

## **MARKET CONDUCT PROFILE**

The purpose of this document is to gather current relevant information about a insurer's products, marketing, sales, distribution, policyholder service, claims, compliance and corporate governance to provide the Department with a centralized source containing market conduct information that will enable it to enhance its understanding of the insurer's market conduct activities and to perform its statutory obligations to protect insurance consumers. This document also gives the insurer an opportunity to present any relevant information concerning its' best insurance practices and procedures that would be helpful to the Department in the performance of its statutory obligations. Along with information that is currently available from various other sources, the review of this information will allow the Department to develop a baseline understanding of the marketplace, identify patterns or practices of insurers that deviate significantly from the norm, and help the Department identify, assess and prioritize market conduct problems that may have an adverse impact on consumers, policyholders and claimants. The review of this information will also aid the Department in determining what market conduct actions, if any, may be initiated as a result of the analysis of the information provided and could lead to less intrusive and shorter on site examinations of the insurer.

### **DEFINITIONS**

For purposes of completing this market conduct profile, the following words or phrases are defined as follows:

1. **Market conduct** – All activities of the insurer relating to underwriting and rating, policyholder service, claims, marketing and sales, producer licensing, insurer operations/management and complaint handling.
2. **Marketing and sales activities** – All activities related to the selling of the insurer's products. This includes, but is not limited to, solicitation and sale of an insurer's products to a prospective applicant/policyholder, initial rate setting, advertising, underwriting, producer licensing and producer compensation.
3. **Policyholder service activities** – All activities related to fulfilling contractual obligations and servicing policyholders and/or claimants of the insurer. This includes, but is not limited to, benefit payments, re-rating and dividends, complaints, inquires, and policy changes.
4. **Compliance** – All activities relating to the oversight, implementation and review of market conduct issues. This includes, but is not limited to, board and management review, internal and external audits, self-assessment and regulatory oversight. (e.g. SEC, NASD, state regulators)
5. **Major products** - Products (both individual and group) including but not limited to the following:

#### **Life products**

- Whole, Guaranteed premium term, Indeterminate premium term, Universal, Non-juvenile small face amount, Graded death benefits, Credit, Variable, Variable universal, COLI, BOLI.

**Annuity products**

- (i) Immediate or Deferred, (ii) Single premium, Flexible premium or Scheduled premium (iii) Fixed, Variable, Modified guaranteed, or Equity indexed. Structured settlements should be shown separately.

**Accident and Health products**

- Medicare supplement, Long term care, Specified disease, Accident, Disability income (both short and long term), Dental, Limited benefit, Credit, Stop loss, Major medical, Statutory DBL, Vision, Prescription drug, Hospital, Medical/surgical, Preferred provider organization (PPO) and other managed care arrangements, Medicare select, Medicare advantage, Medicare Part D, Statutory conversion and administrative services only (ASO) contracts.

**Deposit type contract funds**

- Funding agreements and other unallocated products as reported in Exhibit 7 of the Annual Statement.

**INSTRUCTIONS**

Generally your responses should be based upon the entire business of the insurer. When the lines of business or type of insurance for business written in New York State significantly differs from the overall business of the insurer, these differences should be discussed. Your responses should include a discussion of the period covered by the Annual Statement and shall use year-to-year comparisons or any other formats that, in the insurer's judgement, enhance the Department's understanding of its market conduct activities. The discussion should not merely repeat numerical data contained in the financial statements and schedules or exhibits to the Annual Statement. An appropriate response will consist of both narrative descriptions and tabular data about insurers activities.

The information furnished may refer to such schedules, exhibits, general interrogatories and historical data contained in the Annual Statement or other documents submitted in compliance with any law, regulation or circular letter of this Department, as management believes necessary.

If an insurer deems the information submitted in this profile to be a trade or business secret or which if disclosed would cause substantial injury to the competitive position of the insurer, it may, at the time the information is submitted request that the superintendent except such information from disclosure.

**MARKETING AND SALES ACTIVITIES**

1. Briefly describe the insurer's **major products** (those products that when combined represent 75% or more of the insurer's total first-year premium) for each of the major Annual Statement lines of business. Also, include the percentage of the total first year direct premium for each major product. ***Guidance*** Each of the major Annual Statement lines of business that the insured is currently writing should be included. (e.g. If the insurer is writing individual life, group life and group accident & health, all three lines should have descriptions of the major products for that line of business, even if the individual

- life line of business accounts for 90% of the total business written by the insurer.) For each **major product**, the product's description should include information such as; marketing name of the product, policy forms used for the product, issue age limits, face amount limits, non-guaranteed elements, secondary guarantee elements, market value adjustment features, equity index features, bonuses, persistency enhancements, atypical conversion or renewal options, bailout features, premium refund features, additional insurance options, atypical liquidity features, products or riders often packaged with the given product, atypical settlement options, commutation options, optional benefits and any other key feature, for each major product discussed. **Major products** include both those in the general and separate account.
2. If the insurer offered for sale during the year either; small face amount policies (less than \$25,000 face amount other than juvenile), graded death benefit products, corporate owned life insurance (including BOLI), and/or deferred annuity products covering annuitants in excess of age 90 at issue, and the product was not discussed in the answer to question 1 above, furnish the information requested by question 1 for those products. **Guidance:** Graded death benefit product provides for limited death benefits during the first two or three years of coverage. The reduced death benefit may be limited to non-accidental deaths with the full benefit being payable due to accidental deaths.  
If the insurer offered for sale during the year either, Medicare Advantage, Medicare Part D, Medicare Supplement, Medicare Select or Long Term Care and the product was not discussed in the answer to question 1 above, furnish the information requested by question 1 for those products.
  3. Discuss the primary distribution channels that the insurer uses to sell its' **major products**. Include any use of TPA's to distribute the insurer's products. Also, discuss, in general, for each of the distribution channels, the compensation that each type of producer receives. **Guidance** Each of the distribution channels that the insurer uses should be discussed. These include, but are not limited to: general agent, independent agent, branch office, direct response, Internet, or combination of these channels. The description of the distribution channel should include the amount of business written through that channel, the products offered, the number of sales representatives (agents, brokers, etc.), and whether or not such distribution channel is affiliated with the insurer. The discussion of the compensation that the producer receives should include how the compensation is determined, (e.g. contingent commission, fund-based etc.) and the breakdown of that compensation (e.g. commission, override, expense reimbursement).
  4. Identify the primary markets for each of the insurer's **major products**. If the targeted primary markets have changed in the past year, discuss how they have changed. Discuss how policy illustrations are prepared for each of the **major products** discussed in item 1 above. Specify how policy illustrations are generated, and the procedure to maintain up-to-date generation of the policy illustrations. **Guidance** Examples of primary markets would include: demographics, age, economic level, or geographic region. Primary markets should include if applicable, military sales, small face, final expense and pre-need products.

5. Discuss New York replacement activity for **individual life and annuity business**, both external and internal. Include any significant changes in the number of or type of products that the insurer replaced (or had replaced by another insurer) during the year. Describe the insurer's monitoring of replacement activities (automated or otherwise). Also, describe any internal exchange programs. **Guidance** Information about replacements should be reported for individual life and annuity business separately and include the percentage of new business generated through replacements, number of replacements applied for, number of replacements issued, and number of insurer's policies that were replaced by another insurer. The discussion of internal replacements should include the payment of producer compensation for internal replacements.
6. Discuss any group replacement activity, including but not limited to, policies covered by Department Regulation No. 62.
7. Discuss any changes in the mix of products that the insurer sells. **Guidance** The discussion of the change in the mix of products should include both new products and withdrawn products.
8. Discuss the advertising media used for each **major product**. **Discuss the controls in place to comply with Department Regulations 34 and 34A** **Guidance** This discussion should include the use of brochures, pamphlets, mailings, or media (newspaper, radio, television, Internet) that the insurer uses to discuss products. The use of advertising for the purpose of name recognition does not have to be included in this discussion.
9. Identify the web sites used by the insurer and how they are used. **Guidance** The discussion should include all web sites used to sell or service the insurer's products, including the use of web sites that an agent, broker or TPA would use. Addresses for each web site should be included. Also, include what services the insurer offers to its existing customers (e.g. premium payment, changes in customer information, purchase additional insurance, etc.) and prospective customers (e.g. new policy quotes, underwriting of new policy, initial premium payment, etc.) at each web site.
10. For all first year and single premium amounts reported in the filed Annual Statement, provide in an excel file this premium breakdown to the lowest granular level that the insurer maintains. **Guidance** The first year and single premium information should be furnished based upon direct premiums received. The preference is to get this information by policy form but we will accept other approaches if policy form level summaries are not maintained. This should be summary information as opposed to list of all insureds. (e.g. If the insurer maintains premium information by line of business, this information should be furnished. If the insurer further breakdowns premium information by product line such as term, universal life, single premium deferred annuity, etc. this information should be furnished instead. If the insurer further breakdowns such premium by policy form, this information should be furnished instead.)
11. For all domestic insurers only, furnish an excel file containing information about policy forms authorized for issue outside the State of New York for the current year. **Guidance** The attached information is provided to complete the excel file.



out of state forms  
instructions.doc

## **POLICYHOLDER SERVICE ACTIVITIES**

1. Discuss any concentration of **major products** inforce. ***Guidance*** This discussion is for the major products which represent the insurers' entire book of business, and should include any concentrations inforce (e.g. seniors, juvenile, military, geographic location, economic).
2. Discuss the servicing of the insurer's products. ***Guidance*** This discussion should highlight any recent changes in reinsurance, TPA's, outsourcing and sales or purchases of blocks of business. The discussion should also include the locations of the insurers major service centers and who is providing the service, if it is not done by the insurer.
3. Discuss the insurer's mechanism and procedures for processing consumer or other complaints. Include a discussion of the number of complaints received during the past year categorized by line of business, function, reason for the complaint, and disposition of the complaint. (e.g upheld, settled, unresolved). Include a discussion of any pattern of frequency or types of complaints, if applicable. Address the timeliness of responses to complaints. ***Guidance*** All of the insurers complaints should be addressed in this discussion, not just the complaints received through the Department.
4. Discuss any significant **pending** policy-related lawsuits, and class action lawsuits or settlements, and the current status of each.
5. If the insurer sells products subject to Section 3224-a of the New York Insurance Law (prompt pay), discuss the insurer's procedures and controls concerning New York prompt pay provisions.
6. If the insurer provides a mechanism known as "retained asset accounts" or similar program, in the settlement of life insurance proceeds, discuss the insurer's procedures for this type of settlement. Include follow-up procedures with the beneficiaries or account holder for amounts left in the "retained asset account".

## **COMPLIANCE**

1. Provide the name, address, title, phone number, and e-mail address of the principal contact person for any questions concerning sales and marketing activities, policyholder service activities and compliance and corporate governance. ***Guidance*** The principal contact person(s) should be the person(s) that the Department can contact if there are any questions concerning the insurers market conduct activities. If there is more than one contact person, specify what areas of responsibility for each contact person. If the chief legal officer is not one of the contact people, the information concerning the chief legal officer should also be provided.
2. Discuss the internal control structure of the insurer as it relates to market conduct activities. Include how audit frequency and scope of the audit is determined. Include how reporting of deficiencies and weakness are addressed. Include the internal control structure the insurer has over activities of agents or any other party.

**Guidance** This discussion should not only include the internal control structure of the insurer but the insurer's internal controls over the activities of agent originated policyholder advertising, TPA's, claims, and compliance.

3. List all internal or compliance audits of the insurer's market conduct activities conducted during the past year and discuss any significant findings. **Guidance** This list should include audits completed by the internal audit department of the insurer and any audits of any member of the holding company that pertain to departments or units that provide services to the insurer, and also include any audits of agent originated policyholder advertising, and any audits of TPA's.
4. If the insurer has written criteria for addressing policies and procedures for market conduct activities, discuss how often this information is reviewed and or updated and how the implementation of the written criteria is disseminated to the appropriate staff. **Guidance** This discussion should include, but not be limited to written criteria for the handling of death claims, surrenders, underwriting, advertising, complaints agents licensing, etc.). If the insurer does not have written criteria, this discussion should address how the insurers policies and procedures are disseminated to the appropriate staff.
5. Discuss any market conduct examinations or investigations during the reporting period, completed or in process, by name and scope of examination, of the insurer or its agents by other regulatory agencies, and any significant findings. **Guidance** This discussion should include examinations or investigations completed by Attorney Generals, NASD, SEC, or other state departments of insurance. This discussion should also include any examinations or investigations of the insurer's TPA's or outside policyholder service providers. Disclosure of pending investigations are required only if not prohibited under SEC rules or other federal law or regulation.
6. Discuss the role of any committee of the Board or of management in the review of market conduct activities of the insurer that are brought to the attention of such committee. Discuss how weaknesses and deficiencies are addressed. Discuss any significant findings.
7. Discuss the controls that exist in order to comply with Board responsibilities on non-guaranteed elements under Sections 4231(g)(1) and 4232 of the New York Insurance Law. **Guidance** This discussion should include a description of the process that the Board of Directors, or committee thereof, completes to ensure that the amounts credited are equitable and based upon written criteria.
8. Identify controls the insurer has in place to ensure that products are not being offered in an inappropriate market. Discuss any significant findings.
9. Discuss the number and type of any significant disciplinary actions against agents or employees relating to market conduct activities taken by the insurer or any other regulatory agency. **Guidance** This discussion should include any fines, suspensions, or disciplinary action taken by the insurer or any other regulatory agency other than the New York State Department of Financial Services.
10. Discuss significant changes in the operational infrastructure of the insurer in the market conduct area. **Guidance** This discussion should include significant changes in staffing, location, outsourcing, computer operations or TPA's.
11. Specify membership in IMSA, or other self-assessment organizations. (If applicable)

12. Discuss any insurer specific projected challenges for upcoming year in the market conduct areas.

### **SUPPLEMENT**

The following questions apply only to business written in New York State and in force during the time period covered by the filed Annual Statement responses to the Exhibit 5, Question 3 Interrogatories.

1. Interest crediting rates: Report any increase in deductions from the assumed gross rate(s) of investment income to arrive at interest crediting rates except for an increase in deductions corresponding to minimum guarantees and initial bonuses. Identify any factor that had an adverse impact on the interest crediting rates declared for any life insurance policy or annuity contract, other than; a.) changes in the general level of gross investment income [i.e., income before default, expense or other deductions]; or b.) changes in current investment market prices. Small changes in actual spreads due to rounding need not be reported.
2. Participation rates, caps and other discretionary rates pertaining to indexed life insurance policies and annuity contracts: Identify any factor other than changes in the assumed hedging cost or investment earnings that had an adverse impact on the index features of the indexed accounts of any life insurance policy or annuity contract.
3. All other discretionary elements: Identify any changes in other discretionary elements subject to Section 4232 of the New York Insurance Law that had an adverse impact on any life insurance policy or annuity contract.