

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
TRANSAMERICA LIFE INSURANCE COMPANY OF NEW YORK
AS OF
DECEMBER 31, 2001

DATE OF REPORT:

AUGUST 2, 2002

EXAMINER:

KAREN GARD

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

August 2, 2002

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21830, dated January 25, 2002 and annexed hereto, an examination has been made into the condition and affairs of Transamerica Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 100 Manhattanville Road, Purchase, New York 10577.

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

In July 1999, AEGON NV purchased Transamerica Corporation, the Company's former ultimate parent. As a result, the Company became an indirect subsidiary of AEGON NV, a Netherlands Corporation. (See item 3A of this report)

The Company violated Section 310(a)(3) of the New York Insurance Law by failing to facilitate the examination. (See item 8 of this report)

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account at its home office. (See item 7 of this report)

The Company violated Section 1302(b) of the New York Insurance Law by including in its gross assets an asset of doubtful value in the amount of \$5,184,844. (See item 5A of this report)

The Company violated Section 1505(d)(1) of the New York Insurance Law by failing to provide prior notice to the Superintendent regarding multiple transactions, which exceeded ½ of 1% of prior year's admitted assets, with various affiliates. (See item 3B of this report)

The Company violated Section 1505(d)(2) of the New York Insurance Law by failing to provide prior notification to the Superintendent of its intention of entering into a novation reinsurance agreement, effective December 31, 2001, with Transamerica Occidental Life Insurance Company ("TOLIC") and AUSA Life Insurance Company, Inc. ("AUSA"). (See item 3B of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law by entering into service agreements with various members of its holding company system, without the prior approval of the Superintendent. (See item 3B of this report)

The Company violated various sections of Department Regulation No. 33 by failing to: allocate net investment income in accordance with regulation guidelines; classify its expenses on the proper lines in Exhibit 5; allocate income and expenses between companies in accordance with regulation guidelines; and properly allocate general insurance expenses, taxes, licenses and fees between lines of business. (See item 4 of this report)

The Company violated various sections of Department Regulation No. 34-A by failing to: maintain at its home office a complete advertising file; include the extent of distribution in its

advertisement file; and include its home office address in a number of advertisements. (See item 6A of this report)

The Company violated Section 2112(a) of the New York Insurance Law by failing to appoint one of its agents that wrote insurance for the Company. (See item 6A of this report)

The Company violated Section 3201(b) of the New York Insurance Law by failing to obtain approval of two policy forms. (See item 6B of this report)

The examiner recommends that the Company obtain computer access in the principle office to its life and annuity business. (See item 7 of this report)

The examiner recommends that the Company institute a plan to improve its internal controls to minimize annual statement discrepancies and to enhance regulatory compliance. (See item 7 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1998. This examination covers the period from January 1, 1999 through December 31, 2001. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2001 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, 2001 to determine whether the Company's 2001 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

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

The examiner reviewed the corrective actions taken by the Company with respect to violations, recommendations and comments contained in the prior report on examination. The results of the examiner's review are contained in item 9 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 New York on February 5, 1986, was licensed and commenced business on June 1, 1987 as First Transamerica Life Insurance Company. On April 16, 1997, the Company changed its name to Transamerica Life Insurance Company of New York. Initial resources of \$6,500,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$4,500,000, were provided through the sale of 2,000 shares of common stock (par value of \$1,000 per share) for \$3,250 per share.

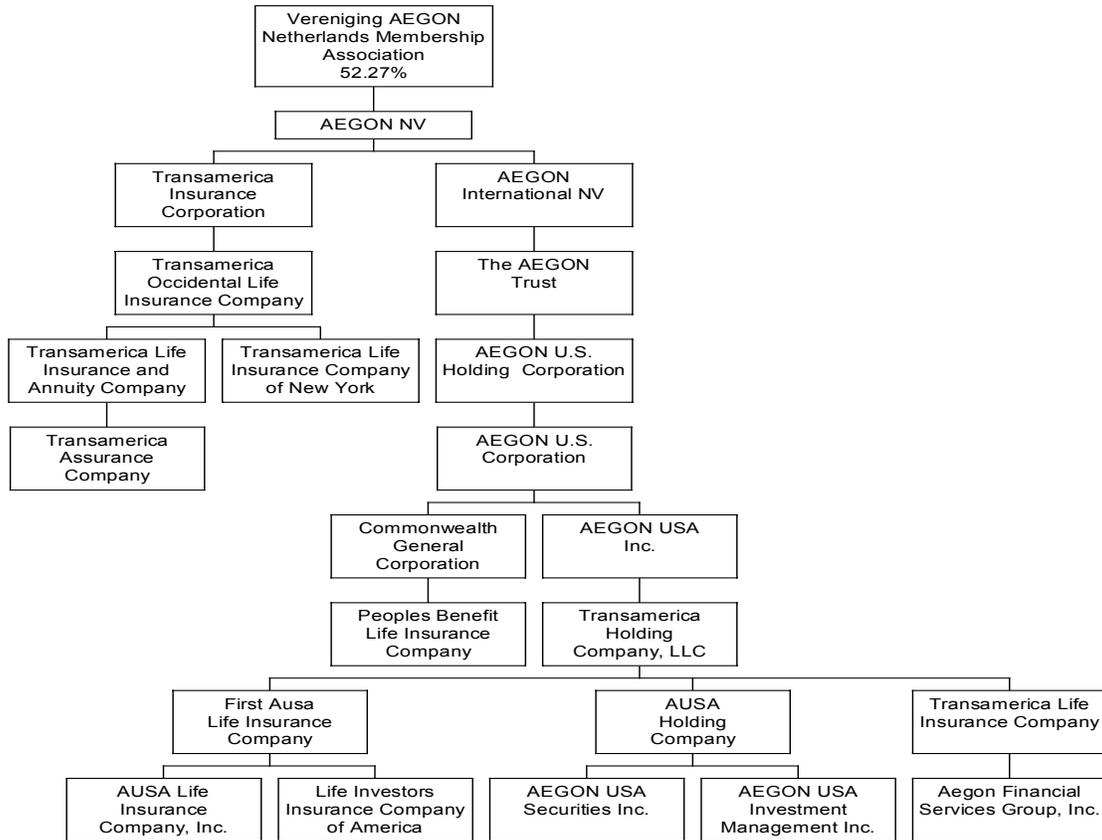
Effective January 1, 1993, the Company acquired and merged into its operations, Premier Life Insurance Company of New York ("Premier Life"). In July 1999, AEGON NV, a Netherlands corporation, purchased Transamerica Corporation, a Delaware holding company, and its subsidiaries, for approximately \$9.7 billion, consisting of \$2.9 billion in cash and the remainder in AEGON NV common stock. AEGON NV is a publicly owned company which is majority-owned (53.16% at December 31, 2001) by Vereniging AEGON Netherlands Membership Association, an association organized under the laws of the Netherlands. As part of the transaction, the Department required a capital infusion into the Company of \$24 million.

Changes in paid in and contributed surplus of the Company prior to the examination period resulted in paid in and contributed surplus of \$59,920,277, as of December 31, 1998. As mentioned above, on July 29, 1999, the Company's parent, TOLIC, made a cash contribution to the Company of \$24,000,000. Additionally, on December 27, 2001, TOLIC made another cash contribution to the Company of \$15,000,000. As of December 31, 2001, the Company's capital and paid in and contributed surplus were \$2,000,000 and \$98,920,277, respectively.

B. Holding Company

The Company is a wholly owned subsidiary of TOLIC. TOLIC is in turn a wholly owned subsidiary of Transamerica Insurance Corporation, an Iowa domiciled corporation. The ultimate parent of the Company is Vereniging AEGON Netherlands Membership Association.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2001 follows:



Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:

- (1) sales, purchases, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer’s admitted assets at last year-end;
- (2) reinsurance treaties or agreements;
- (3) rendering of services on a regular or systematic basis . . . ”

1) Sales, purchases, exchanges, loans or extensions of credit, or investments

On November 30, 2000, the Company purchased, at fair market value, four securities from its affiliate People’s Benefit Life Insurance Company (“PBL”). The total purchase price

equaled \$28,500,000, or approximately 2% of the Company's prior year admitted assets. Additionally, on December 28, 2000, the Company sold, at fair market value, two securities totaling \$5,900,000 to its affiliate TOLIC, and two securities totaling \$14,000,000 to its affiliate Transamerica Life Insurance and Annuity Company ("TALIAC"). The total sales price of \$19,900,000 represents 1.4% of the Company's prior year admitted assets. The Company failed to provide prior notice to the Superintendent regarding these affiliated transactions. Upon examination, the Company filed notification letters with the Superintendent.

In 2001, the Company made four payments totaling \$34,000,000, an amount equal to 2.1% of its prior year admitted assets, to AEGON USA, Inc. The examiner identified the payments by reviewing the 2001 daily transaction registers. The transaction registers indicated that these were loan repayments, however the Company was unable to provide documented evidence of the original loan and the amount(s). The Company did provide a written statement indicating that the loan balance as of December 31, 2001 was \$0. The Company failed to provide notice to the Superintendent regarding the payments made to AEGON USA in 2001 totaling \$34 million which exceeded $\frac{1}{2}$ of 1% of the Company's prior year admitted assets.

The Company violated Section 1505(d)(1) of the New York Insurance Law for failing to provide prior notification to the Superintendent of its intention to enter into transactions with PBL, TOLIC, TALIAC, and AEGON USA, Inc., in which the transaction amounts exceeded $\frac{1}{2}$ of 1% of the Company's prior year admitted assets.

2) Reinsurance treaties or agreements

During the examination period, one of the Company's reinsurers, TOLIC, lost its accreditation status in New York. To alleviate the financial stress of an unauthorized reinsurer, the Company filed for and received Department approval of a novation amendment to its reinsurance agreements with TOLIC. The novation amendment effectively replaced TOLIC with AUSA, an accredited reinsurer, as the reinsurer for specifically identified treaties. However, a review revealed that the Company failed to include one of the TOLIC reinsurance treaties as part of the novation amendment. This treaty was reported in Schedule S of the 2001 annual statement as reinsured with AUSA. On May 10, 2002, the Company submitted to the Department a novation agreement, effective December 31, 2001, to include the remaining TOLIC contract.

The Company violated Section 1505(d)(2) of the New York Insurance Law by failing to provide prior notification to the Superintendent of its intention to enter into a novation reinsurance agreement with AUSA, as a replacement for TOLIC.

3) Rendering of services on a regular or systematic basis

A review of the Company's liability accounts at year-end 2001 revealed that the Company had various payables and receivables from the following affiliates: First AUSA Life Insurance Company ("FAUSA"); and AUSA. The Company stated that there were no approved service agreements in effect with these affiliates regarding these transactions. The Company maintains that the transactions that occurred between the affiliates were due to various reasons. However, the following are examples of regular and/or systematic transactions that resulted in an inter-company balance as of year-end 2001:

- personnel who work at the Purchase, New York location are paid with AUSA checks. This was done at the time of transfer of Transamerica employees to Aegon's payroll system, in order to avoid the expense of establishing a new company for a handful of employees; and
- electronic funds transfers are performed by FAUSA on behalf of the Company.

As of December 31, 2001, PBL provided services to the Company under a service agreement. This agreement, effective March 1, 2002, was approved by the Department on May 20, 2002. Under the terms of this agreement, PBL provides the Company comprehensive servicing of selected flexible premium, whole life, and term life products, as well as the Premier Life block of business. Premier Life is a closed block of business, consisting of annuities and life insurance products. The Company received services from PBL prior to the approval of this service agreement.

Additionally, during the examination period, the Company was party to an agreement with its affiliate Life Investors Insurance Company of America ("LIICA"). This agreement was filed with the Department in 2001, and has not been approved to date. Under the terms of this agreement, LIICA provides underwriting, premium billing and collection, and related services for individual and group annuities, life policies and accident and health business. LIICA also provides general business services such as: accounting and tax reporting; legal services including

assisting with regulatory compliance; corporate communication and public relations services; and corporate actuarial services.

The Company has in place a service agreement with Vision Financial Corporation (“Vision”) and Transamerica Assurance Company (“TAC”), effective July 10, 1998. Under the terms of the agreement, Vision provides certain administrative services for the Company’s universal life product (“Trans-Saver”) and related riders, and TAC’s universal life product and related riders. Examples of the administrative services to be provided are administering new business, premium billing and collecting, underwriting, paying agent commissions, administering claims, complaint handling, and maintaining policy records. The Company failed to provide prior notification to the Superintendent of this service agreement.

Additionally, the Company has in place a marketing agreement with The Worksite Exchange (“WEX”), a New Hampshire corporation, and TAC, effective July 1, 1998. Under the terms of the agreement, WEX provides marketing and recruitment services for the Company’s universal life products (“Trans-Saver,” “Trans-Max,” and “WrapPlan”), term life, whole life and disability income products, as well as TAC’s universal life, whole life, and term life insurance products. The services to be provided by WEX include recruiting and managing solicitors to sell the Company’s and TAC’s insurance products, and developing marketing plans and recruiting materials. The Company failed to provide prior notification to the Superintendent of this agreement.

The Company violated Section 1505(d)(3) of the New York Insurance Law by entering into service agreements with members of its holding company system, including AUSA, PBL, LIICA, FAUSA, and TAC, without the prior approval of the Superintendent. The prior report contained a similar violation.

The Company maintains an approved investment management agreement with AEGON USA Investment Management Company, Inc., effective January 1, 2000, and an approved tax allocation agreement with Transamerica Occidental Life Insurance Company.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 21 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2001, the board of directors consisted of 13 members. Meetings of the board may be held at any time during the year.

The 13 board members and their principal business affiliation, as of December 31, 2001, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Marc C. Abrahms* West Hartford, CT	Life Insurance Agent and Principal Abrahms Life Services	1986
William Brown, Jr.* White Plains, NY	Executive Director Brownstone Management Consultants, Inc.	2001
James T. Byrne, Jr.* Garden City, NY	Senior Vice President and Secretary Bankers Trust Corp.	1987
William L. Busler Cedar Rapids, IA	Senior Vice President Transamerica Life Insurance Company	2001
Robert F. Colby Larchmont, NY	Vice President Diversified Investment Advisors, Inc.	2000
Jack R. Dykhouse Colleyville, TX	Executive Vice President Transamerica Life Insurance Company	2001
Steven E. Frushtick* Mamaroneck, NY	Partner Wiener, Frushtick & Straub	2001
Peter P. Post* Armonk, NY	President Post & Partners, Inc.	2001
Robert S. Rubinstein New York, NY	Senior Vice President, Chief Actuary, Chief Operating Officer and Secretary Transamerica Life Insurance Company of New York	1998

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Tom A. Schlossberg Stamford, CT	President, Chairman, and Chief Executive Officer Transamerica Life Insurance Company of New York	2000
Colette F. Vargas Irvington, NY	Vice President and Actuary Diversified Investment Advisors, Inc.	2000
Cornelis H. Verhagen New Providence, NJ	President AEGON Management Company	2001
Elwood K. Warren* Tuxedo Park, NY	Professor Columbia University School of Business	2001

* 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, 2001:

<u>Name</u>	<u>Title</u>
Tom Schlossberg	President, Chairman, and Chief Executive Officer
Alexander Smith, Jr.	Vice President and Controller
Robert S. Rubinstein*	Senior Vice President, Chief Actuary, Chief Operating Officer and Secretary

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

D. Territory and Plan of Operation

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

The Company is licensed to transact business in three states, namely New York, New Mexico and Missouri. In 2001, 99.27% of life premiums and 89.39% of annuity considerations were received from New York. Policies are written on a non-participating basis.

The Company is organized by operating groups; the operating groups are based upon distribution channels. As of December 31, 2001, the Company's operating groups consisted of the Alternative Markets Group and the Agency Group. The following are the significant divisions within the Company's operating groups:

- 1) the Financial Markets Division ("FMD") is part of the Alternative Markets Group, and markets both fixed and variable annuities through broker-dealers and financial institutions. Structured settlements business, written in New Mexico, is sold through appointed general agencies;
- 2) the Worksite Marketing Division ("WMD") is also part of the Alternative Markets Group, and markets two group universal life products and a short term disability product which was introduced in 2001 to employers and groups. The products are sold through independent worksite marketing specialists who are contracted directly with the Company;
- 3) the Transamerica Insurance and Investments Group ("TIIG") is part of the Agency Group, and markets universal life, term life, fixed and variable annuities to individuals through the agency channel; and
- 4) the Alliance Group is part of the Equity Group Division. This group administers the Company's closed Premium Life block of business. There were no new sales during the examination period.

E. Reinsurance

As of December 31, 2001, the Company had reinsurance treaties in effect with 13 companies, of which ten were authorized or accredited. During the exam period, the Company amended one of its reinsurance agreements with an unauthorized insurer via a novation agreement (see section 3B Holding Company for further detail). The Company's individual life policies are ceded on a coinsurance or yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$250,000. The total face amount of life insurance ceded as of December 31, 2001, was \$1,529,155,596, which represents 53% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies and reinsurance recoverables from unauthorized companies, totaling \$2,937,077, was supported by letters of credit and funds withheld. The Company does not engage in assumption reinsurance.

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 during the period under review:

	December 31, <u>1998</u>	December 31, <u>2001</u>	<u>Increase</u>
Admitted assets	<u>\$1,072,900,067</u>	<u>\$1,739,855,586*</u>	<u>\$666,955,519</u>
Liabilities	<u>\$1,049,877,611</u>	<u>\$1,712,434,418</u>	<u>\$662,556,807</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	59,920,277	98,920,277	39,000,000
Unassigned funds (surplus)	<u>(38,897,821)</u>	<u>(73,499,109)*</u>	<u>(34,601,288)</u>
Total capital and surplus	<u>\$ 23,022,456</u>	<u>\$ 27,421,168</u>	<u>\$ 4,398,712</u>
Total liabilities, capital and surplus	<u>\$1,072,900,067</u>	<u>\$1,739,855,586*</u>	<u>\$666,955,519</u>

*as determined by the examiner (See Section 5 of this report)

The increase in admitted assets is mainly attributable to the increase in the Company's bond portfolio, which grew from \$564,092,084 in 1998 to \$1,119,396,152 as of December 31, 2001. The Company experienced a large increase in its annuity production during that time frame, due in part, to the performance of the stock market in 1999 and 2000. In 2001, the net transfer to the separate accounts decreased to \$5 million, from \$75 million in 1999.

The Company's invested assets as of December 31, 2001, exclusive of Separate Accounts, were mainly comprised of bonds (93.79%) and cash and short-term investments (4.53%). The majority (94.50%) of the Company's bond portfolio, as of December 31, 2001, was comprised of investment grade obligations.

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

<u>Year</u>	<u>Individual Whole Life</u>		<u>Individual Term</u>		<u>Group Life</u>	
	<u>Issued</u>	<u>In Force</u>	<u>Issued</u>	<u>In Force</u>	<u>Issued & Increases</u>	<u>In Force</u>
1999	\$302,499	\$3,999,227	\$ 2,950	\$178,244	\$ 9,950	\$ 95,336
2000	\$278,839	\$3,911,791	\$91,913	\$260,909	\$ 95,877	\$188,362
2001	\$213,862	\$4,085,804	\$ 0	\$ 40,947	\$142,791	\$273,033

Upon examination, it was revealed that during the examination period, a number of life policies that were reported as individual should have been classified as group. Additionally, in 1999, several figures were mistakenly reported on the wrong lines in the Exhibit of Insurance. As such, the amount of ordinary life insurance in force at year-end 1999 should be increased by approximately 1%, and the amount of group life insurance in-force should be increased by 6%. In 2000, the amount of individual life insurance in-force should be increased by 2%, and the amount of group life insurance in-force should be increased by 0.6%. The net effect of the amount of ordinary life insurance in force at year-end 2001 could not be determined from the information provided by the Company.

The examiner recommends that the Company take greater care in the preparation of the Exhibit of Insurance. A similar comment appeared in the prior report on examination.

The ordinary lapse ratio for each of the examination years was 4.6% in 2001, 10.5% in 2000 and 6.0% in 1999. The fluctuation in the lapse percentages is due to the changing interest rate environment during the examination period. First, the decline in interest rates during 1999 had the net effect of reducing surrenders. Surrenders were around 10% during 1997-1998 and dropped to 6% during 1999. Rates increased during 2000, and surrenders increased to 10.5%. Finally, rates sharply declined during 2001, which decreased surrenders for that year.

Also, the fluctuation in the lapse percentages is due to the surrender charge period on one of the Company's variable life products that started to expire around 1997. This contributed to an increase in surrenders during the examination period, which tapered off by 2001. Additionally, one of the Company's 10-year term products has a sharp increase in premium rates

after 10 years. Since most of this business was written during 1990-1991, this contributed to the spike in lapse rates during 2000.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

	<u>Ordinary Annuities</u>			<u>Group Annuities</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Outstanding, end of previous year	15,750	22,589	26,157	0	1,775	2,876
Issued during the year	7,843	5,140	5,389	1,592	1,286	473
Other net changes during the year	<u>_(358)</u>	<u>_(1,572)</u>	<u>_(1,195)</u>	<u>66</u>	<u>_(185)</u>	<u>2</u>
Outstanding, end of current year	<u>23,235</u>	<u>26,157</u>	<u>30,351</u>	<u>1,658</u>	<u>2,876</u>	<u>3,351</u>

The Company explained the difference between the beginning year 2000 ordinary annuity policy counts and the comparable ending year 1999 counts as a result of the acquisition and transition of the Company by AEGON. Between year-end 1999 and year-end 2000, the Company transferred the administration of the structured settlements and other payout business from California to Kentucky. The Company stated that they were confident that no business was lost during the conversion process. As of year-end 2000, the Company had counted the payout business at the policy level. As of year-end 1999, the Company could not easily determine the basis on which payout business was being counted in Los Angeles.

The examiner recommends that the Company take greater care in the preparation of the Exhibit of Annuities. A similar comment appeared in the prior report on examination.

In January 1999, the Company began marketing a group variable annuity contract. The decline in group annuities issued during 2001 was due to a sharp decline in variable annuity sales, which was due to poor stock market performance.

Net investment income was distributed to major annual statement lines of business in accordance with an adjusted mean reserve method.

Section 91.4(c)(2) of Department Regulation No. 33 states, in part:

“Net investment income . . . shall be distributed to major annual statement lines of business either:

- (i) in proportion to the total mean policy reserves and liabilities of each such major annual statement lines of business or
- (ii) in proportion to the total mean funds”

The Company failed to include the policy liabilities when calculating the mean policy reserves and liabilities.

The Company violated Section 91.4(c)(2)(i) of Department Regulation No. 33 by failing to allocate net investment income to major annual statement lines of business in accordance with the regulation guidelines. A violation of Department Regulation No. 33 appeared in the prior report on examination.

Section 90.7 of Department Regulation No. 33 states, in part:

“(a) General expense items must be itemized and entered in sufficient detail to indicate their precise nature. Expenses shall not be reported on a functional basis”

Additionally, Section 91.4 of Department Regulation No. 33 states, in part:

“ . . . (a)(5) Allocations of income and expenses between companies shall be treated in the same manner as if made for major annual statement lines of business . . . (f) General expenses, taxes, licenses and fees. (1) In distributing costs to lines of business, each company shall employ those principles and methods that will reasonably reflect the actual incidence of cost by line of business. . . .”

The workpapers for Exhibit 5 – General Expenses of the 2001 annual statement had to be recreated for the examination, in order to support the allocation of expenses reflected in Exhibit 5, as well as the summary of operations. A review of these workpapers revealed the following violations of Department Regulation No. 33:

- 1) The Company failed to report its expenses on the proper lines in Exhibit 5. A review of the Company’s Exhibit 5 original workpapers revealed that the amount stated for each line item

in the workpapers did not trace to the amount reported for each corresponding line item of the 2001 annual statement Exhibit 5; however, the total amount reported for general expenses in the workpapers traced to the annual statement total amount. For example, the original workpapers indicated a total rent expense of \$386,780, however the annual statement reports a total rent expense of \$771,482. The Company acknowledged that the general expenses reported in the 2001 annual statement were incorrectly classified.

- 2) The Company failed to properly allocate expenses between companies. The Company reported a write-in line item entitled "Allocated expenses" totaling \$3,329,713, representing 29.3% of incurred general expenses.
- 3) The Company failed to allocate general expenses to reflect the actual incidence of cost by line of business. According to the Company's "Page 6 Allocation" workpapers, the amount for general insurance expenses was allocated to the various lines of business using the "mean policy reserves" method (this method was also used to allocate net investment income). A review of the allocation method revealed that the Company did not actually use this method either. The Company had no workpapers supporting how the expenses were actually allocated. Department Regulation No. 33 requires that the Company maintain records with sufficient detail to show fully the method actually used to allocate its expenses by line of business.
- 4) The Company failed to properly allocate its taxes, licenses and fees to reflect the actual incidence of cost by line of business. The Company allocated taxes, licenses and fees using the same ratio that was applied to the allocation of net investment income (i.e., the mean policy reserves method).

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:

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Ordinary:			
Life insurance	\$(1,564,825)	\$(2,346,610)	\$ 1,273,453
Individual annuities	3,535,053	(3,121,926)	(4,547,313)
Supplementary contracts	<u>(86,831)</u>	<u>230,771</u>	<u>14,829</u>
Total ordinary	<u>\$ 1,883,397</u>	<u>\$(5,237,765)</u>	<u>\$(3,259,031)</u>
Group:			
Life	\$ (44,463)	\$ (74,948)	\$ (385,053)
Annuities	<u>727,337</u>	<u>691,657</u>	<u>(860,279)</u>
Total group	<u>\$ 682,874</u>	<u>\$ 616,709</u>	<u>\$(1,245,332)</u>
Accident and health:			
Group	\$ 60,726	\$ 26,717	\$(2,272,670)
Other	<u>0</u>	<u>0</u>	<u>(5,890)</u>
Total accident and health	<u>\$ 60,726</u>	<u>\$ 26,717</u>	<u>\$(2,278,560)</u>
Total	<u>\$ 2,626,997</u>	<u>\$(4,594,339)</u>	<u>\$(6,782,923)</u>

The fluctuation in earnings in the ordinary life line of business is due to a couple of factors. First, surrender benefits varied greatly between years, with \$7.6 million in 1999, \$15.5 million in 2000, and \$7.0 million in 2001. Second, general expenses significantly decreased during 2001 as the economies of scale of being part of a larger organization began to emerge and transition costs disappeared.

In 2000, the Company reversed its gains in the annuity line of business from 1999, primarily because of lessened production and a net decrease in revenue. In 2001, the losses continued, primarily because annuity benefits and expenses increased.

The losses in the group life line of business are due to start-up expenses; the Company only began writing this line of business in 1999, but by 2001, the Company had decided to exit this business.

The fluctuation in earnings in the group accident and health line of business is mainly due to the large amount of disability income business written during 2001. This was the first year the Company had this business, and the Company incurred an initial loss due to a higher than expected loss ratio. Also, the amounts reported in 1999 and 2000 relate to the run-off group medical stop-loss business, which the Company exited prior to the examination period. Ninety percent of this business was reinsured and the Company earned a profit on the portion of the reinsured business.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2001, as contained in the Company's 2001 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review.

A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS
AS OF DECEMBER 31, 2001

Admitted Assets

	<u>Examination</u>	<u>Company</u>	Increase <u>(Decrease)</u>
Bonds	\$1,119,396,152	\$1,119,396,152	\$ 0
Policy loans	20,056,965	20,056,965	0
Cash and short term investments	48,899,835	54,084,679	(5,184,844)
Amounts recoverable from reinsurers	1,750,017	1,750,017	0
Commissions and expense allowances due	212,421	212,421	0
Federal income tax recoverable	14,897	14,897	0
Life insurance premiums and annuity considerations deferred and uncollected on in force business	285	285	0
Accident and health premiums due and unpaid	1,416,706	1,416,706	0
Investment income due and accrued	19,058,619	19,058,619	0
Accounts receivable	5,969,741	5,969,741	0
From Separate Accounts statement	<u>523,079,948</u>	<u>523,079,948</u>	<u>0</u>
Total admitted assets	<u>\$1,739,855,586</u>	<u>\$1,745,040,430</u>	<u>\$(5,184,844)</u>

Liabilities, Capital, Surplus and Other Funds

	<u>Examination</u>	<u>Company</u>	<u>Increase (Decrease)</u>
Aggregate reserve for life policies and contracts	\$1,047,905,751	\$1,047,905,751	\$ 0
Aggregate reserve for accident and health policies	3,288,616	3,288,616	0
Liability for deposit-type contracts	79,984,138	79,984,138	0
Policy and contract claims:			
Life	7,024,238	7,024,238	
Accident and health	1,942,645	1,942,645	
Premiums and annuity considerations received in advance	107,602	107,602	0
Commissions to agents due or accrued	873,038	873,038	0
General expenses due or accrued	595,053	595,053	0
Transfers to Separate Accounts due or accrued	(19,030,729)	(19,030,729)	0
Taxes, licenses and fees due or accrued	539,966	539,966	0
Unearned investment income	223,697	223,697	0
Amounts withheld or retained by company as agent or trustee	5,920,124	5,920,124	0
Amounts held for agents' account	632,051	632,051	0
Remittances and items not allocated	43,035,457	43,035,457	0
Miscellaneous liabilities:			
Asset valuation reserve	3,536,475	3,536,475	0
Reinsurance in unauthorized companies	504,914	504,914	0
Funds held under reinsurance treaties with unauthorized reinsurers	841,233	841,233	0
Payable to parent, subsidiaries and affiliates	1,485,678	1,485,678	0
Payable for securities	9,944,523	9,944,523	0
From Separate Accounts statement	<u>523,079,948</u>	<u>523,079,948</u>	<u>0</u>
Total liabilities	<u>\$1,712,434,418</u>	<u>\$1,712,434,418</u>	<u>\$ 0</u>

	<u>Examination</u>	<u>Company</u>	<u>Increase (Decrease)</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	98,920,277	98,920,277	0
Unassigned funds (surplus)	<u>(73,499,109)</u>	<u>(68,314,265)</u>	<u>(5,184,844)</u>
Total capital, surplus and other funds	\$ <u>27,421,168</u>	\$ <u>32,606,012</u>	\$(5,184,844)
Total liabilities, capital, surplus and other funds	<u>\$1,739,855,586</u>	<u>\$1,745,040,430</u>	<u>\$(5,184,844)</u>

Section 1302(b) of the New York Insurance Law states, in part:

“All non-admitted assets and all other assets of doubtful value or character included as ledger or non-ledger assets in any statement by an insurer to the superintendent, or in any examiner’s report to him, shall also be reported, to the extent of the value disallowed, as deductions from the gross assets of such insurer”

A review of the Company’s assets as of December 31, 2001 revealed that the Company included in its cash asset an amount of \$5,184,844. This amount was reported as held in a Citibank account in Schedule E of the 2001 annual statement. However, upon examination, the Company determined that the amount was not held in a Citibank account, but was an aggregate of numerous accounts individually totaling less than \$10,000 each. The Company could not provide evidence of this asset, nor could this asset be confirmed due to incomplete information provided by the Company.

The Company violated Section 1302(b) of the New York Insurance Law by failing to disallow \$5,184,844 of doubtful cash assets from its gross assets.

B. CONDENSED SUMMARY OF OPERATIONS

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Premiums and considerations	\$340,872,876	\$287,418,520	\$281,089,753
Investment income	48,843,557	63,997,846	72,714,288
Commissions and reserve adjustments on reinsurance ceded	4,220,962	1,514,546	1,363,956
Miscellaneous income	<u>8,122,875</u>	<u>11,677,062</u>	<u>7,828,125</u>
Total income	<u>\$402,060,270</u>	<u>\$364,607,974</u>	<u>\$362,996,122</u>
Benefit payments	\$93,190,281	\$150,260,346	\$130,436,607
Increase in reserves	188,494,967	134,904,974	200,471,812
Commissions	23,638,651	19,812,912	26,348,579
General expenses and taxes	14,865,551	14,223,882	10,875,308
Increase in loading and cost of collection	(11,805)	98,465	0
Net transfers to (from) Separate Accounts	75,467,551	52,852,343	5,048,008
Miscellaneous deductions	<u>1,160,715</u>	<u>0</u>	<u>484,023</u>
Total deductions	<u>\$396,805,911</u>	<u>\$372,152,922</u>	<u>\$373,664,337</u>
Net gain (loss)	\$ 5,254,359	\$ (7,544,948)	\$ (10,668,215)
Federal income taxes	<u>2,627,359</u>	<u>(2,950,608)</u>	<u>(3,885,293)</u>
Net gain (loss) from operations before net realized capital gains	\$ 2,627,000	\$ (4,594,340)	\$ (6,782,922)
Net realized capital gains (losses)	<u>6,753</u>	<u>996,279</u>	<u>(6,002,755)</u>
Net income	<u>\$ 2,633,753</u>	<u>\$ (3,598,061)</u>	<u>\$ (12,785,677)</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Capital and surplus, December 31, prior year	\$ <u>23,022,456</u>	\$ <u>50,408,467</u>	\$ <u>25,469,908</u>
Net income	\$ 2,633,753	\$ (3,598,061)	\$(12,785,677)
Change in net unrealized capital gains (losses)	0	0	(49,369)
Change in nonadmitted assets and related items	1,833,564	(13,491,482)	823,339
Change in liability for reinsurance in unauthorized companies	(90,630)	(593,290)	179,006
Change in asset valuation reserve	(990,676)	(2,081,758)	2,651,789
Cumulative effect of changes in accounting principles	0	0	59,405
Capital changes:			
Paid in	24,000,000	0	0
Surplus adjustments:			
Paid in	0	0	15,000,000
Examination changes	0	0	(5,184,844)*
Prior period adjustment	0	0	1,257,611
Reinsurance transactions	<u>0</u>	<u>(5,173,968)</u>	<u>0</u>
Net change in capital and surplus	\$ <u>27,386,011</u>	\$(<u>24,938,559</u>)	\$ <u>1,951,260</u>
Capital and surplus, December 31, current year	\$ <u>50,408,467</u>	\$ <u>25,469,908</u>	\$ <u>27,421,168*</u>

*as determined by the examiner

6. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

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

Section 219.5(a) of Department Regulation No. 34-A states, in part:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons. . . .”

The examiner selected 52 advertising files for review. Of the 52 files, 25 were not located at the Company's home office. None of the 52 advertisements reviewed included a notation that indicated the extent of distribution.

The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain at its home office a complete advertisement file, and by failing to indicate the extent of distribution in its advertisement file. This is a repeat violation from the prior report on examination.

Section 219.4(p) of Department Regulation No. 34-A states, in part:

“In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States. . . .”

Of the 52 advertisements reviewed, the home office address was not stated in three instances.

The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to identify the name of the city, town or village in which it has its home office in three advertisements.

Section 2112(a) of the New York Insurance Law states, in part:

“Every insurer . . . doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint insurance agents to represent such insurer . . .”

A review of a sample of 20 new business applications for the period under examination revealed that a term life insurance application was solicited by an agent who was not appointed by the Company. The Company stated that they are unable to determine the total number of policies this agent sold, since these policies were sold prior to the September 2001 transfer of business to the administration system located in Kansas City, and the administrative system does not have a record of the producer.

The Company violated Section 2112(a) of the New York Insurance Law by failing to appoint an agent.

B. Underwriting and Policy Forms

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

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

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

A review of policy forms currently being used revealed that the Company offers a waiver of premium rider (form #3-011 38-287) with its Trans-Saver group universal life insurance

product. According to the approved policy form filing, the automatic termination clause of the rider states:

“This rider will automatically terminate:

1. if the policy is surrendered;
2. if the policy lapses; or
3. at the policy anniversary nearest age 60 of the Insured. . . .”

The termination clause of the rider that is used by the Company states:

“This rider will automatically terminate:

1. if any premium remains unpaid after the end of the grace period;
2. if the policy is surrendered or continued under the non-forfeiture provisions;
3. if the policy terminates; or
4. at the policy anniversary nearest age 60 of the Insured”

The provision of automatically terminating the waiver of premium rider when the policy is continued under the non-forfeiture provisions may change the benefit that was approved in the policy contract filing. The original waiver of premium rider form was approved on December 6, 1988. The Company has stated that it is unable to determine when the contract language was changed from the approved policy form filing. During the examination period, there were 7,566 policies issued with the unapproved waiver of premium rider.

The Company violated Section 3201(b) of the New York Insurance Law by using an unapproved waiver of premium rider form.

The examiner recommends that the Company file the revised waiver of premium form with the Department for approval.

Additionally, the Company offers an “instant issue” simplified underwriting group term life insurance product called Select Value Term. Application form #400-01-NY696 was approved for use with the sale of the Select Value Term product. It was filed under alternate approval procedures in September 1999 in accordance with Section 3201(b) of the New York Insurance Law. However, a review of a sample of files indicate that the Company used an unapproved application form #400-01-NY696-D with the sale of the Select Value Term product.

Application form #400-01-NY696-D differs from the approved form in the “Remarks” section, which describes the conditions under which coverage would take effect. During the examination period, there were 1,878 policies sold using the unapproved application form.

The Company violated Section 3201(b) of the New York Insurance Law by using an unapproved policy application form.

The examiner recommends that the Company file application form #400-01-NY696-D with the Department for approval.

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.

D. Response to Supplement No. 1 to Department Circular Letter No. 19 (2000)

Supplement No. 1 to Circular Letter No. 19 (2000) (the “Supplement”), issued by the Department on June 22, 2000, notified all licensed life insurers that the Department was investigating allegations of race-based underwriting of life insurance by its licensees. The Supplement directed, pursuant to Section 308 of the New York Insurance Law, each domestic and foreign life insurer to review its past and present underwriting practices regarding race-based underwriting and to report its findings to the Department, no later than August 15, 2000.

Pursuant to Section 308 of the New York Insurance Law, the Company submitted in a timely manner a report of the findings of its review of past and present underwriting practices regarding race-based underwriting made in accordance with the requirements of the Supplement.

The Company reported that it reviewed all underwriting manuals, policy and application forms, board and committee minutes, actuarial memoranda, service forms, general agent and broker agreements, agent guides and any related internal memos. In summary, the Company found that there was no evidence of race-based underwriting.

The Company did not prepare formal working papers to support its report on race-based underwriting. As a result, the Company’s report could not be verified.

7. BOOKS OF ACCOUNT AND INTERNAL CONTROL

A. Books of Account

The Company relies on an affiliate to perform its accounting function, and to prepare its financial statements. A review of the Company's books of account revealed that the Company is not in compliance with Section 325(a) of the New York Insurance Law.

Section 325(a) of the New York Insurance Law states, in part:

“Every domestic insurer . . . shall, except as hereinafter provided, keep and maintain at its principal office in this state its . . . books of account . . .”

The Company provided the examiner with online access to “FAR”, a report writer which was used in the preparation of the 2001 annual statement. The FAR system interfaces with the Company's general ledger system and various sub-ledgers, which are not maintained in New York. During the course of the examination, it became evident that the examiner could not access the Company's books of accounts because the FAR system would “time out” due to the network capacity. As a result, hard copy documentation was provided from Cedar Rapids in lieu of using the FAR system. The 2000 trial balance and summary general ledger were provided from an affiliate during the course of the examination. The 1999 trial balance and general ledger were not provided; however, the Company did provide annual statement workpapers (which were maintained in New York) that were traced to the 1999 figures reported in the annual statement.

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account at its principal office in a durable medium.

Various affiliates service the Company's life and annuity lines of business. The annuity business represents a substantial portion (87% of premium income based on the 2001 annual statement) of the Company's portfolio of products. The Company does not have computer access at its home office to the annuity systems containing contract information or accounting transactions. Additionally, the Company does not have computer access to its Premier Life block of business.

The examiner recommends that the Company obtain computer access to its life and annuity systems from its home office. The prior report also included this recommendation.

B. Internal Control

The examiner detected the following discrepancies which are indicative of weaknesses in the internal controls of the Company:

- 1) The Company was unable to provide supporting documentation for a cash asset of approximately \$5.2 million, as noted in section 5A of this report;
- 2) As of December 31, 2001, there was an unreconciled discrepancy totaling \$1,892,043 between the amount reported in the annual statement for policy loans, \$20,056,965 and the amount reflected in the policy loan inventory, \$21,949,008;
- 3) In the 2001 annual statement, the Company reported a prior period adjustment of \$1,257,611. The Company stated the prior period adjustment reflected the Company's position that a payable held on the books did not exist;
- 4) The Company failed to file for approval of two policy forms, the waiver of premium form that was in use with the Trans-Saver group universal life product, and the application form used for the Company's Select Value Term product, as noted in section 6B of this report;
- 5) The Company's inventory of supplementary contracts as of December 31, 2001 indicates five supplementary contracts were issued during the examination period. A review indicated that four should not have been included in the inventory of supplementary contracts. All were annuity contracts, one of which was still in-force as of year-end 2001. Additionally, two were surrendered in 2000, and the remaining contract was not in-force since the annuitant had died in September 1999, and the full proceeds were paid to the beneficiary in October 1999;
- 6) There were various problems regarding intercompany transactions, including failing to properly account for all treaties originally reinsured with TOLIC, and failing to provide prior notice to the Superintendent regarding affiliated transactions, as noted in section 3B of this report;
- 7) Due to the conversion of the administration of WMD's business, the Company made significant errors in the 2001 annual statement Exhibit of Policies, Contracts and Certificates regarding the reporting of the number of group accident and health policies issued;

- 8) There were various discrepancies in the figures reported in the Exhibits of Life Insurance and Annuities, as noted in section 4 of this report;
- 9) There were various problems regarding compliance with Department Regulation No. 33 expense allocations, including failing to properly classify expenses, failing to allocate expenses between companies, and failing to allocate general expenses, taxes, licenses, and fees in accordance with regulation guidelines, as noted in section 4 of this report;
- 10) There were problems regarding the Company's maintenance of its advertisement files, as noted in section 6A of this report;
- 11) The Company was unable to determine the number of policies sold by an agent, as noted in section 6A of this report; and
- 12) A policy that was rescinded in 1993 was mistakenly reported as resisted in Schedule F of the 1999, 2000, and 2001 annual statements. The Company stated that there is no litigation regarding this policy.

Based on the above comments, the examiner recommends that the Company institute a plan to improve its internal controls to minimize annual statement discrepancies and to enhance regulatory compliance. A similar recommendation appeared in the prior report.

8. NON-FACILITATION OF THE EXAMINATION

Section 310(a)(3) of the New York Insurance Law states, in part:

“The officers and agents of such insurer or other person shall facilitate such examination and aid such examiners in conducting the same so far as it is in their power to do so.”

At the start of the examination, the examiners met with Company personnel and agreed that requests for information would be submitted in writing to the Company and that a response would be given within five business days. A log of requests was established by both the examiners and the Company. Bi-weekly meetings took place during the examination to review the status of the requests; the necessity of timely responses was discussed at the meetings. As the examination progressed, the examiners noted that responses for information were not being addressed by the Company as promptly as had been anticipated.

During the examination, 79 formal requests and memos were written to the Company. Complete responses for most of the requests and memos were not received within the agreed upon five business days; only 24% of responses were received within five business days. Many responses took much longer than five business days and some responses were never received at all. Complete responses were not received within 20 business days from the date of the request for approximately 19% of the requests and memos, and approximately 8% were either not answered or were only partially answered. The lack of timely responses to examination requests and memos significantly hindered the progress of the examination.

The Company violated Section 310(a)(3) of the New York Insurance Law by failing to facilitate the examination.

9. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments 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 1505(d) of the New York Insurance Law when it failed to abide by the terms of two approved service agreements.</p> <p>This report also contains violations of Section 1505(d) of the New York Insurance Law.</p>
B	<p>The examiner recommends that all Company bank accounts be in the name of the Company.</p> <p>The referenced bank accounts are in the name of the Company, and no longer include the name of an affiliate.</p>
C	<p>The Company failed to appoint an officer as its consumer services officer per Department Regulation No. 64.</p> <p>During the examination period, an officer of the Company was appointed consumer services officer as per Department Regulation No. 64.</p>
D	<p>The examiner recommends that the Company include a copy of the commission schedules in the agency contract files.</p> <p>Although a copy of the commission schedule was not in the agency contract files, the examiner was able to re-calculate and verify the amount of commissions paid on the sample reviewed.</p>
E	<p>The Company incorrectly included its group life insurance issued and in force as individual life, as reported in the annual statements.</p> <p>This comment is repeated in this report on examination.</p>
F	<p>The Company made numerous errors in the preparation of the Exhibits of Annuities and Supplementary Contracts.</p> <p>This comment is repeated in this report on examination.</p>

<u>Item</u>	<u>Description</u>
G	<p>The Company violated Section 4227(e) of the New York Insurance Law when it failed to obtain approval for the suspension of the new annuity business limits from the Superintendent for 1996.</p> <p>Section 4227(e) of the New York Insurance Law has been repealed.</p>
H	<p>The Company made numerous errors in the preparation of its assets and liabilities on the 1998 annual statement.</p> <p>The Company incorrectly reported one of its assets in the 2001 filed annual statement.</p>
I	<p>The Company failed to abide by Department Regulation No. 33 when it failed to report its expenses on the proper lines of Exhibit 5 General Expenses.</p> <p>A violation of Section 91.4(c)(2) of Department Regulation No. 33 appears in this report on examination.</p>
J	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A when it failed to maintain in its advertising file copies of all of its advertisements and failed to contain the extent of distribution.</p> <p>This violation is repeated in this report on examination.</p>
K	<p>The Company violated Section 219.4(a)(1) of Department Regulation No. 34-A when an advertisement on its webpage contained confusing language relating to its term product.</p> <p>The examiner's review of the Company's webpage did not reveal any problems regarding Section 219.4(a)(1) of Department Regulation No. 34-A.</p>
L	<p>The Company violated Section 219.2(b) and 219.4(p) of Department Regulation No. 34-A when it failed to control the content, form and method of dissemination of FPA's advertisements and failed to have its name and/or home office location included in the advertisements.</p> <p>A similar violation has been cited in this report on examination.</p>
M	<p>The Company violated Section 219.4(e) of Department Regulation No. 34-A when it used the words 'no-cost options' to describe benefits available with its term product.</p> <p>The examiner's review of a sample of advertisements did not reveal any problems regarding Section 219.4(e) of Department Regulation No. 34-A.</p>

<u>Item</u>	<u>Description</u>
N	<p>The Company failed to have its certificate of compliance, concerning Department Regulation No. 34-A, signed by an officer for the examination period.</p> <p>During the examination period, the Company's certificate of compliance was signed by an officer of the Company.</p>
O	<p>The examiner recommends that the Company keep a copy of the declination letter in the policy file.</p> <p>The Company maintains a copy of the declination letter in the policy file.</p>
P	<p>The Company violated Section 216.6(c) of Department Regulation No. 64 when it failed to send follow-up letters to claimants on its resisted claims.</p> <p>The Company sent follow-up letters to claimants on its resisted claims.</p>
Q	<p>The Company violated Section 3214(c) of the New York Insurance Law when it failed to pay interest on the first check sent to an insured on his/her supplementary contract.</p> <p>The examiner was unable to determine the Company's compliance with Section 3214(c) of the New York Insurance Law due to the Company's incorrect reporting of the sampled supplementary contract files.</p>
R	<p>The Company violated Section 310(a)(3) and 1507(a) of the New York Insurance Law when its officers and officers of its parent and affiliates failed to facilitate the examination.</p> <p>A violation of Section 310 of the New York Insurance Law has been cited in this report on examination.</p>
S	<p>The Company violated Section 701 of the New York State Abandoned Property Law for failing to file the required abandoned property reports for the period under review.</p> <p>The Company provided a copy of the abandoned property reports for 1999 and 2000. The report for 2001 is due after the writing of this report.</p>
T	<p>The examiner recommends that the Company obtain computer access to its annuity business.</p> <p>This recommendation is repeated in this report on examination.</p>

<u>Item</u>	<u>Description</u>
U	The examiner recommends that the Company institute better internal controls to minimize annual statement discrepancies, to improve policy administration of its supplementary contracts and its annuities, in Charlotte and in New York, and to enhance regulatory compliance of its advertisements.

A similar recommendation is repeated in this report on examination.

10. SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1505(d)(1) of the New York Insurance Law for failing to provide prior notification to the Superintendent of its intention to enter into transactions with PBL, TOLIC, TALIAC, and AEGON USA, Inc., in which the transaction amounts exceeded ½ of 1% of the Company's prior year admitted assets.	6 – 7
B	The Company violated Section 1505(d)(2) of the New York Insurance Law by failing to provide prior notification to the Superintendent of its intention to enter into a novation reinsurance agreement with AUSA as a replacement for TOLIC.	7 – 8
C	The Company violated Section 1505(d)(3) of the New York Insurance Law by entering into service agreements with members of its holding company system, including AUSA, PBL, LIICA, FAUSA, and TAC, without the prior approval of the Superintendent.	8 – 9
D	The examiner recommends that the Company take greater care in the preparation of the Exhibit of Insurance.	15
E	The examiner recommends that the Company take greater care in the preparation of the Exhibit of Annuities.	16
F	The Company violated Section 91.4(c)(2)(i) of Department Regulation No. 33 by failing to allocate net investment income to major annual statement lines of business in accordance with the regulation guidelines.	17
G	The Company violated Section 90.7(a) of Department Regulation No. 33 by failing to report its expenses on the proper lines in Exhibit 5 of the 2001 annual statement.	17 – 18
H	The Company violated Section 91.4(a)(5) of Department Regulation No. 33 by failing to properly allocate expenses between companies.	18
I	The Company violated Section 91.4(f)(1) of Department Regulation No. 33 by failing to allocate general expenses and taxes, licenses and fees to reflect the actual incidence of cost by line of business.	18

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
J	The Company violated Section 1302(b) of the New York Insurance Law by failing to disallow \$5,184,844 of doubtful cash assets from its gross assets.	23
K	The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain at its home office a complete advertisement file, and by failing to indicate the extent of distribution in its advertisement file.	26
L	The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to identify the name of the city, town or village in which it has its home office in three advertisements.	26 – 27
M	The Company violated Section 2112(a) of the New York Insurance Law by failing to appoint an agent.	27
N	The Company violated Section 3201(b) of the New York Insurance Law by using an unapproved waiver of premium rider and an unapproved policy application form.	27 – 28
O	The examiner recommends that the Company file the revised waiver of premium form and application form #400-01-NY696-D with the Department for approval.	27 – 29
P	The Company's report on race-based underwriting could not be verified because the Company did not prepare formal working papers.	29
Q	The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account at its home office in a durable medium.	30
R	The examiner recommends that the Company obtain computer access to its life and annuity systems from its home office.	30
S	The examiner recommends that the Company institute a plan to improve its internal controls to minimize annual statement discrepancies and to enhance regulatory compliance.	31 – 32
T	The Company violated Section 310(a)(3) of the New York Insurance Law by failing to facilitate the examination.	33

APPOINTMENT NO. 21830

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

KAREN GARD

as a proper person to examine into the affairs of the

TRANSAMERICA 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 25th day of January, 2002



GREGORY V. SERIO

Superintendent of Insurance

A handwritten signature in black ink, appearing to read "Gregory V. Serio", is written over a horizontal line. Below the signature, the word "Superintendent" is printed.

Superintendent