



Illinois Department of Insurance

BRUCE RAUNER
Governor

JENNIFER HAMMER
Director

VIA USPS MAIL

January 29, 2018

Mr. Gordon Dinsmore
President
The Guardian Insurance & Annuity Company, Inc.
7 Hanover Square
New York, NY 10004-4025

Re: The Guardian Insurance & Annuity Company Inc., NAIC 78778
Market Conduct Examination Report Closing Letter

Dear Mr. Dinsmore:

On December 12, 2017, the Department sent your Company a draft copy of the examination report. On January 18, 2018, the Department received correspondence from Christopher Countee, Counsel – Law Department/Corporate Compliance, indicating The Guardian Insurance and Annuity Company Inc. is in agreement with the findings contained in the report.

I intend to ask the Director to make the Examination Report available for public inspection as authorized by 215 ILCS 5/132. At the Department's discretion, specific content of the report is subject to redaction for private, personal, or trade secret information prior to making the report public. However, any redacted information will be made available to other regulators upon request.

The Department has completed the Market Conduct examination of The Guardian Insurance and Annuity Company Inc. and is closing its file on the exam. A copy of the verified Examination Report is enclosed.

Please contact me if you have any questions.

Sincerely,

Jack Engle, MCM
Assistant Deputy Director-Market Conduct and Analysis
Illinois Department of Insurance
320 West Washington- 5th Floor
Springfield, IL 62767
217-558-1058
E-mail: Jack.Engle@Illinois.gov

Enclosure

ILLINOIS DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION
OF
THE GUARDIAN INSURANCE & ANNUITY COMPANY, INC.

MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: September 11, 2017 through October 27, 2017

EXAMINATION OF: The Guardian Insurance & Annuity Company, Inc.
NAIC #78778

LOCATION: 7 Hanover Square
New York, NY 10004

PERIOD COVERED
BY EXAMINATION: July 1, 2016 through June 30, 2017

EXAMINERS: Michael Currier, MCM (Examiner-in-Charge)
Tim Kelley, JD, CIE, MCM
Sheri Kenney, CFE, MCM

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I. SUMMARY

A targeted market conduct examination of The Guardian Insurance & Annuity Company, Inc. (the “Company”) was performed to determine compliance with Illinois statutes and the Illinois Administrative Code.

The following represents general findings, however specific details are found in each section of the report.

TABLE OF VIOLATIONS						
Crit	Statute / Rule	Description of Violations	Population	Files Reviewed	Number of Violations	Error %
3	50 Ill. Adm. Code 917.70(c)	Marketing and Sales: External Annuity Replacements – Failure to provide Exhibit B to the replaced insurer timely	32	32	4	13%
5	215 ILCS 5/500-80(a)	Producer Review: Commissions – Commissions paid to an unlicensed producer.	88	88	1	1%
7	50 Ill. Adm. Code 3120.50(f)(3)(B)	Underwriting and Rating: Annuity Contracts Issued – Failure to obtain broker-dealer annual certification.	147	79	2	3%

II. BACKGROUND

The Guardian Insurance & Annuity Company, Inc. was originally incorporated on March 2, 1970, under the laws of the State of Delaware as a stock life insurance company authorized to transact the business of life, health, credit life, credit health, variable annuities and variable life insurance. The Company was founded by The Guardian Life Insurance Company of America (“The Guardian”) and remains its wholly owned subsidiary.

The Guardian has predominately utilized the Company to market and underwrite variable deferred annuity contracts; fixed deferred and immediate annuity contracts; variable life insurance policies; and Group 401(k) products. The Company is licensed to conduct life and health insurance business in all fifty states and the District of Columbia. The Company's primary business is the sale of individual annuity contracts.

The Company sells fixed and variable annuities via its general agency system and a number of distribution channels, including broker dealers, wire houses, and independent financial planners.

Year	Total Annuity Considerations in Illinois (Per Schedule T of the Annual Statement)	Illinois Market Share
2016	\$30,653,245	2.38%

III. METHODOLOGY

The market conduct examination places emphasis on an insurer's systems and procedures used in dealing with insureds and claimants. The period under review was generally July 1, 2016 through June 30, 2017.

Specifically, the examination focused on a review of the following areas:

- A. Operations and Management
- B. Marketing and Sales
- C. Producer Review
- D. Risk Selection
- E. Underwriting and Rating

The review of the categories was accomplished through examination of appointed and terminated producer files, new business application files, replacement files, and surrender files. Each of the categories was examined for compliance with Illinois Department of Insurance rules and regulations, and applicable state laws.

This report addresses improper practices performed by the Company, which resulted in failure to comply with Illinois statutes and/or the Illinois Administrative Code. Criticisms were prepared and communicated to the Company addressing violations discovered in the review process. All valid criticisms were cited in the report.

The following methods were used to obtain the required samples and to assure a statistically accurate and methodical selection. The samples were developed from Company-generated data. The sample size was based on the most recent NAIC Market Regulation Handbook. Random samples were generated using Audit Command Language software and the selected samples were provided to the Company for retrieval.

Operation and Management

The Operations and Management portion of the examination was limited to the review of Market Conduct Annual Statement ("MCAS") data and submissions for calendar years 2014, 2015 and 2016 to ensure accuracy and completeness.

Marketing and Sales

The Marketing and Sales portion of the examination was limited to the review of internal and external annuity replacements to determine adherence with replacement and suitability requirements.

Producer Review

Producer licensing and terminations were reviewed for compliance with statutory requirements. Producer licensing was reviewed as part of the new business samples selected for the underwriting and rating reviews, replacement samples selected for the sales and marketing reviews, in addition to a sample of commissions.

Risk Selection

The Risk Selection portion of the examination was limited to the testing of annuity cash surrenders.

Underwriting and Rating

The Underwriting and Rating portion of the examination included a review of the contract issuance and declination process for the various annuity products sold by the Company, including determining if all required notices were provided. The review also included verification that suitability information was obtained and in compliance with Illinois requirements.

IV. SELECTION OF SAMPLES

	<u>Total Files</u>	<u>Number Reviewed</u>	<u>Percentage Reviewed</u>
Operations and Management			
MCAS Reports	6	6	100%
Marketing and Sales			
Internal Annuity Replacements	1	1	100%
External Annuity Replacements	32	32	100%
Producer Review			
Producer Licensing	276	98	36%
Producer Terminations	5	5	100%
Commissions	88	88	100%
Risk Selection			
Annuity Surrenders	135	79	59%
Underwriting and Rating			
Annuity Contracts Issued	147	79	54%
Declined Annuity Applications	8	8	100%

V. FINDINGS

A. Operations and Management

1. Market Conduct Annual Statement Reports

No violations were noted.

B. Marketing and Sales

1. Internal Annuity Replacements

No violations were noted.

2. External Annuity Replacements

The Company failed to provide Exhibit B to the existing insurer timely in four (4) replacement files in compliance with 50 Ill. Adm. Code 917.70(c).

C. Producer Review

1. Producer Licensing

No violations were noted. One item was noted for Interrelated Findings.

2. Producer Terminations

No violations were noted.

3. Commissions

The Company paid commission to an unlicensed producer in one (1) file in violation of 215 ILCS 5/500-80(a).

D. Risk Selection

1. Annuity Surrenders

No violations were noted.

E. Underwriting and Rating

1. Annuity Contracts Issued

The Company failed to obtain the broker-dealer annual certification in two (2) files as required by 50 Ill. Adm. Code 3120.50(f)(3)(B).

2. Declined Annuity Applications

No violations were noted.

VI. INTERRELATED FINDING

In the course of the Producer Review the examiner was made aware of one (1) unlicensed agent from a brokerage soliciting insurance in violation of 215 ILCS 5/500-15(a) and accepting commissions in violation of 215 ILCS 5/500-80(b). The Company accepted the application and when asked in the course of this examination, agreed that the agent was unlicensed at application. This issue is outside the scope of this examination of the Company, however details have been forwarded to the Department for a producer regulatory referral.

STATE OF NEW YORK)
) ss
COUNTY OF ALBANY)

Michael Currier, being first duly sworn upon his/her oath, deposes and says:

That he was appointed by the Director of Insurance of the State of Illinois (the "Director") as Examiner-In-Charge to examine the insurance business and affairs of The Guardian Insurance and Annuity Company, (the "Company"), NAIC #78778;

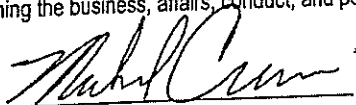
That the Examiner-In-Charge was directed to make a full and true report to the Director of the examination with a full statement of the condition and operation of the business and affairs of the Company with any other information as shall in the opinion of the Examiner-In-Charge be requisite to furnish the Director with a statement of the condition and operation of the Company's business and affairs and the manner in which the Company conducts its business;

That neither the Examiner-In-Charge nor any other persons so designated nor any members of their immediate families is an officer of, connected with, or financially interested in the Company nor any of the Company's affiliates other than as a policyholder or claimant under a policy or as an owner of shares in a regulated diversified investment company, and that neither the Examiner-In-Charge nor any other persons so designated nor any members of their immediate families is financially interested in any other corporation or person affected by the examination;

That an examination was made of the affairs of the Company pursuant to the authority vested in the Examiner-In-Charge by the Director of Insurance of the State of Illinois;

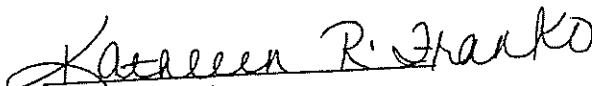
That she/he was the Examiner-in-Charge of said examination and the attached report of examination is a full and true statement of the condition and operation of the insurance business and affairs of the Company for the period covered by the Report as determined by the examiners;

That the Report contains only facts ascertained from the books, papers, records, or documents, and other evidence obtained by investigation and examined or ascertained from the testimony of officers or agents or other persons examined under oath concerning the business, affairs, conduct, and performance of the Company.



Examiner-In-Charge

Subscribed and sworn to before me ²⁰¹⁷
this 1 day of December, 20XX.



Notary Public

KATHLEEN R. FRANKO
Notary Public, State of New York
No. 01FR080278
Qualified in Albany County
Commission Expires Sept. 09, 2018