Nationwide is 13th life insurer nabbed by New York

By Editorial Staff *Thu, Jun 9, 2022*

To date, New York's industry-wide investigation has led to settlements with thirteen life insurance companies, totaling about $29 million in restitution and penalties.

Nationwide has agreed to pay $5.64 million to settle charges brought against it by the New York regulators for selling new income annuities to people who could have annuitized their existing deferred annuities, possibly at higher income rates than the new annuities paid.

On May 20, Superintendent of Financial Services Adrienne A. Harris announced today that the Department of Financial Services (DFS) entered into a **consent order** with Nationwide Life Insurance Company for violations of New York Insurance regulations with respect to deferred to immediate annuity replacement transactions.

Nationwide will pay approximately $3.4 million in restitution to New York State consumers as a result of the settlement in addition to $2.24 million in penalties. Impacted consumers will also receive higher monthly payouts for the remainder of their contract terms.

Nationwide said in a statement:

> Nationwide remains committed to protecting people, businesses and futures with extraordinary care. We continue to urge the NYDFS to focus on promoting clearly articulated regulatory expectations for all industry participants in a manner that protects consumers while concurrently protecting their access to affordable and innovative product offerings. We will continue to work with NYDFS to further develop and maintain clearly defined standards as it relates to transactions that may involve the replacement of an existing annuity. We are pleased to put this matter behind us.

The settlement is the latest result in DFS's industry-wide investigation into deferred to immediate annuity replacement practices in New York State. To date, the industry-wide investigation has resulted in settlements with thirteen life insurance companies, totaling approximately $29 million in restitution and penalties.

DFS's investigation found that Nationwide failed to properly disclose to consumers income comparisons and suitability information, causing consumers to exchange more financially favorable deferred annuities with immediate annuities. Hundreds of New York consumers—primarily elderly individuals—received incomplete information regarding the replacement annuities, resulting in less income for identical or substantially similar payout options.

A former life insurance company executive told RIJ this week that his then-employer was fined by New York a decade ago for the same reason. "[Our company] was guilty of replacing deferred annuity contracts with our 'new issue' immediate annuity contracts after our agents claimed our immediate rates were better than the deferred annuity settlement rate on the official NY Reg 60 replacement documents (required in NY)," he said.

"Because our annuity new issue department didn't verify the agents' written claims of our immediate annuity rate superiority, our penalty, leveled by NY State at the time, was to make up the entire payment differential between what our SPIAs paid versus what was guaranteed by the existing but replaced contracts for the life of the payment duration," he added.

"We had to manually adjust our SPIA administration system and post additional dollar reserves to force/support higher payments. In a further company embarrassment, we were also required to contract each contract holder (owner) and explain why we were giving them higher payments and apologize for our lack of oversight," he told RIJ.

"But many other carriers were guilty of the same practices. In reality this goes on in all states, not just New York. It's terrible to say, but I believe there may be an unwritten carrier conspiracy to perhaps 'indirectly' cheat consumers out of their guaranteed income rights."

Annuities are contracts between life insurance companies and consumers that provide guaranteed payments for the remainder of an individual's lifetime or for a specified period. Immediate annuities provide periodic income payments that begin within thirteen months after the annuity is issued, while deferred annuities allow consumers to earn interest on their premium before receiving payments at a future date.

Recommending that consumers replace existing deferred annuities with immediate annuities without proper disclosures may cost consumers substantial lifetime income.

Nationwide has also agreed to take corrective actions, including revising its disclosure statements to include side-by-side monthly income comparison information, and revising its disclosure, suitability, and training procedures to comply with New York regulations.