

ORDER NO. E12-47

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of)
Banking and Insurance, State of New)
Jersey, with respect to Aviva Life and Annuity)
Company, NAIC No. 61689)

CONSENT
ORDER

TO: Aviva Life and Annuity Company
7700 Mills Civic Parkway
West Des Moines, IA 50266-3862

This matter, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon the filing of a Market Conduct Examination Report ("the Report") containing the results of the May 1, 2010 through April 30, 2011 examination of annuity replacement, suitability and advertising practices of Aviva Life and Annuity Company, ("the Company") performed by the Department of Banking and Insurance ("Department") pursuant to the authority provided at N.J.S.A. 17:23-20 et seq.; and

WHEREAS, the market conduct examination revealed certain instances, as fully set forth in the Report, where the Company's practices did not accord fully with various provisions of New Jersey insurance statutes or regulations; and

WHEREAS, based on the documentation and information submitted by the Company, the Department is satisfied that the Company has taken or will take corrective measures pursuant to the recommendations of the Report.

NOW, THEREFORE, IT IS on this 20th day of April, 2012

ORDERED AND AGREED that the attached Report will be adopted and filed as an official record of the Department; and

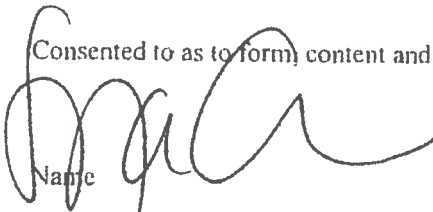
IT IS FURTHER ORDERED AND AGREED that Company shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report; and

IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24d(1), within 30 days of the adoption of the Report, the Company shall file an affidavit with the Department's Market Conduct Unit, stating under oath that each director received a copy of the adopted Report.



Kenneth E. Kobylowski
Acting Commissioner

Consented to as to form, content and entry



Name

Date: 4.20.12

03/19/2012 10:08 AM

MARKET CONDUCT EXAMINATION

of

AVIVA LIFE AND ANNUITY COMPANY,

located in

WEST DES MOINES, IOWA

as of

October 3, 2011

by **EXAMINERS**

of the

STATE of NEW JERSEY

DEPARTMENT of BANKING and INSURANCE

OFFICE of CONSUMER PROTECTION SERVICES

**MARKET CONDUCT EXAMINATION UNIT & ANTI-FRAUD
COMPLIANCE**

DATE REPORT ADOPTED: APRIL 24, 2012

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I. INTRODUCTION

This is a report of the Market Conduct activities of Aviva Life and Annuity Company (hereinafter referred to as "Aviva" or "the Company"). In this report, examiners of the New Jersey Department of Banking and Insurance (hereinafter "the Department" or "DOBI") present their findings, conclusions and recommendations as a result of their market conduct examination.

A. SCOPE AND PURPOSE OF THE EXAMINATION

The examiners reviewed fixed immediate and deferred annuity contracts that the Company issued in New Jersey during the period May 1, 2010 to April 30, 2011. The examiners conducted the review at their Trenton, New Jersey office between July 11, 2011 and October 3, 2011.

On various dates thereafter, the examiners completed their report writing in Trenton, New Jersey. The Market Conduct Examiners were Examiner-in-Charge Marleen Sheridan, Ralph J. Boeckman, and William Sonntag.

The examiners reviewed records from computer listings and documents provided by the Company. The examiners used the National Association of Insurance Commissioner's (NAIC) Market Conduct Handbook, Chapter XIX— Conducting the Life and Annuity Examination as a guide to examine the Company and write this report.

B. ERROR RATIOS

Error ratios are the percentage of files that the examiners found to be handled in error. Each file either mishandled or not handled in accordance with applicable state statutes or regulations is an error. Even though a file may contain multiple errors, the examiners counted the file only once in calculating the error ratios; however, any file that contains more than one error will be cited more than once in the report. In the event that the Company corrected an error as a result of a consumer complaint or due to the examiners' findings, the error is included in the error ratio. If the Company corrects an error independent of a complaint or DOBI intervention, the error is not included in the error ratios.

For purposes of the electronic database analyses, the examiners define an exception as a record in a database that does not meet specific criteria as set forth in database queries. The file or record has not been reviewed in depth by an examiner.

Whenever the examiners find that a company commits a type of error with sufficient frequency, they will cite the errors as an improper general business practice. If an error constitutes an improper general business practice, the examiners have stated this in the report.

The examiners sometimes find improper general business practices of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such a practice would not be in compliance with applicable law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report whenever they did not count any particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. This provided Aviva the opportunity to respond to the examiners' findings and provide exception to the errors cited or mishandling of files reported herein. In response to these inquiries, Aviva neither agreed nor disagreed with some of the errors cited in this report. On other errors or issues in which the Company disagreed, the examiners evaluated the merits of each response and gave due consideration to all of its comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries.

C. COMPANY PROFILE

Aviva USA Corporation (Aviva USA), headquartered in West Des Moines, Iowa, is an indirect wholly owned subsidiary of Aviva plc, a public limited company incorporated under the laws of England and Wales. The principal business activities of Aviva plc and its subsidiaries are long-term savings, general insurance and asset management. Aviva plc, provider of life and pension products in Europe (including the United Kingdom), has positions in other markets around the world (including North America and Asia).

Through its subsidiary insurers, Aviva USA primarily markets and distributes individual life, annuity and insurance deposit products to individuals and small businesses in all 50 U.S. states and the District of Columbia. Aviva USA's principal insurance company subsidiary, Aviva Life and Annuity Company (ALAC), is domiciled in Iowa and is licensed and writes products in all U.S. states, except New York and the District of Columbia. Aviva USA and ALAC also have a New York domiciled insurance company subsidiary, Aviva Life and Annuity Company of New York, which primarily writes products in New York.

Aviva USA and its subsidiary insurers have two operating segments, protection products and asset accumulation products. Through the protection products segment, Aviva USA and its subsidiary insurers offer customers traditional life insurance products, including term life insurance, universal life insurance and indexed universal life insurance. Through the asset accumulation products segment, Aviva USA and its subsidiary insurers offer individual deferred fixed annuities, including indexed annuities.

The Company was originally incorporated in 1896 as an Iowa domiciled mutual company under the name Central Life Assurance Society of the United States. It was reorganized as a stock company in 1902, and in 1919 the Company was re-mutualized and the word (Mutual) was added to its name. Its name was shortened to Central Life Assurance Society (Mutual) in 1924 and to Central Life Assurance Company in 1950. In 1994, American Mutual Life Insurance Company was merged with and into the Company; although the Company was the surviving entity it changed its name to American Mutual Life Insurance Company in connection with this merger. A mutual insurance holding company restructuring was completed in 1996 in which the Company became a stock life insurance company, changed its name to AmerUS Life Insurance Company, and became a wholly owned subsidiary of American Mutual Holding Company. In connection with a demutualization transaction completed in 2000, the Company's parent, American Mutual Holding Company, changed its name to AmerUS Group Co. and converted from a mutual holding company to a stock corporation. In November of 2006, AmerUS Group Co. was acquired by Aviva plc.

Aviva's presence in the U.S. increased with the completion of the acquisition of AmerUS Group Co. and its subsidiary life insurance companies, which include: the Company, American Investors Life Insurance Company, Inc. (AIL), a Kansas domiciled insurance company, Indianapolis Life Insurance Company (ILICO), an Indiana-domiciled insurance company, and Bankers Life Insurance Company of New York (BLNY), a New York domiciled insurance company and subsidiary of ILICO. Prior to the AmerUS Group acquisition, Aviva's U.S. operations were headquartered in Quincy, Massachusetts and conducted through Aviva Life Insurance Company, a Delaware domiciled insurance company, and Aviva Life Insurance Company of New York (ALICNY), a New York domiciled insurance company.

Since the acquisition of AmerUS Group, significant organizational and operational initiatives have been completed to integrate Aviva's U.S. business. The Company changed its name to Aviva Life and Annuity Company on November 1, 2007. On December 31, 2007, ALICNY was merged with and into BLNY, and in connection with that merger BLNY

changed its name to Aviva Life and Annuity Company of New York. On January 1, 2008, the Company's parent, AmerUS Group Co., changed its name to Aviva USA Corporation. ILICO and ALIC were merged with and into the Company effective September 30, 2008, and AIL was merged with and into the Company effective September 30, 2009. Aviva's U.S. life insurance and annuity business is now conducted under a common brand through two operating life insurance companies, the Company and its New York domiciled subsidiary, Aviva Life and Annuity Company of New York.

II. REPLACEMENT FILE REVIEW

A. INTRODUCTION

N.J.A.C. 11:4-2 et seq. governs insurer and agent replacements of existing annuity contracts (both within the same company and between two different companies). This regulation protects the interests of annuity contract holders by establishing minimum standards of agent and insurer conduct.

N.J.A.C. 11:4-2.2 defines Replacement “as a transaction in which a new policy or contract is to be purchased, and is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy has been or is to be:

1. lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. converted to reduced paid-up insurance, continued on extended term insurance, or otherwise reduced in value by the use of non-forfeiture benefits or other contract values;
3. amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. reissued with any reduction in cash value; or
5. used in a financed purchase.

N.J.A.C. 11:4-2.2 defines Financed Purchase as the purchase of a new policy involving the use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay premiums on a new policy owned by the same policyholder and issued by the same company four months before and 13 months after the effective date of the new policy.

One focus of this examination was a population review of the replacement activities of Aviva Life and Annuity Company. The examiners placed emphasis on the Company’s ability to recognize and identify as replacements, all policy loans defined as a financed purchase. The Company provided the examiners with its replacement log that contained 24 annuity replacement policies that the Company wrote between May 1, 2010 and April 30, 2011

B. EXAMINER'S FINDINGS

The examiners' review indicates that Aviva has a series of procedures in place to detect replacements. The applications for annuity contracts solicit pertinent questions regarding existing contracts and the funding of new contracts. Aviva monitors replacement activity by reviewing the ratio of replacements for a producer's new business, customer complaints and inquiries from other companies. Additionally, replacements are subject to review by the Company's Suitability Review Team.

C. DATABASE ANALYSIS

The examiners requested from Aviva a transaction database of fixed, in force annuity contracts for the period May 1, 2010 through April 30, 2011. The database contained specific information regarding households with existing Aviva annuity contracts as well as households without any existing Aviva products. In addition, the Company provided the examiners with a new business database and the Company's replacement records.

The Company provided the following information for each contract: the annuitant's name, annuitant's date of birth and social security number, contract number, contract issue date, contract type (deferred or immediate), premium, issue date, name of agent, withdrawal amount and the surrender penalty. The examiners were particularly interested in the Company's systems for monitoring replacement transactions and the Company's ability to identify funds from existing policies utilized to finance a new policy.

The examiners developed a series of computer queries to obtain certain information from the aforementioned databases. These queries provided the examiners with the following information:

1. Total New Jersey annuities in force during review period is 2,485 as follows:

<u>In force Category</u>	<u>Number of Annuities</u>	<u>Percent of Total</u>
Unmatched (one contract per household)	1,553	62%
Matched (more than one per household)	<u>932</u>	38%
Total in force	2,485	100%

2. New annuities issued in New Jersey during the review period is 24 as follows:

<u>In force Category</u>	<u>Number of Annuities</u>	<u>Percent of Total</u>
Unmatched (one contract per household)	18	75%
Matched (more than one per household)	<u>6</u>	25%
Total New Policies	24	100%

3. Total annuity replacements is 8 as follows:

<u>Type of Replacement</u>	<u>Number of Policies</u>	<u>Percent of Total</u>
External Replacements	6	75%
Internal Replacements	<u>2</u>	25%
Total	8	100%

Based on the statistics presented above, 62% of Aviva's annuity book of business is comprised of one annuity households (unmatched business), and 38% of its book of business consists of two or more annuities per household (matched business).

The examiners also noticed that replacements accounted for 33% (8/24=33%) of all new business written during the review period. Of these, internal replacements accounted for 8% (2/24=8%) of all new policies, and external replacements accounted for 25% (6/24=25%). Based on the databases provided by the Company, the examiners found no indication of excessive internal or external replacement activity.

The examiners reviewed all eight replacements for compliance with **N.J.A.C. 11:4-2.3** through **N.J.A.C. 11:4-2.7** and found no errors. This regulation governs mandatory informational disclosures to consumers.

III. SUITABILITY OF ANNUITY CONTRACTS

A. INTRODUCTION

The examiners reviewed randomly selected annuity files from Aviva's database of 2,485 fixed annuity contracts that were in force during the review period of May 1, 2010 to April 30, 2011. As part of the exam, the examiners checked for compliance with N.J.S.A. 17B:25-20 (Standard Nonforfeiture Law for Individual Deferred Annuities)

From the above population, the examiners extracted and reviewed all 24 new business files that were written after the April 1, 2009 effective date of N.J.S.A. 17B:25-38. This statute identifies an insurer's obligation to analyze the extent to which an annuity is suitable and applicable to the needs and concerns of the consumer.

B. ERROR RATIOS

<u>Type of Review</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Random Reviews			
New Business	24	0	0%
Renewal Files	<u>72</u>	<u>0</u>	0%
Total	96	0	0%

C. EXAMINERS' FINDINGS

According to N.J.S.A. 17B:25-38b(1), an insurer or an agent shall not negotiate or sell an annuity to a consumer unless the insurer or agent has reasonable grounds for believing that the annuity is suitable for the consumer. This belief must be based on the facts disclosed by the consumer as to the consumer's investments, other insurance products, financial situation and objectives.

N.J.S.A. 17B:25-38b(2) requires an insurer or an agent to make reasonable efforts to obtain and record certain information prior to selling an annuity. The recorded information must include:

- (a) the consumer's financial status;
- (b) the consumer's tax status;
- (c) the consumer's investment objectives;

(d) any other information considered relevant by the insurer or agent to provide reasonable grounds for believing the annuity is suitable for the consumer;

(e) the consumer's acknowledgement:

(i) that the annuity and solicitation, negotiation and sale of the annuity concerning its suitability are subject to regulatory oversight by NJDOBI;

(ii) of receipt of appropriate contact information for NJDOBI's consumer assistance services.

According to N.J.S.A. 17B:25-38b(3), the reasonable grounds for an insurer or agent for believing the annuity is suitable for the consumer shall be based upon all relevant information and circumstances of the consumer actually obtained or known and recorded, during the time of any negotiation or offer of sale on the annuity.

Additionally, N.J.S.A. 17B:25-20 requires that: 1) surrender charges must be zero at the end of a guarantee period; 2) the contract holder has the option to continue the contract without surrender charges; 3) the contract holder must elect to have a new guarantee period and that guaranteed period must be 10 years or less.

The examiners reviewed a random sample of 72 renewal files for compliance with N.J.S.A. 17B:25-20. Additionally, the examiners reviewed all 24 new business files regarding the suitability of annuity sales and the procedures and standards the Company has implemented to comply with the requirements of N.J.S.A. 17B:25-38. The examiners found that the Company is in compliance with the applicable Statutes.

D. SUITABILITY OVERSIGHT

N.J.S.A. 17B:25-38c(1)-(3) requires an insurer to establish and maintain a system of supervision concerning the negotiation and sale of annuities directly negotiated and sold by the insurer to assure compliance with the consumer suitability requirements set forth in the statute. The system shall include but not be limited to a written set of procedures concerning the negotiation and sale of annuities. There shall also be periodic reviews of information as set forth by the Commissioner to assist in detecting and preventing violations. If an insurer authorizes a third party to act on its behalf, the insurer shall make reasonable inquiry to assure that its third party establishes and maintains a system of supervision.

The system of supervision that Aviva utilizes consists of two layers of review. The New Business Team conducts the first layer of review. The team reviews agent recommendations for the annuity as well as all agent-

submitted suitability forms for completeness and red flags. The team then communicates directly with the agent or applicant as needed. The suitability forms contain information regarding the applicant's assets, liabilities, liquidity, financial goals and other financial and insurance products that the applicant owns. Additionally, the suitability forms include information regarding how the recommended annuity will help the applicant achieve each goal, if the new annuity will replace an existing annuity or other life product and if there are any tax consequences for the applicant with the recommended annuity. Red flags can include; minimal net worth, inconsistent information and lack of liquidity or emergency funds.

The Suitability Review Team (SRT) conducts the second layer of the review process. The SRT reviews the information that is forwarded by the New Business team and has decision making authority as to whether the producer had reasonable grounds for believing the sales recommendation was suitable for the consumer. This decision is based upon the facts disclosed by the consumer. The decision of the SRT is communicated to the New Business department and, as needed, the selling agent. If the application is declined, a letter and a refund of the premium are sent to the applicant. There are three ways applications are chosen to be reviewed under layer two by the SRT: 1) red flags identified by the New Business team; 2) Randomly selected applications from the New Business work queue; 3) Applications selected according to specific targets based on risk profiles identified by Aviva.

Lastly, the company utilizes a total of eleven suitability forms and various compliance manuals to assure product suitability. The examiners also reviewed these documents.

Overall, the examiners' review concluded that the Company's stated system of supervision regarding the negotiation and sale of annuities is in compliance with the above noted statute. The examiners found no suitability errors at the contract level.

IV. ADVERTISING AND FORMS

A. INTRODUCTION

Aviva provided the examiners with 52 advertising and marketing materials that the Company utilized to solicit annuities during the review period. The examiners reviewed all 52 advertisements for compliance with N.J.A.C. 11:2-23.1 et seq. (regulations governing advertisement of annuities), and N.J.S.A. 17B:30-3 and 4 (statutes prohibiting misrepresentation, false information and false advertising). The examiners also checked the Company's Buyer's Guide and other forms for compliance with N.J.S.A. 17B:25-37 and N.J.S.A. 17B:17-17 et seq. (policy language simplification), N.J.A.C. 11:4-40 and N.J.A.C. 11:4-43 (annuity forms). Additionally, the examiners reviewed requisite annuity contract disclosures pursuant to N.J.S.A. 17B:25-37c(1).

B. ERROR RATIOS

<u>Type of Review</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Advertisements	52	15	29%
Buyer's Guide & Disclosure Forms	8	0	0%
Forms	<u>12</u>	<u>0</u>	0%
Total	72	15	21%

C. EXAMINERS' FINDINGS

1. Failure to Use Recent Statistical Information in Advertisements - 15 Files in Error

N.J.A.C. 11:2-23.5(I) requires insurers to utilize recent statistical information and relevant facts in advertisements.

The examiners reviewed brochures titled Interest Crediting Strategies for Income Select Annuities 5, 7 and 10 (where 5, 7 and 10 reflect years to maturity). Each of these three brochures contained pocket inserts for five Interest Crediting Strategies which included hypothetical examples that utilized a 20 year interest period ending December 31, 2007.

The examiners found that Aviva's fifteen hypothetical strategy examples should have been updated to reflect a more recent 20 year period ending December 31, 2009, rather than an outdated period ending December 31, 2007.

See Appendix A1 for a List of Files in Error

2. Requisite Annuity Contract Disclosure Statements

N.J.S.A. 17B:25-37c requires that an insurance company provide a consumer with an annuity contract disclosure statement, which shall be a separate document from the annuity. **N.J.S.A. 17B:25-37c(1)(c)** and **N.J.S.A. 17B:25-37c(1)(f)** and **(g)** require the disclosure statement to include, in part, a statement that the product is an annuity, the definition of an annuity, a summary of the 10-day free look period and a statement that the annuity and solicitation, negotiation and sale are subject to the Department's regulatory oversight with DOBI's consumer assistance contact information affirmatively provided to the consumer.

Contrary to the above statute, the examiners found that Aviva's Select 5, 7 and 10 annuity contract disclosure statements (10/09 and 01/11) do not define an annuity; do not specify that the free look cancel period is ten days; does not mention that DOBI has regulatory oversight on annuity content, solicitation and sale; and further fails to provide any contact information for the consumer's assistance.

In response to an inquiry, Aviva stated that the required information is provided to the consumer at the time of sale, in the Buyer's Guide and the Suitability form. Although this method is technically inconsistent with the above statute, the examiners did not include this error in the error ratio because the required disclosures were given, albeit without proper format. The Company advised the examiners that it will revise the required disclosure statement to include this information.

V. AGENT LICENSING REVIEW

A. INTRODUCTION

According to N.J.S.A. 17:22A-26 et seq., a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for a specific line or lines of authority. N.J.S.A. 17:22A-42c requires an insurance company to file a Notice of Appointment with the Department providing the licensed agent's name, business address and any limitations on their authority.

N.J.A.C. 11:17-2.9(a)2 requires an insurer contracting with a licensed insurance producer to file a notice of the business relationship with the Department within 15 days after contract execution or within 15 days after the agent submits the first insurance application on a form prescribed by the Department or by using the National Insurance Producer Registry online appointment system.

During the review period, 1,583 agents were appointed to Aviva. Of these, only 14 actually wrote new business in New Jersey. The examiners reviewed the records of all 14 Aviva agents who sold annuities during the review period beginning May 1, 2010 through April 30, 2011. The purpose of the review was to determine if the agents were properly licensed and if the Company filed the required documentation with the New Jersey Department of Banking and Insurance.

B. EXAMINERS' FINDINGS

1. Failure to File Agent Appointment Notice with the Department - 2 Files in Error

N.J.S.A. 17:22A-42c requires an insurance company to file a Notice of Appointment with the Department providing the licensed agent's name, business address and any limitations on their authority. N.J.A.C. 11:17-2.9(a)2 requires an insurer contracting with a licensed insurance producer to file a notice of the business relationship with the Department within 15 days after contract execution or within 15 days after the agent submits the first insurance application. The examiners found that Aviva did not provide the Department with a copy of the Appointment Notice for two agents writing new business during the review period, contrary to the statute and the regulation.

See Appendix B1 for the Files in Error

VI. RECOMMENDATIONS

Aviva should inform all employees, including all outside sales staff who may have handled the areas cited in this report, of the examiners' findings. The New Jersey Department of Banking and Insurance recommends the remedial measures listed below and that the Company establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, more errors may have occurred.

If any non-compliant practices were identified in this report, some of which may extend to other jurisdictions, the Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

The examiners acknowledge that during the examination, Aviva agreed and had already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

A. GENERAL INSTRUCTIONS

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of Market Conduct Examinations and Anti-Fraud Compliance Unit, 20 West State Street, PO Box 329, Trenton, NJ 08625, within thirty (30) days of the date of the adopted report.

B. ADVERTISING AND FORMS

1. Aviva must issue written instructions to all appropriate personnel stating that N.J.A.C. 11:2-23.5(1) requires all statistical information in advertisements to reflect recent and relevant facts.
2. The Company must provide the Commissioner with revised copies of the Interest Crediting Strategies pocket inserts identified in Appendix A of this report. Revisions should reflect results that are more recent than December 31, 2007.

3. The Company should advise all appropriate personnel in writing that N.J.S.A. 17B:25-37c(1)(c),(f) and (g) require in part that an insurer's annuity contract disclosure statement include: 1) the definition of an annuity; 2) a summary of the 10-day free look period; 3) a statement that the annuity, solicitation, negotiation and sale are subject to the Department's regulatory oversight; and 4) information necessary for the consumer to contact DOBI's consumer assistance services. This advisement should also remind appropriate staff that N.J.A.C. 11:4-59.4(d), effective June 6, 2011, requires all insurers to file for Departmental approval all contract disclosure statement forms.
4. Aviva must provide to the Commissioner a revised copy of the annuity contract disclosure statement. Consistent with its filing relative to N.J.A.C. 11:4-59.4(d) as referenced above, notwithstanding additional requirements specified under N.J.S.A. 17B:25-37c(1)(c), this statement must include the information outlined in recommendation 3 above. .

C. AGENT LICENSING

5. The Company should issue a written reminder to all appropriate personnel stating that, pursuant to N.J.S.A. 17:22A-42c, an insurance company is required to file a Notice of Appointment with the Department providing the licensed agent's name, business address and any limitations on the agent's authority. This reminder should also state that N.J.A.C. 11:17-2.9(a)2 requires an insurer contracting with a licensed insurance producer to file a notice of the business relationship with the Department within 15 days after contract execution or within 15 days after the agent submits the first insurance application or by using the National Insurance Producer Registry online appointment system.

APPENDIX A – ADVERTISING AND FORMS

1. Failure to Use Recent Statistical Information in Advertisements - 15 Files in Error

<u>Affiliated Form</u>	<u>Title of AD</u>	<u>Index</u>
I55324 Income Select 5	1-Year Monthly Cap Index Strategy	S&P 500
I55324 Income Select 5	1-Year Point to Point Index Strategy	S&P 500
I55324 Income Select 5	1-Year Point to Point Index Strategy	EURO Stoxx 50
I55324 Income Select 5	1-Year Point to Point Index Strategy	Hang Seng
I55324 Income Select 5	1-Year Point to Point Participation Index Strategy	S&P 500
I55325 Income Select 7	1-Year Monthly Cap Index Strategy	S&P 500
I55325 Income Select 7	1-Year Point to Point Index Strategy	S&P 500
I55325 Income Select 7	1-Year Point to Point Index Strategy	EURO Stoxx 50
I55325 Income Select 7	1-Year Point to Point Index Strategy	Hang Seng
I55325 Income Select 7	1-Year Point to Point Participation Index Strategy	S&P 500
I55326 Income Select 10	1-Year Monthly Cap Index Strategy	S&P 500
I55326 Income Select 10	1-Year Point to Point Index Strategy	S&P 500
I55326 Income Select 10	1-Year Point to Point Index Strategy	EURO Stoxx 50
I55326 Income Select 10	1-Year Point to Point Index Strategy	Hang Seng
I55326 Income Select 10	1-Year Point to Point Participation Index Strategy	S&P 500

APPENDIX B – AGENT LICENSING

1. Failure to File Agent Appointment Notice With the Department - 2 Files in Error

Agent License Number	NPN	Effective Date of Annuity Contract	Appointment Date	Days Beyond 15
1045067	249643	6/9/2010	8/9/2011	411
8301982	5710875	6/7/2010	1/6/2011	198

VII. VERIFICATION PAGE

I, Marleen Sheridan, am examiner-in-charge of the Market Conduct Examination of Aviva Life and Annuity Company conducted by the examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as required in my official capacity.

The findings, conclusions, and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct Examination of Aviva Life and Annuity Company as of October 3, 2011.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

January 3, 2012

Date

Marleen Sheridan

Marleen Sheridan
Examiner-in-Charge
New Jersey Department
Banking and Insurance