examination.	16
D	It is recommended the Company immediately initiate procedures to ensure compliance with Section 91.5(b) of Department Regulation No. 33.	16

Respectfully submitted,

/s/
Jeffrey Good
Examiner's Title

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

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

/s/
Jeffrey Good

Subscribed and sworn to before me

this__________ day of ____________________2009

APPOINTMENT NO. 22805

STATE OF NEW YORK

INSURANCE DEPARTMENT

*I, **ERIC R. DINALLO**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:*

JEFFREY GOOD

as a proper person to examine into the affairs of the

AVIVA LIFE & ANNUITY 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 28th day of July, 2008

STATE OF NEW YORK ★ SUPERINTENDENT OF INSURANCE ★
EXCELSIOR

ERIC R. DINALLO
Superintendent of Insurance

Superintendent