



**TARGETED MARKET CONDUCT REPORT ON EXAMINATION  
OF THE  
TEACHERS INSURANCE AND ANNUITY ASSOCIATION  
OF AMERICA**

**AS OF DECEMBER 31, 2020**

**EXAMINER:**

**KINGS ANKRAH**

**DATE OF REPORT:**

**SEPTEMBER 10, 2021**

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

September 7, 2022

Honorable Adrienne A. Harris  
Superintendent of Financial Services  
New York, New York 10004

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32299, dated September 2, 2021, and annexed hereto, an examination has been made into the condition and affairs of Teachers Insurance and Annuity Association of America, hereinafter referred to as "the Association". The Association's home office is located at 730 Third Avenue, New York, NY 10017. The examination was conducted remotely because of the COVID-19 pandemic.

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

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

1. EXECUTIVE SUMMARY

- The Association violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by using the words “for no additional charge” in its advertisements for universal life and survivorship universal life policies issued in New York. (See item 4A of this report.)
- The Association violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a record of the electronic applications signed by the applicants for deferred annuity contracts issued. (See item 4B of this report)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2019, to December 31, 2020.

The examination comprised a review of the Association's electronic application process and related market conduct activities.

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

### 3. DESCRIPTION OF ASSOCIATION

#### A. History

In 1917, the Carnegie Foundation for the Advancement of Teaching (“the Foundation”) formed an organization to provide pensions and insurance products for teachers and employees of private educational institutions. The Foundation organized the Association as a legal reserve stock life insurance company under Section 70 of the New York Insurance Law (now Section 1113). The Association was incorporated on March 4, 1918 and commenced business on May 17, 1918. A plan was initiated in 1935 to make the Association independent of the Foundation with respect to its finances. An act of the New York State Legislature creating the Trustees of T.I.A.A Stock (“the Trustees”) became law on June 3, 1937, and the Foundation transferred the Association stock to the Trustees in 1938. The plan also included a proposal by the Association that the Foundation make an endowment grant to it of \$6,700,000, which would obviate any further support for its overhead expenses. The Foundation voted to accept the Association’s proposal and transferred \$2,700,000 to the Association by December 31, 1937. The balance of the endowment was transferred to the Association by the end of 1938. Effective November 17, 1989, the name of the Trustees was changed to TIAA Board of Overseers.

As a companion nonprofit organization to the Association, College Retirement Equities Fund (“CREF”) was founded in 1952 to provide retirement annuities based on investments in common stock. It was created through an act of the New York State legislature, under which it was organized as a nonprofit company controlled by specified members with legal function similar to that of shareholders. In the 1980s, CREF registered with the Securities and Exchange Commission (SEC) as an investment company under the Investment Company Act of 1940.

On November 20, 1996, TIAA-CREF Life Insurance Company was established for retaining the Association’s taxable life insurance and other non-pension businesses.

Although the Association has been formed as a New York-domiciled stock life insurance company, the Association was exempt from federal taxation since its founding in 1918. However, effective January 1, 1998, the Association lost its exemption from federal income taxation pursuant to Section 1042 of the Taxpayers Relief Act of 1997

## B. Territory and Plan of Operation

The Association 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 Association is licensed to transact business in all 50 states, the District of Columbia, and the territories of Puerto Rico, and the U.S. Virgin Islands. In 2020, 14.3% of life premiums, 21.5% of annuity consideration, and 13.1% of accident and health premiums were received from New York. Policies are written on a non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2020:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	14.3%	New York	21.5%
Pennsylvania	7.2	Pennsylvania	6.7
California	7.1	New Jersey	6.7
New Jersey	6.0	Michigan	5.4
Massachusetts	<u>5.7</u>	California	<u>4.8</u>
Subtotal	40.3%	Subtotal	45.1%
All others	<u>59.7</u>	All others	<u>54.9</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>
<u>Accident and Health Insurance Premiums</u>			
New York	13.1%		
Pennsylvania	7.9		
New Jersey	7.4		
Florida	6.8		
Illinois	<u>5.5</u>		
Subtotal	40.8%		
All others	<u>59.2</u>		
Total	<u>100.0%</u>		

#### 4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Association's electronic application processes for life insurance and annuities to determine compliance with applicable statutes and regulations and the operating rules of the Association.

##### A. Advertising and Sales Activities

The examiner reviewed a sample of the Association's sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies as part of the Association's electronic application process review.

Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) states, in part:

“The words free, no cost, without cost, no additional cost, at no extra cost, without additional cost, or words of similar import, may not be used with respect to any benefit or service being made available with the policy. An advertisement may specify the charge for a benefit or a service, or may state that a charge is included in the premium, or use other appropriate language.”

The Association provided promotional material with 184 universal life and survivorship universal life policies issued to New York policyholders during the examination period and the material contained the sentence: “This endorsement can be added at issue for no additional charge.”

The Association violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by using the words “for no additional charge” in its advertisements for universal life and survivorship universal life policies issued in New York.

##### B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms as part of the Association's electronic application process review.

Section 243.2(b)(1)(ii)(8) of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain: . . .



- (ii) The application, including any application form or enrollment form for coverage under any insurance contract or policy; . . .
- (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.”

The examiner’s review of a sample of 27 deferred annuity contracts issued revealed that in 17 instances (62.9%), the Association was unable to provide evidence that it retained copies of the actual approved electronic applications that were signed by the applicants.

The Association violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a record of the electronic applications signed by the applicants for deferred annuity contracts issued.

#### C. Option to Opt-Out

The examiner verified that the applicants had an opportunity to opt out of the electronic process as required by Section 309 of the New York State Technology Law.

## 5. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Association violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by using the words “for no additional charge” in its advertisements for universal life and survivorship universal life policies issued in New York.	6
B	The Association violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain a record of the electronic applications signed by the applicants for deferred annuity contracts issued.	7

Respectfully submitted,



Kings Ankrah  
Senior Insurance Examiner

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

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



Kings Ankrah

Subscribed and sworn to before me  
this 4<sup>th</sup> day of October, 2022  
awakey Hall

**AUDREY HALL**  
Notary Public, State of New York  
No. 01HA6274900  
Qualified in Kings County  
Commission Expires January 28, 2025

Respectfully submitted,

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/s/

Christine Mavour  
Associate Insurance Examiner

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

Christine Mavour, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_  
/s/

Christine Mavour

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_

**APPOINTMENT NO. 32299**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, **SHIRIN EMAMI**, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**KINGS ANKRAH**

as a proper person to examine the affairs of the  
**TEACHERS INSURANCE & ANNUITY ASSOCIATION OF AMERICA**  
and to make a report to me in writing of the condition of said  
**COMPANY**

with such other information as he shall deem requisite.

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

this 2nd day of September, 2021

**SHIRIN EMAMI**  
Acting Superintendent of Financial Services

By:

*Mark McLeod*

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**MARK MCLEOD**  
DEPUTY CHIEF - LIFE BUREAU

