

STATE OF ARIZONA
FILED

FEB 28 2008

DEPT. OF INSURANCE

**REPORT OF TARGETED EXAMINATION
OF
NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY**

NAIC# 92657

AS OF

MARCH 31, 2005

TABLE OF CONTENTS

SALUTATION3

AFFIDAVIT.....4

FORWARD.....5

SCOPE AND METHODOLOGY5

EXECUTIVE SUMMARY6

STANDARD 1.....7

STANDARD 3.....8

STANDARD 5.....10

SUMMARY OF STANDARDS.....12



Department of Insurance
State of Arizona
Market Oversight Division
Examinations Section
Telephone: (602) 364-4994
Fax: (602) 364-4998

JANET NAPOLITANO
Governor

2910 North 44th Street, Suite 210
Phoenix, Arizona 85018-7269
www.id.state.az.us

CHRISTINA URIAS
Director of Insurance

Honorable Christina Urias
Director of Insurance
State of Arizona
2910 North 44th Street, Suite 210
Phoenix, Arizona 85108-7269

Dear Director Urias:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a targeted examination has been made of the market affairs of:

NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY

NAIC # 92657

The above examination was conducted by James R. Dargavel, FLMI, CIE, Examiner-in-Charge, Jerry Paugh, AIE, Senior Market Examiner, and Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor.

The examination covered the period of October 1, 2004 through March 31, 2005.

As a result of that examination, the following Report of Examination is respectfully submitted.

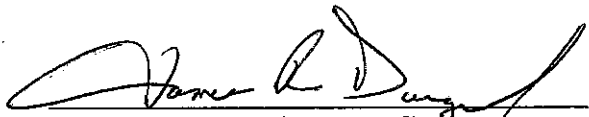
Sincerely yours,

Paul J. Hogan, JD, FLMI, ALHC, CIE
Market Oversight Administrator
Market Oversight Division

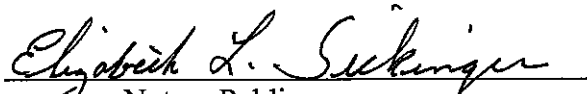
AFFIDAVIT

STATE OF ARIZONA)
) ss.
County of Maricopa)

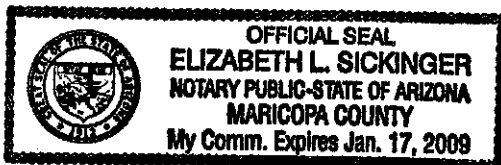
I, James R. Dargavel, FLMI, CIE, being first duly sworn state that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Jerry Paugh, AIE, Senior Market Examiner, and Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, the Examination of Nationwide Life and Annuity Insurance Company, hereinafter referred to as the "Company." was performed at the offices of the Arizona Department of Insurance. A teleconference meeting with appropriate Company officials was held to discuss this Report, but a copy was not provided to management, as the Examination was not finalized. The information contained in this Report, consisting of the following pages, is true and correct to the best of my knowledge and belief and that any conclusions and recommendations contained in and made a part of this Report are such as may be reasonably warranted from the facts disclosed in the Examination Report.


James R. Dargavel, FLMI, CIE
Market Examinations Examiner-in-Charge

Subscribed and sworn to before me this 14th day of September, 2006.


Notary Public

My Commission Expires Jan 17, 2009



FORWARD

This targeted market examination of Nationwide Life and Annuity Insurance Company ("Company" or "Nationwide"), was prepared by employees of the Arizona Department of Insurance ("Department") as well as independent examiners contracting with the Department. A targeted market examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S. §§20-142, 20-156, 20-157, 20-158, and 20-159. The findings in this report, including all work products developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following components of the Company's annuity business:

1. Provide a proper "free look period" for annuity contracts.
2. Communicate all of the required disclosures relative to annuity contracts.
3. Use of proper replacement practices.

SCOPE AND METHODOLOGY

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The targeted market examination of the Company covered the period from October 1, 2004 through March 31, 2005 for the business reviewed. The purpose of the examination was to determine: (1) if the Company uses annuity applications and contracts that contain the appropriate notice regarding Free Look and premium refund requirements; (2) if the Company utilizes annuity replacement procedures and practices, and provides training to its producers that complies with the applicable statutes; (3) if the Company uses compliant procedures for processing annuity refunds requested during the Free Look and 30 day option period; and (4) if the Company provides the required disclosure documents, buyer's guide and annual reports on all annuity applications in compliance with the applicable statutes. This examination targeted the top 75% of the Arizona individual life and annuity insurance market.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examination by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of life and annuity new business files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company's Representative, Lorraine Diaz-Richardson, Compliance Analyst. Samples are tested for compliance with standards established by the National Association of Insurance Commissioners and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met". The standard in the areas of procedures, forms and policy forms use will not be met if any exception is identified.

EXECUTIVE SUMMARY

This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page seven.

The Company failed Standard No. 1 by using three annuity application forms and two annuity contract forms that failed to contain a Free Look Notice prominently printed on or attached to the first page of the application or contract that included a statement to the effect that contract holders age 65 or older have 30 days to return the annuity contract for a full refund of all monies paid.

The Company failed Standard No. 3 because:

1. It failed to have a procedure to send contract owners a letter advising the owner of the right to receive information about the existing contract values including, if available, an in-force illustration or a policy summary if an in-force illustration cannot be produced within five business days of receiving a replacement notice from another insurer, and if requested, to provide the

contract owner with this information within five business days of the receipt of a request from the contract owner.

2. It failed on six annuity replacement new business files to notify the applicant within ten days of the issuance of the contract or policy that the producer made a representation about using only sales materials that had been approved by the Company and that copies had been provided to the applicant.

The Company failed Standard No. 5 because:

1. It failed to provide the contract owner with quarterly statements that contained the cash surrender value at the end of the previous report period and at the end of the current report period.

The Company passed Standards Nos. 2 and 4.

STANDARD 1

The following Annuity Replacement and Disclosure Standard Failed:

| # | STANDARD | Regulatory Authority |
|----------|--|--------------------------------|
| 1 | Company annuity application and policy forms contain compliant notices concerning the policyholder's right to request benefit and contract provision information and the right to return the contract for a refund of premium. | A.R.S. § 20-1233(A), (B) & (C) |

The Examiners reviewed Nationwide's annuity application and policy forms to determine if those forms contained notices that state the policyholder's right to request information regarding benefit and contract provisions, and the right to return the contract for a refund of premium.

Procedures Performed:

During the Phase I Examination, the Examiners reviewed three annuity application forms, five annuity contact forms and a random sample of 23 of 133 Nationwide annuity new business application files.

Finding:

The Examiners issued a preliminary finding on two annuity application forms and two annuity contract forms that failed Standard 1. These forms failed to contain a Free Look notice that included a statement notifying contract holders age 65 years or older on the date of the application that they had 30 days after delivery in which to return the

annuity contract for a full refund of all monies paid. During their review of the 23 annuity files the Examiners identified one annuity application form that failed Standard 1 because the application contain a Free Look notice that failed to included a statement notifying contract holders age 65 years or older on the date of the application that they had 30 days after delivery in which to return the annuity contract for a full refund of all monies paid.

| Form Number |
|--------------------------------------|
| FHL 761-A QSFAQ/N (Standard)(1/2004) |
| FHL 767 NPL1Q/N STANDARD (1/2004) |
| FHL-767 NPL1Q/N STANDARD (09/02) |
| FHL 766-3 |
| FHL 760-3A |

ANNUITY CONTRACTS AND APPLICATION FORMS

| Number of Exceptions | Population Reviewed | Percentage | Applicable Statute |
|----------------------|---------------------|------------|--------------------|
| 5 | Form Review | N/A | A.R.S. §20-1233(A) |

Recommendation No. 1

Within 90 days of the filed date of this report, provide documentation that procedures and controls are in place to ensure that the Company uses annuity application forms and annuity contract forms that contain a compliant Free Look notice.

STANDARD 3

The following Annuity Replacement and Disclosure Standards Failed:

| # | STANDARD | Regulatory Authority |
|---|--|---|
| 3 | Company rules pertaining to producer and company replacement requirements are in compliance with applicable statutes, rules and regulations. | A.R.S. § 20-1241.02; 20-1241.04, 20-1241.05, 20-1241.06, and 1241.07. |

The Examiners reviewed Nationwide's procedures pertaining to producer and Company requirements in connection with replacement of annuity contracts.

Procedures Performed:

During the Phase I Examination, the Examiners reviewed the information provided by the Company in response to the Coordinator's Handbook Attachments A and B, Interrogatories, and follow-up requests.

The Examiners reviewed a random sample of 13 of 121 Nationwide annuity new business application files selected from the issued new business, external replacement new business and internal replacement new business populations.

Finding:

During the Phase I portion of the examination, in response to the Department's inquiry, the Company failed to have a procedure in place to send contract owners a letter, within five business days of receiving a replacement notice from another insurer, advising the owner of the right to receive information about the existing contract values including, if available, an in-force illustration or a policy summary if an in-force illustration cannot be produced and to provide the contract owner with this information within five business days of the receipt of a request from the contract owner.

Six (100.0%) of six annuity internal and external replacement new business files failed Standard 3 because the Company failed to notify the applicant within ten days of the issuance of the contract that the producer made a representation, that only approved sales materials were used and that the producer had provided copies of those sales materials to the applicant.

COMPANY AND PRODUCER REQUIREMENTS REGARDING REPLACEMENT

| Number of Exceptions | Population Reviewed | Percentage | Applicable Statute |
|----------------------|---------------------|------------|--------------------------|
| 1 | Company Procedures | NA | A.R.S. §20-1241.06(A)(2) |
| 6 | 6 | 100.0% | A.R.S. §20-1241.05(G)(2) |

An error ratio greater than 5% does not meet standards; therefore recommendations are warranted.

Recommendation No. 2

Within 90 days of the filed date of this report, provide documentation that procedures and controls are in place to ensure that the Company:

- a. Sends contract owners, within five business days of receiving a replacement notice from another insurer, a letter advising the owner of the right to receive information about the existing contract values.

- b. Notifies applicants, within ten days of the issuance of the contract, that the producer made a representation, that only approved sales materials were used and that the producer had provided copies of those sales materials to the applicant.

STANDARD 5

The following Life Insurance and Annuity Replacement and Disclosure Standard

Failed:

| # | STANDARD | Regulatory Authority |
|---|--|-------------------------------------|
| 5 | Company rules pertaining to providing disclosure documents, buyer's guides, and annual reports to contract owners are in compliance with applicable statutes, rules and regulations. | A.R.S. § 20-1242.02 and 20-1242.03. |

The Examiners reviewed Nationwide's procedures regarding the Company providing compliant disclosure documents, buyer's guides and annual reports to contract owners.

Procedures Performed:

The Department's procedures included a review of the information provided by the Company in response to the Coordinator's Handbook Attachments A and B, Interrogatories and follow-up requests sent to the Company by the examiner regarding the Attachment A and B materials.

Finding:

Quarterly statements provided to contract owners of annuity contracts failed to contain the cash surrender value at the end of the previous report period and at the end of the current report period.

COMPANY AND PRODUCER REQUIREMENTS REGARDING REPLACEMENT

| Number of Exceptions | Population Reviewed | Percentage | Applicable Statute |
|----------------------|---------------------|------------|--------------------|
| 1 | Company Procedures | N/A | A.R.S. §20-1242.03 |

Recommendation No. 3

Within 90 days of the filed date of this report, provide documentation that procedures and controls are in place to ensure that the Company:

- a. Provides quarterly statements to contract owners of annuity contracts which contain the cash surrender value at the end of the previous report period and at the end of the current report period.

SUMMARY OF STANDARDS

| # | STANDARD | PASS | FAIL |
|---|--|------|------|
| 1 | Company annuity application and policy forms contain compliant notices concerning the policyholder's right to request benefit and contract provision information and the right to return the contract for a refund of premium. | | X |
| 2 | Company producer training procedures and materials regarding replacement of existing coverage are in compliance with applicable statutes, rules and regulations. | X | |
| 3 | Company rules pertaining to producer and company replacement requirements are in compliance with applicable statutes, rules and regulations. | | X |
| 4 | Company procedures for processing refunds under the "Free Look" option, or the 30 day option, if the application involved replacement of existing coverage, are in compliance with applicable statutes, rules and regulations. | X | |
| 5 | Company procedures that require disclosure documents, buyer's guides and annual reports be provided to contract owners are in compliance with applicable statutes, rules and regulations. | | X |