

STATE OF ARIZONA
FILED

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DEPT. OF INSURANCE

REPORT OF TARGETED EXAMINATION
OF
FIDELITY AND GUARANTY LIFE INSURANCE COMPANY

NAIC# 63274

AS OF

MARCH 31, 2005

TABLE OF CONTENTS

SALUTATION3

AFFIDAVIT4

FORWARD5

SCOPE AND METHODOLOGY5

EXECUTIVE SUMMARY6

STANDARD 17

STANDARD 39

STANDARD 512

SUMMARY OF STANDARDS14



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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:

FIDELITY AND GUARANTY LIFE INSURANCE COMPANY

NAIC # 63274

The above examination was conducted by James R. Dargavel, FLMI, CIE, Examiner-in-Charge, Mel Mohs, CIE, 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.

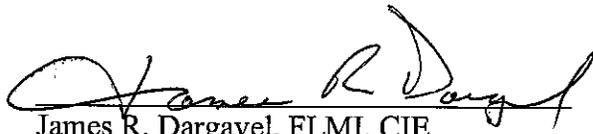
Sincerely yours,


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

AFFIDAVIT

STATE OF ARIZONA)
)
County of Maricopa) ss.

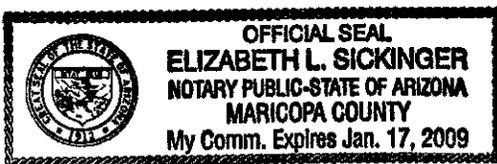
I, James R. Dargavel, FLMI, CIE, being first duly sworn state that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Mel Mohs, CIE, Senior Market Examiner and Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, the Examination of Fidelity and Guaranty Life 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 2nd day of November, 2006.


Notary Public

My Commission Expires Jan. 17, 2009



FOREWARD

This targeted market examination of Fidelity and Guaranty Life Insurance Company (“Company” or “F&G”) 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 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, Ms. Mildred C. Allen, Compliance Paralegal. Samples are tested for compliance with standards established by the NAIC 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 because:

It used five annuity application forms, nine annuity contract forms and a separate free look notice form that failed to include a free look notice that contained a statement notifying contract holders that, upon written request, the insurer is required to provide within a reasonable time reasonable factual information regarding the benefits and provisions of the annuity contract to the contract holder.

The Company failed Standard No. 3 because:

1. It failed to provide a procedure to require a statement, signed by the producer, attesting that the producer used only approved sales materials in connection with a replacement transaction.
2. It failed to provide a procedure to notify the applicant that the producer made a representation that only approved sales materials were used and that the producer had provided copies to the applicant, within 10 days of the issuance of the contract.

3. It failed to provide a procedure, as the existing insurer, to advise the contract owner of the right to receive information about the existing contract values, within five business days of receiving a replacement notice.
4. It failed on 82 annuity new business issue, external and internal replacement applications to obtain an answer to the question of whether the applicant had any existing life insurance or annuities.
5. It failed on nine annuity new business issue, external and internal replacement applications to obtain the required replacement notice.
6. It failed on 85 annuity new business issue, external and internal replacement applications, when the required information on existing life insurance or annuities and the required replacement notice were not received, to notify the producer and applicant that outstanding requirements need to be fulfilled.
7. It failed on 62 annuity new business external and internal replacement applications to require, with the application, a statement signed by the producer stating that the producer used only sales material which had been approved by the Company.
8. It failed on 62 annuity new business external replacement applications, to notify the applicant that the producer made a representation that only approved sales materials were used and that the producer had provided copies to the applicant, within 10 days of the issuance of the contract.

The Company failed Standard No. 5 because it failed to provide the annuity buyer's guide at or before the time of application.

The Company passed Standards No. 2 and 4.

STANDARD 1

The following Life Insurance and 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 F&G'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 seven annuity application forms, nine annuity contract forms, one separate free look form and a random sample of 32 of 824 F&G annuity new business application files selected from the new business issued, external and internal replacement and free look canceled populations. During the Phase II Examination, the Examiners reviewed an additional 53 new business issued files and 51 external replacement files selected randomly from the above listed population.

Findings:

The Examiners issued a preliminary finding on five annuity application forms, nine annuity contract forms and one separate annuity free look form that failed Standard 1. The forms contained a free look notice that failed to state that upon written request, the insurer is required to provide within a reasonable time reasonable factual information regarding the benefits and provisions of the annuity contract to the contract holder.

Application Form Number	Contract Form Number	Separate Free Look Form
FGLI 5007 (05-2004)	FGL FPDA-L-C (2003)	ADMIN EFLN-30 (1-04) AZ
FGLI 4868 (07-2002)	FGL-FPDEIA-CEO3-C (9-2002)	
ADMIN 5160 (09-2003)	FGL-SPDEIA-CEO3C-F-C (4-04)	
ADMIN 5244 (2005)	FGL-SPDEIA-CEO3-C-F (5-04)	
FGLI 4656 (02-2001) Rev. 06-2004	FGL FPDA2003-C	
	FGL FPDA-EIA-C (2005)	
	FGL SPDA MY-F-C (6-04)	
	FGL FPDA-ST-C (6-04)	
	FGL SPIA-C (5-04)	

ANNUITY CONTRACTS AND APPLICATION FORMS

Number of Exceptions	Population Reviewed	Percentage	Applicable Statute
15	Application, Contract and Separate forms	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, annuity contract forms and annuity separate forms that contain a compliant Free Look notice.

STANDARD 3

The following Life Insurance and Annuity Replacement and Disclosure Standard 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 F&G'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.

During the Phase I Examination, the Examiners reviewed a random sample of 22 of 806 F&G annuity new business application files selected from the issued new business, external replacement new business and internal replacement new business populations. During the Phase II Examination, the Examiners reviewed an additional 53 issued new business files and 51 external replacement new business files selected randomly from the above listed population.

Findings:

The Company failed Standard 3 because, based on the procedures provided, it failed to require a statement, signed by the producer, attesting that the producer used only approved sales materials in connection with a replacement transaction.

The Company failed Standard 3 because, based on the procedures provided, it failed to require notification of the applicant within ten days of the issuance of the contract:

a) That the producer made a representation that only approved sales materials were used during the sales presentation and that copies were left with the applicant.

b) To provide the applicant with a toll free number to contact insurer personnel responsible for regulatory compliance if the insurance producer did not leave sales materials.

c) To advise the applicant that it is important to retain copies of the sales material for future reference.

The Company failed Standard 3 because, based on the procedures provided, it failed, as the existing insurer, to advise the contract owner of the right to receive information about the existing contract values, within five business days of receiving a replacement notice.

Eighty two of 126 (65.1%) annuity issue, external and internal replacement new business files reviewed failed Standard 3 because the Company used annuity applications that failed to answer the question as to whether the applicant had any other annuities or life insurance currently in force or applied for.

Nine of 126 (7.1%) annuity issue, external and internal replacement new business files reviewed failed Standard 3 because the Company failed to obtain the required replacement notice, or accepted an incomplete replacement notice or a notice not approved or prescribed by the director.

Eighty five of 126 (67.5%) annuity issue, external and internal replacement new business files reviewed failed Standard 3 because the Company accepted annuity applications that were incomplete or failed to obtain the required replacement notice and failed to notify the producer and applicant that outstanding requirements need to be fulfilled.

Sixty two of 63 (98.4%) annuity external and internal replacement new business files failed Standard 3 because the Company failed to require, with the application, a statement signed by the producer stating that the producer used only sales material which had been approved by the Company.

Sixty two of 62 (100%) annuity 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:

a) That the producer made a representation that only approved sales materials were used during the sales presentation and that copies were left with the applicant.

b) To provide the applicant with a toll free number to contact insurer personnel responsible for regulatory compliance if the insurance producer did not leave sales materials.

c) To advise the applicant that it is important to retain copies of the sales material for future reference.

COMPANY AND PRODUCER REQUIREMENTS REGARDING REPLACEMENT

Number of Exceptions	Population Reviewed	Percentage	Applicable Statute
1	Procedures	N/A	A.R.S. §20-1241.05(G)(1)
1	Procedures	N/A	A.R.S. §20-1241.05(G)(2)
1	Procedures	N/A	A.R.S. §20-1241.06(A)(2)
82	126	65.1%	A.R.S. §20-1241.04(D)
9	126	7.1%	A.R.S. §20-1241.04(E)
85	126	67.5%	A.R.S. §20-1241.04(H)
62	63	98.4%	A.R.S. §20-1241.05(G)(1)
62	62	100%	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 provides a) that the insurance producer submits a signed statement with each application stating that the insurance producer used only sales material that the insurer approved and that the insurance producer will provide copies to the applicant; b) a notice to the applicant within ten days of the issuance of the contract that the insurance producer made the representation about leaving only approved sales materials, details of the toll free phone number to contact the Company and that the applicant should retain copies of the sales materials provided by the producer; c) as the existing insurer, advice to the contract owner of the right to receive information about the existing contract values, within five business days of receiving a replacement notice; d) a question to be answered with all applications as to whether the applicant had any other annuities or life insurance currently in force or applied for, e) a complete and compliant replacement notice to be delivered with the application; and f) if an application does not meet the requirements of the article, the insurer shall notify the insurance producer and the applicant and fulfill any outstanding requirements.

Subsequent Events

Regarding d), to provide an application that answers the question as to whether the applicant has existing insurance or annuities, the Company stated that they are using revised application forms. The revised forms contain the question, "Do you have an existing life insurance or annuity policy?" Three revised application forms were provided to the examiner.

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 F&G'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.

Findings:

The Company failed Standard 5 because, based on the procedures provided, it failed to provide the buyer's guide at or before the time of application.

One hundred twenty six of 126 (100.0%) fixed annuity issue, external and internal replacement new business files reviewed failed Standard 5 because the Company failed to provide the buyer's guide at or before the time of application.

COMPANY AND PRODUCER REQUIREMENTS REGARDING REPLACEMENT

Number of Exceptions	Population Reviewed	Percentage	Applicable Statute
1	Forms and Procedures	N/A	A.R.S. §20-1242.02(A)
126	126	100.0%	A.R.S. §20-1242.02(A)

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

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 requires that a buyer's guide be provided to the applicant, in a face to face meeting; at or before the time of application.

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