

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF
AXA EQUITABLE LIFE INSURANCE COMPANY
REGARDING RESPONSE TO
SUPPLEMENT NO. 1 TO CIRCULAR LETTER NO. 19 (2000)

DATE OF REPORT:

DECEMBER 7, 2005

EXAMINER:

TORYS LLP

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

December 7, 2005

Honorable Howard Mills
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22265, dated November 22, 2004 and annexed hereto, a limited-scope examination has been made into the condition and affairs of the life insurance business of AXA Equitable Life Insurance Company, hereinafter referred to as "the Company" or "Equitable," at its home office located at 1290 Avenue of the Americas, New York, New York 10104.

Whenever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. SUPPLEMENT NO. 1 TO CIRCULAR LETTER NO. 19 (2000)

Supplement No. 1 to Circular Letter No. 19 (2000) (the "Supplement"), issued by the Department on June 22, 2000, notified all licensed life insurers and fraternal benefit societies that the Department was investigating allegations of race-based underwriting of life insurance by its licensees. The Supplement defined race-based underwriting as including, but not limited to, one or more of the following practices based solely on an insured's race, color, creed or national origin: refusing to insure; refusing to continue to insure or limiting the amount, extent or kind of coverage available; charging or collecting higher premiums or rates; making or requiring any rebate upon the amount paid; assigning substandard risk classifications; crediting or providing lower dividends, policy benefits or nonforfeiture values; making any distinction as to policy terms or conditions; imposing greater underwriting requirements (medical vs. non-medical); and fixing any fees or commissions in a manner as to encourage or discourage the writing or renewing of a specific type of policy.

The Supplement directed, pursuant to Section 308 of the New York Insurance Law, each domestic and foreign life insurer and fraternal benefit society to review its past and current underwriting practices regarding race-based underwriting and to report its findings to the Department no later than August 15, 2000. The Supplement further directed that all relevant documents, including, but not limited to, rate charts, mortality tables, labor negotiation documents with distribution force unions, agent and broker contracts, compensation schedules, underwriting and agent manuals, applications, policy form filings, board of directors (and committee) minutes, and internal memoranda be included in the insurer's review.

2. COMPANY'S RESPONSE TO THE SUPPLEMENT

By letter to the Department dated August 15, 2000 (Exhibit A), the Company reported its findings regarding past race-based underwriting practices and its finding that no such practices currently are in place. In response to the Department's request for additional information dated

September 27, 2000 (Exhibit B), the Company supplemented its August 15, 2000 response with a letter dated October 18, 2000 (Exhibit C).

A. Company's Investigation in Response to the Supplement

Equitable's investigation in response to the Supplement consisted of a review of the Company's historical records and selected life insurance policy application files. The Company indicated that its review of historical records included the following materials:

- (a) rate charts;
- (b) mortality tables;
- (c) underwriting and agent manuals;
- (d) Board of Directors minutes;
- (e) Minutes of the Executive, Agency, Insurance, and Rules and Regulations Committees of the Board of Directors;
- (f) annual statements;
- (g) dividend scales;
- (h) New York State Insurance Department Reports on Examination;
- (i) agent and broker contracts and compensation schedules;
- (j) policy forms and policy form filings;
- (k) internal memoranda; and
- (l) correspondence and publications.

B. Findings Reported by the Company

In its response to the Department, the Company stated that Equitable has never issued (either directly or through businesses acquired by the Company) insurance policies commonly referred to as "industrial life" policies or "debit insurance." In addition, the Company reported that it found no evidence that Equitable charged or collected higher premiums or rates on individual life policies on the basis of race, color, creed or national origin. Further, the response

indicated that the Company did not believe that it had credited or provided lower dividends, policy benefits or nonforfeiture values or made any distinction as to policy terms or conditions on the basis of race, color, creed or national origin.

The Company reported that historical documents did indicate, however, that, for a period of time, Equitable had fixed fees or commissions in a manner as to encourage or discourage the writing or renewing of policies insuring African American policyholders. Specifically, the response indicated "From approximately 1913 to approximately 1935 within New York State, and to approximately 1956 in other states, Equitable's commission policy provided for a reduced agent commission of 5% on policies insuring African American policyholders."

The Company's response also indicated that historical documents reflected certain Company race-based underwriting practices at various times prior to 1956 with regard to other non-Caucasian applicants, including Chinese, Japanese, Hawaiian and Native American applicants. The practices included considering race, color, creed and/or national origin in (a) determining whether to decline applicants (beginning at an unknown date and continuing from time to time until 1956); (b) limiting the amount, extent and kind of coverages available (beginning at an unknown date and continuing from time to time until 1956) (c) determining whether to assign substandard risk ratings to applicants (beginning at an unknown date and continuing from time to time until approximately 1932) and (d) determining whether a medical examination was required upon application for insurance (at various times prior to 1956).

The Company's response further reported that historical documents indicated that, at various times prior to 1934, the Company may have assessed a higher group rate on certain group life insurance policies based upon the racial and/or ethnic composition of the group. The response notes that the Company sold by assumption its group life insurance block of business to another carrier in 1990.

3. SCOPE OF THE EXAMINATION

A limited-scope examination was made into the affairs of the Company solely with respect to race-based underwriting policies and practices.

The Equitable Life Assurance Society of the United States was incorporated and commenced business as a stock life insurance company under the laws of New York in 1859. The Company completed its conversion to a mutual company in 1925 and then demutualized and converted back to a stock life insurance company in 1992. The operations of Equitable Variable Life Insurance Company, a wholly-owned subsidiary, were merged into those of the Company in 1997. The Company changed its name to AXA Equitable Life Insurance Company in September 2004.

The scope of the examination included a review of individual life insurance business issued directly by the Company. (The Company's former group life insurance business, which was sold in 1990, was not included in the examination as records related to this business were transferred to the new carrier at the time of the sale.) The examiners' review included documents reviewed by the Company in the course of its internal investigation, as well as other documents, including, but not limited to, the following significant Company materials ranging in date from 1890 through 1970:

- (a) all available rate books;
- (b) all available circular letters;
- (c) all available instruction books, circulars, and underwriters manuals applicable to medical examiners;
- (d) all available company rules, regulations and instructions to agents and solicitors;
- (e) selected agent contracts;
- (f) selected policy application forms;
- (g) selected minutes of the meetings of the Board of Directors, and the following committees: Executive Committee; Committee of Insurance, and Rules and Regulations Committee;
- (h) all available charters and by-laws;

- (i) all applicable Department Reports on Examination;
- (j) all available bulletins to agents and employees;
- (k) selected internal company correspondence;
- (l) all available underwriting manuals;
- (m) selected court decisions;
- (n) selected files of former senior executives, including former Equitable Presidents; and
- (o) a book titled *The Equitable Life Assurance Society of the United States - One Hundredth Anniversary History*.

In addition, the examination included a review and analysis of selected Company policy application files. The Department, by querying the Company's databases using automated techniques based on criteria designed by the Department to enhance the likelihood of identifying non-Caucasian policyholders, selected a total of 365 policy application files for the examiners' review. The Department also analyzed the Company's in force files to detect patterns of issuance that may indicate race-based underwriting. The examiners conducted meetings with employees who were responsible for key aspects of the Company's internal investigation and interviewed former and current Company executives, including the former Chief Underwriter, who worked for Equitable from 1957-2001, and a current Senior Vice President, who has held various managerial, training, agent, and minority recruiting positions during the course of his thirty-year tenure with the Company.

Certain documentation pertaining to Equitable's policies and practices during the relevant time period had been discarded in accordance with the Company's normal record retention policies, which were not inconsistent with regulatory retention requirements.

This report on examination is confined to comments on those matters which may involve departure from laws, regulations or rules or which in the Department's discretion require explanation or description.

4. EXAMINATION FINDINGS

Set forth below are the examiners' findings with respect to race-based underwriting practices evidenced at the Company.

A. Race-Based Underwriting Policies Evidenced by Company Documents

Company historical records indicate that, between the late 1800's and approximately 1956, the Company discouraged the writing of insurance on African Americans by either prohibiting the solicitation of African American business or paying reduced commissions on such business.

An 1891 memorandum from Equitable's Secretary notified Company agents of the recent passage of a New York State legislative act prohibiting life insurance companies from making any discrimination as to premium rates between whites and blacks. The memorandum stated, that "In view of this, it would be a waste of time for you to solicit business of the latter class; for although individuals of this class, exceptionally situated, may be absolutely as good risks as any others, the race on the average exhibits, according to the best authorities, a mortality greater than that which is normal among the whites." In addition, the minutes of the April 8, 1915 Committee on Rules and Regulations indicate that the Company excluded solicitation of African Americans when it resumed writing insurance in two Alabama counties in which it had previously ceased writing.

A February 14, 1913 letter from a Company Vice President to an agency manager stated that the Company "issued insurance on the lives of negroes at the same premium rates that are charged white policyholders." However, the document also indicated that the Company's policy was to pay only one brokerage commission for regular policies on African American applicants equal to five percent of the first year's premium while first year and renewal commissions paid on similar policies on Caucasian applicants averaged fifty percent of premium. This commission policy was reiterated in Company correspondence dated 1921 and appears to have been in effect in New York until approximately 1935, when such practice was prohibited by a revision of

the New York Insurance Law. The Department's Report on Examination of the Company as of December 31, 1935 noted the following:

"It was noted that only one commission of 5% is allowed on insurance on negroes outside of New York State. Prior to the enactment of Section 90, subdivision 2, of the Insurance Law in New York, all agents were kept informed of this rule. Since enactment of this section, however, the usual circular letter announcement has been discontinued in New York but it does not appear that any steps have been taken to notify New York agents of the rescission of this rule."

It appears that, for some time after the change in New York law, the Company continued to discourage the solicitation of African American business in New York. Notes contained in three African American policy application files from New York between 1937 and 1940 suggested that the Company monitored African American business issued by agents and that the manager of an agency that referred the African American applicants had been "spoken to" regarding "this business."

Reviewed documents did not confirm when the Company ceased discouraging writing of insurance on African Americans.

B. Findings from the Review and Analysis of Application Files

The examiners reviewed 365 Company policy application files selected by the Department using sampling techniques designed to enhance the likelihood of identifying non-Caucasian policyholders. The race of the policyholder could be identified in 310 of these files, and the policyholder was identified as a non-Caucasian in 137 of those 310 files with race identified. Where the race of the applicant was identified, it most often was included in either the application form or a physician's or medical examiner's report, and, less frequently, in an agent's report or a third-party inspection report. The Company's application forms dated after 1964 did not include an inquiry as to the applicant's race in the part of the application that was completed by the applicant.

The examiners' review of policy application files revealed the following:

- Premiums charged to non-Caucasians were consistent with the rate books then in force. The same rate books were used for both Caucasian and non-Caucasian applicants and such rate books did not contain any differentiation in premium rates based on the applicant's race.
- Standard and substandard policies were issued to both Caucasians and non-Caucasians. Analysis of the medical conditions, occupations or other factors noted as reasons for substandard ratings in the reviewed application files generally indicated that Caucasians and non-Caucasians were treated similarly for similar conditions, occupations and other factors.
- Various types of life insurance products were available and issued to both Caucasians and non-Caucasians.
- Race-based underwriting policies involving non-Caucasians other than African Americans as reported in the Company's response to the Supplement were confirmed in the examiners' review of Company documents. These policies, however, predated the adoption of statutory prohibitions against them. Moreover, the examiners' review of application files did not identify any current or past policyholder who was affected by such policies. It is likely that insurance policies which may have been issued to non-Caucasians in accordance with such race-based underwriting policies would not be currently in force and that the applications for such insurance policies were discarded in accordance with the Company's normal record retention practices, which were not inconsistent with regulatory retention requirements.

The review of the Company's policy application files did, however, reveal instances in which the Company continued to use outdated forms that made inquiries as to the race of applicants after the issuance of Circular Letter No. 5 (1964), which prohibited such practice.

Circular Letter No. 5 (1964), dated February 14, 1964, states, in relevant part:

The Department's attention, however, has been directed to certain forms and reports furnished to some licensed insurers in which there may be set forth information as to the race or nationality of an insurance applicant, ...etc. Such forms, which are of the kind not required to be submitted to the Insurance Department for approval prior to use, includes agents confidential reports, medical reports, adjusters reports and inspection or credit reports.

The inclusion of inquiries or information as to race, color, creed or national origin in any form used by a licensed insurer, or the making of such inquiries on its behalf, clearly suggest possible or likely violation of both Section 40(10) and the firmly established policy of New York State. Accordingly, such practices shall be discontinued.

Of the 45 reviewed applications dated after the issuance of Circular Letter No. 5 (1964), race was identified on four of them; the latest such application was dated December 1964. All four of the inquiries related to race appeared on the agents' certificate, and also, in one case, on an inspection report prepared by a third party.

It should be noted that internal Company memoranda reflect a 1962 decision by the Company to stop requesting race identification on the application forms; these documents indicate that by late 1963 or early 1964 the Company had depleted most of its inventory of application and agent questionnaire forms and that newly printed forms would omit the race question. In its 1962 Report on Examination, the Department concluded that the Company's officials had taken steps to eliminate any reference to race, color, creed or national origin on its application forms and that, in any case, Equitable had not used any such information improperly. Three years later, in a 1965 Report on Examination, the Department concluded that, despite the Company's efforts, as late as November 1965, Equitable was still receiving some old forms that contained a question as to the race of the applicant (though the Department found no evidence that the Company had used any of this race information in its underwriting decisions). The 1965 Report on Examination also found that the Company had instructed its field offices to destroy all old application forms and had advised all agents that it would no longer accept applications on these old forms.

5. CONCLUSION

The Department's examination revealed that certain race-based underwriting policies were evidenced in written records of the Company. However, the examiners were not able to identify any current or past policyholder who was affected by any race-based underwriting policy or practice.

Respectfully submitted,
Torys LLP, Consultant

/s/
Partner

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

Charles E. Dorkey III, being duly sworn, deposes and says that the foregoing report is true to the best of his knowledge and belief.

/s/
Charles E. Dorkey III

Subscribed and sworn to before me
this ____ day of _____ 2005

APPOINTMENT NO. 22265

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, **GREGORY V. SERIO**, Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

TORYS

as a proper person to examine into the affairs of

AXA EQUITABLE LIFE INSURANCE COMPANY

and to make a report to me in writing of the condition of the said

COMPANY

with such other information as it shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 22nd day of November, 2004



GREGORY V. SERIO

Superintendent of Insurance



by **AUDREY M. SAMERS**

Deputy Superintendent
And General Counsel

The Company's August 15, 2000
Response to Supplement No. 1
to Circular Letter No. 19 (200)
(Exhibit A)



EQUITABLE

Member of the Global  Group

RECEIVED
NEW YORK STATE
INSURANCE DEPARTMENT

AUG 15 2000

LIFE BUREAU N.Y.C.

Paul R. Boucher
Vice President
(212) 314-3946, Fax: (212) 707-1862
paul.boucher@equitable.com

LAW DEPARTMENT

August 15, 2000

BY HAND

Mrs. Ruth Gumaer
Principal Insurance Examiner
Life Bureau
New York Insurance Department
25 Beaver Street
New York, New York 10004

Re: Supplement 1 to Circular Letter No. 19 (June 22, 2000)

Dear Mrs. Gumaer:

Enclosed please find two copies of the Report of Findings by The Equitable Life Assurance Society of the United States to the State of New York Insurance Department in Response to Supplement 1 to Circular Letter No. 19 (June 22, 2000) (the "Report"), as well as an accompanying jurat executed by Michael Hegarty, President and Chief Operating Officer of Equitable. Also enclosed is a copy of the Bill Jacket from 1935 N.Y. Laws § 90 (Ch. 736), which provides historical context to some of the issues addressed in the Report.

The Report contains confidential and proprietary information and trade secrets which, if disclosed, would cause injury to Equitable's competitive position. Accordingly, we provide the Report to the Department with the express understanding that such information will be afforded confidential treatment pursuant to applicable law, including N.Y. Pub. Off. Law §§ 87.2(b) and 89.2 and 11 NYCRR §§ 241.3(a) and 241.1 (1983). In addition, we respectfully request that the Report be exempt from disclosure pursuant to N.Y. Pub. Off. Law § 87.2(d) and 11 NYCRR § 241.6(a) (1983). If the exemption is not granted, we ask that the Department notify Equitable prior to the release of any information contained in the Report.

Ruth Gumaer
New York Insurance Department
August 15, 2000
Page 2

If you require any additional information, please contact me at the number listed above.

Very truly yours,

128753
Enclosures

cc: Michael Hegarty
Robert E. Garber
Richard V. Silver
Wendy E. Cooper
Dave S. Hattem

**REPORT OF FINDINGS BY
THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES
TO THE STATE OF NEW YORK INSURANCE DEPARTMENT IN RESPONSE
TO SUPPLEMENT 1 TO CIRCULAR LETTER NO. 19 (JUNE 22, 2000)**

Preliminary Statement

Pursuant to the direction of the New York Insurance Department (“NYID” or the “Department”), The Equitable Life Assurance Society of the United States (“Equitable” or the “Company”) has taken the actions required by Supplement 1 to Circular Letter No. 19, issued June 22, 2000 (the “Supplement”). The following report discusses Equitable’s findings. The Company respectfully requests that the Department treat the information contained herein as proprietary and confidential, and exempt from public disclosure.

A. Review and Availability of Documents

To prepare this report, we conducted a diligent review, within the time allotted, of locations and documents that we believed were reasonably likely to contain relevant information, and made inquiry of key employees who might reasonably be expected to provide relevant information. We believe that we were able to locate and review most, if not all, of the potentially relevant documents from the following categories identified by the Department: rate charts; mortality tables; underwriting and agent manuals; Board of Directors minutes; minutes of the Executive, Agency, Insurance, and Rules and Regulations Committees of the Board of Directors; annual statements; dividend scales; and NYID examination reports. We were also able to locate and review a variety of agent and broker contracts, compensation schedules, policy forms, policy form filings, and internal memoranda, correspondence, and publications. In addition,

we conducted a sample review of applications from various time periods. All of these documents are available for review by the Department.¹

We note, of course, that definitive responses to the issues raised in the Supplement could only be provided after a thorough examination of records covering the Company's entire 141-year history, including records that the Company was not required to and did not retain (or could not locate within the time allotted). Indeed, while Equitable possesses some records dating back to its founding in 1859, normal record retention practices and other factors (including a catastrophic fire at the Company's headquarters in 1912) necessarily have left the Company with incomplete records for the period prior to the late 20th century, other than policy files for in-force policies. As a result, in reaching conclusions contained in this response, Equitable has had to review and interpret records and other information that were often quite old, incomplete, and/or inconclusive. Therefore, the findings set forth below should be understood to reflect the Company's best efforts to respond to the Department based on information available to it within the timeframe contemplated by the Supplement.

B. Results of Review

Our review of annual statements dating back almost to the Company's founding in 1859 indicates that Equitable has never issued (either directly or through business acquired by the Company as a result of assumption, merger, acquisition, consolidation, or purchase) insurance policies commonly referred to as "industrial life" policies or "debit insurance."

¹ Equitable does not possess any labor negotiation documents with distribution force unions.

1. Refusing to Insure

The documents reviewed indicate that since 1956, race, color, creed, and national origin were not factors considered by Equitable underwriters in determining whether or on what terms to issue coverage.² Beginning at an unknown date and continuing until 1956, it appears from Equitable's underwriting manuals that race, color, creed, and national origin were considered by the Company's underwriters in determining whether to decline to insure applicants from certain groups. We believe that Equitable does not currently possess any records relating to policy declinations from that time period, and therefore we cannot determine the number of policies, if any, which may have been declined prior to 1956.

2. Refusing to Continue to Insure

Based on our review, we do not believe that Equitable has refused to continue to insure on the basis of race, color, creed, or national origin.

3. Limiting the Amount, Extent, or Kind of Coverage Available

The documents reviewed indicate that since 1956, Equitable has not limited the amount, extent, or kind of coverage available on the basis of race, color, creed, or national origin. Beginning at an unknown date and continuing until 1956, applicants from certain groups may have been permitted to purchase only endowment policies or ordinary life policies (then Equitable's most popular product). In addition, in some cases, the maximum face amounts that Equitable would issue may have been lower for

² While the Supplement defines "race-based underwriting" to include a variety of practices, it does not define the term "national origin." For purposes of this Report, Equitable has assumed that "national origin" means a United States citizen's ethnic heritage. This Report does not address Equitable's underwriting practices with regard to non-U.S. citizens.

members of certain groups than for other applicants. However, our review reveals that, except for a single reference in an 1886 document (see Section 4(a), below), no distinctions were made on the basis of race, color, creed, or national origin with regard to premiums or dividends on any policies issued by Equitable. Finally, our records reflect that none of the endowment policies issued by Equitable through 1956 are still in-force.

4. Charging or Collecting Higher Premiums or Rates

a. Individual Life Insurance

Based on our review of rate books and other information, we found no evidence that Equitable in fact charged or collected higher premiums or rates on individual life policies on the basis of race, color, creed, or national origin. However, we have located a single document dated in 1886 which suggests that an additional premium charge of one-half percent would be assessed against applicants from a certain group on the purchase of life insurance policies. We note that the language contained in this document is somewhat ambiguous, and we have located no other documents (including rate books dating back to that year) which indicate how, if at all, this policy may have been implemented. Moreover, we have also located a document dated in 1913 which states that Equitable charged applicants from this group the same premium rates as those charged to all other applicants on the purchase of life insurance policies.³

³ Please note that Section 90 of the New York Insurance Law, enacted in 1892, prohibited the charging or collecting of higher premiums or rates from African Americans.

b. Group Life Insurance

The documents reviewed indicate that since approximately 1934, Equitable has not charged or collected higher premiums or rates for Equitable group life insurance products based upon race, color, creed, or national origin. Prior to 1934, the Company may have assessed a higher group rate on certain group life insurance policies based upon the composition of the group (*i.e.*, the race, color, creed, or national origin of group members). Such higher rate, if any, would have applied to all members of the group without regard to race, color, creed, or national origin. We note that in 1990, Equitable sold by assumption its group life insurance block of business to another carrier, and turned over to that carrier most, if not all, of the Company's records related to this business.

5. Making or Requiring any Rebate on the Amount Paid

Based on our review, we do not believe that Equitable has made or required any rebate on the amount paid on the basis of race, color, creed, or national origin.

6. Assigning of Substandard Risk Classifications

Based on our review, we believe that since approximately 1932, Equitable has not assigned a substandard risk classification on the basis of race, color, creed, or national origin. Beginning at an unknown date and continuing until approximately 1932, it appears from Equitable's underwriting manuals that race, color, creed, or national origin may have been a factor (although unlikely a determinative factor) utilized by Equitable underwriters in determining whether to assign substandard risk ratings to applicants of certain groups. Equitable's review of the 32 in-force policies

issued prior to 1932 with substandard premiums charged did not reveal any specific instance in which the substandard risk rating was assigned on the basis of the applicant's race, color, creed, or national origin.

7. Crediting of or Providing Lower Dividends, Policy Benefits, or Nonforfeiture Values

Based on our review, we do not believe that Equitable has credited or provided lower dividends, policy benefits, or nonforfeiture values on the basis of race, color, creed, or national origin.

8. Making any Distinction as to Policy Terms or Conditions

Based on our review, we do not believe that Equitable has made any distinction as to policy terms or conditions on the basis of race, color, creed, or national origin.

9. Imposing of Greater Underwriting Requirements (Medical vs. Non-Medical)

Based on our review, we believe that since 1956, Equitable underwriters have not considered race, color, creed, or national origin when evaluating underwriting risk. Prior to 1956, the documents reviewed indicate that Equitable underwriters would not have accepted non-medical applications from members of certain groups on the basis of race, color, creed, or national origin, thereby requiring the applicant to submit to a medical examination.

10. Fixing of any Fees or Commissions in a Manner as to Encourage or Discourage the Writing or Renewing of a Specific Type of Policy

The documents reviewed indicate that since approximately 1935, Equitable has not fixed any fees or commissions in a manner as to encourage or discourage the writing or renewing of a specific type of policy in connection with business sold in New

York State. Our review also reflects that since approximately 1956, Equitable has not fixed any fees or commissions in a manner as to encourage or discourage the writing or renewing of a specific type of policy in connection with business sold in other states. From approximately 1913 to approximately 1935 within New York State, and to approximately 1956 in other states, Equitable's commission policy provided for a reduced agent commission of 5% on policies insuring members of a certain group, based upon the race, color, creed, or national origin of that group.

C. Conclusion

On the basis of our review, we have determined that Equitable never sold industrial life policies or debit insurance, nor have race, color, creed, or national origin been factors in determining the dividends paid by Equitable on any policy. In our review of over 100,000 pages of documents, a single memorandum from 1886 and two underwriting manuals from 1915 and 1920 indicate that race, color, creed, or national origin may have been a factor considered in connection with the determination of premiums. However, we have not located any evidence that establishes that such classifications were in fact used to determine premiums on any policy. Moreover, a review of relevant in-force policies indicates that race, color, creed, or national origin did not affect the calculation of premiums on any policies currently in-force. Therefore, for these and other reasons, we do not believe that it is necessary to take any remedial action.

Equitable remains uncompromisingly committed to making its products and services available to consumers regardless of race, color, creed, or national origin.

State of New York)
) ss.:
County of New York)

Michael Hegarty, President of the Equitable Life Assurance Society of the United States, being duly sworn, deposes and says that, to the best of his information, knowledge and belief, the attached Report, together with all attachments thereto, is true and complete and not misleading and contains the most accurate information available at the time of its submission.

Michael Hegarty
President

Subscribed and sworn to before me this 15th day of August, 2000.

Notary Public

FRANCESCA DIVONE
Notary Public, State of New York
No. 01DI6016725
Qualified in Richmond County
Commission Expires November 30, 2000

The Department's September 27, 2000
Request for Additional Information
(Exhibit B)



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

September 27, 2000

Mr. Paul Boucher
Vice President
The Equitable Life Assurance Society
1290 Avenue of the Americas
New York, New York 10104

Re: The Equitable Life Assurance Society ("Equitable")
Supplement No. 1 to Circular Letter No. 19 (2000)

Dear Mr. Boucher:

We have completed our review of Equitable's submission made pursuant to Supplement No. 1 to Circular Letter No. 19 (2000).

Based upon our review of the filed report, we have the following queries and comments:

1. The filed report indicates that Equitable engaged in certain race-based underwriting practices during various times in its history. For each discussed race-based practice in which Equitable engaged, the report indicates that race, color, creed and/or national origin were considered. For each discussed practice, please indicate if race, color, creed and national origin were all considered or specify which of these factors were considered for each discussed practice.
2. The filed report indicates, for each discussed race-based practice in which Equitable engaged, that such practice was applied to members of "certain groups". The report does not identify the group or groups at which each described race-based practice was directed. For each discussed practice, please identify the group or groups at which such practice was directed.
3. The Supplement directed that the report should discuss the insurer's findings with regard to the marketing and/or sale of business directly issued by the insurer and business acquired by the insurer as a result of assumption, merger, acquisition, consolidation or purchase. The only reference to acquired business in the filed report was a statement that Equitable never acquired industrial life or debit insurance. The filed report failed to specify if Equitable's review included any business acquired by Equitable in addition to business directly issued by Equitable. If Equitable had acquired any type of business, the report must discuss the scope of Equitable's review, document availability and findings relative to such business. If Equitable has not acquired any business, the report should state so.

Mr. Paul Boucher
September 27, 2000
Page 2 of 2

The amended report should include the information specified above in addition to the information included in your previous submission. The amended report must be filed, accompanied by a jurat in the form specified in Supplement No. 1 of Circular Letter No. 19 (2000), no later than 15 days from receipt of this letter.

Please direct any questions and your response to:

Mrs. Ruth Gumaer
Principal Insurance Examiner – Life Bureau
New York State Insurance Department
25 Beaver Street
New York, New York 10004
Phone: (212) 480-4763 Fax: (212) 480-5329
E-mail: rgumaer@ins.state.ny.us

Very truly yours,

Ruth Gumaer
Principal Insurance Examiner

The Company's October 18, 2000 Amended
Report Pursuant to Supplement No. 1 to
Circular Letter No. 19 (2000)
(Exhibit C)



EQUITABLE

Member of the Global  Group

Paul R. Boucher
Vice President
(212) 314-3946, Fax: (212) 707-1862
paul.boucher@equitable.com

LAW DEPARTMENT

October 18, 2000

BY HAND

Mrs. Ruth Gumaer
Principal Insurance Examiner
Life Bureau
New York Insurance Department
25 Beaver Street
New York, New York 10004

Re: Supplement 1 to Circular Letter No. 19 (June 22, 2000)

Dear Mrs. Gumaer:

Enclosed please find two copies of the Amended Report of Findings by The Equitable Life Assurance Society of the United States to the State of New York Insurance Department in Response to Supplement 1 to Circular Letter No. 19 (June 22, 2000) (the "Amended Report"), as well as an accompanying jurat executed by Michael Hegarty, President and Chief Operating Officer of Equitable. Also enclosed is a copy of the Bill Jacket from 1935 N.Y. Insurance Laws § 90 (Ch. 736), which provides historical context to some of the issues addressed in the Amended Report.

As with the Report of Findings submitted by Equitable to the Department on August 15, 2000 (the "Report"), the Amended Report contains confidential and proprietary information which, if disclosed, would cause substantial injury to Equitable's competitive position. In addition, like the Report, the Amended Report is subject to the attorney client privilege and the attorney work product doctrine. Accordingly, Equitable has provided the Report, the Amended Report, and related correspondence to the Department with the express understanding that any information contained therein will be afforded confidential treatment and will be exempt from disclosure pursuant to applicable law, including N.Y. Pub. Off. Law § 87(2)(d) and 11 NYCRR § 241.6 (1983). If this exemption is not granted, we ask that the Department notify Equitable prior to the release of any information contained in these documents.

Ruth Gumaer
New York Insurance Department
October 18, 2000
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If you require any additional information, please contact me at the number listed above.

Very truly yours,

Enclosures

cc: Michael Hegarty
Robert E. Garber
Richard V. Silver
Wendy E. Cooper
Dave S. Hattem

130977

**AMENDED REPORT OF FINDINGS BY
THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES
TO THE STATE OF NEW YORK INSURANCE DEPARTMENT IN RESPONSE
TO SUPPLEMENT 1 TO CIRCULAR LETTER NO. 19 (JUNE 22, 2000)**

Preliminary Statement

Pursuant to the direction of the New York Insurance Department (“NYID” or the “Department”), The Equitable Life Assurance Society of the United States (“Equitable” or the “Company”) took the actions required by Supplement 1 to Circular Letter No. 19, issued June 22, 2000 (the “Supplement”), and on August 15, 2000, submitted to the Department a written report that responded to the Department’s inquiries and that discussed Equitable’s findings (the “Report”). By letter dated September 27, 2000 (received by Equitable on October 3, 2000), the Department requested the Company to provide certain additional information in the form of the following amended report (collectively with the Report, the “Amended Report”). The Company respectfully requests that the Department treat the information contained in this Amended Report and accompanying correspondence as privileged, confidential, and proprietary, and exempt from public disclosure pursuant to applicable law.

A. Review and Availability of Documents

To prepare the Amended Report, we conducted a diligent review, within the time allotted, of locations and documents that we believed were reasonably likely to contain relevant information, and made inquiry of key employees who might reasonably be expected to provide relevant information. We believe that we were able to locate and review most, if not all, of the potentially relevant documents from the following categories identified by the Department: rate charts; mortality tables; underwriting and

agent manuals; Board of Directors minutes; minutes of the Executive, Agency, Insurance, and Rules and Regulations Committees of the Board of Directors; annual statements; dividend scales; and NYID examination reports. We were also able to locate and review a variety of agent and broker contracts, compensation schedules, policy forms, policy form filings, and internal memoranda, correspondence, and publications. In addition, we conducted a sample review of applications from various time periods. All of these documents are available for review by the Department.¹

We note, of course, that definitive responses to the issues raised in the Supplement could only be provided after a thorough examination of records covering the Company's entire 141-year history, including records that the Company was not required to and did not retain (or could not locate within the time allotted). Indeed, while Equitable possesses some records dating back to its founding in 1859, normal record retention practices and other factors (including a catastrophic fire at the Company's headquarters in 1912) necessarily have left the Company with incomplete records for the period prior to the late 20th century, other than policy files for in-force policies. As a result, in reaching conclusions contained in this response, Equitable has had to review and interpret records and other information that were often quite old, incomplete, and/or inconclusive. Therefore, the findings set forth below should be understood to reflect the Company's best efforts to respond to the Department based on information available to it within the timeframe contemplated by the Supplement.

¹ Equitable does not possess any labor negotiation documents with distribution force unions.

B. Results of Review

Our review of annual statements dating back almost to the Company's founding in 1859 indicates that Equitable has never issued (either directly or through business acquired by the Company as a result of assumption, merger, acquisition, consolidation, or purchase) insurance policies commonly referred to as "industrial life" policies or "debit insurance."

1. Reinsurance Business

Based on our review, we believe that Equitable has not acquired any business as a result of assumption, merger, acquisition, consolidation, or purchase that in any manner involved race-based underwriting practices.

2. Refusing to Insure

The documents reviewed indicate that since 1956, race, color, creed, and national origin were not factors considered by Equitable underwriters in determining whether or on what terms to issue coverage. Beginning at an unknown date and continuing from time to time until 1956, it appears from Equitable's underwriting manuals that race, color, creed, and/or national origin may have been considered by the Company's underwriters in determining whether to decline to insure certain Chinese, Japanese, Hawaiian, and Native American applicants.² We believe that Equitable does not currently possess any records relating to policy declinations from that time period,

² Equitable has identified the group or groups at which such practices may have been directed according to the terminology that it believes is accepted today. Ambiguity in terminology used in the documents to refer to different groups makes it difficult to determine in all cases whether particular categorizations are based on race, color, creed, or national origin or some combination of these.

and therefore we cannot determine the number of policies, if any, which may have been declined prior to 1956.

3. Refusing to Continue to Insure

Based on our review, we do not believe that Equitable has refused to continue to insure on the basis of race, color, creed, or national origin.

4. Limiting the Amount, Extent, or Kind of Coverage Available

The documents reviewed indicate that since 1956, Equitable has not limited the amount, extent, or kind of coverage available on the basis of race, color, creed, or national origin. Beginning at an unknown date and continuing from time to time until 1956, certain Chinese, Japanese, Hawaiian, Hindu, and Native American applicants may have been permitted to purchase only endowment policies or ordinary life policies (then Equitable's most popular product), and certain Chinese, Japanese, and Hawaiian applicants may not have been permitted to obtain disability or accidental death riders. In addition, in some cases, the maximum face amounts that Equitable would issue may have been lower for certain Asian and Native American applicants than for other applicants, and a minimum face amount requirement may have been imposed on certain Chinese, Japanese, and Hawaiian applicants. However, our review reveals that, except for a single reference in an 1886 document (see Section 5(a), below), no distinctions were made on the basis of race, color, creed, or national origin with regard to premiums or dividends on any policies issued by Equitable. Finally, our records reflect that none of the endowment policies issued by Equitable through 1956 are still in-force.

5. Charging or Collecting Higher Premiums or Rates

a. Individual Life Insurance

Based on our review of rate books and other information, we found no evidence that Equitable in fact charged or collected higher premiums or rates on individual life policies on the basis of race, color, creed, or national origin. However, we have located a single document dated in 1886 which suggests that an additional premium charge of one-half percent would be assessed against African American applicants on the purchase of life insurance policies. We note that the language contained in this 1886 document is somewhat ambiguous, and we have located no other documents (including rate books dating back to that year) which indicate how, if at all, this policy may have been implemented. Moreover, we have also located a document dated in 1913 which states that Equitable charged African American applicants the same premium rates as those charged to all other applicants on the purchase of life insurance policies.³

b. Group Life Insurance

The documents reviewed indicate that since approximately 1934, Equitable has not charged or collected higher premiums or rates for Equitable group life insurance products based upon race, color, creed, or national origin. At various times prior to 1934, the Company may have assessed a higher group rate on certain group life insurance policies based upon the composition of the group (*i.e.*, whether the group contained a certain percentage of African American, Asian, or Mexican applicants).

³ Please note that Section 90 of the New York Insurance Law, enacted April 1, 1891, prohibited the charging or collecting of higher premiums or rates from African Americans.

Such higher rate, if any, would have applied to all members of the group without regard to race, color, creed, or national origin. We note that in 1990, Equitable sold by assumption its group life insurance block of business to another carrier, and turned over to that carrier most, if not all, of the Company's records related to this business.

6. Making or Requiring any Rebate on the Amount Paid

Based on our review, we do not believe that Equitable has made or required any rebate on the amount paid on the basis of race, color, creed, or national origin.

7. Assigning of Substandard Risk Classifications

Based on our review, we believe that since approximately 1932, Equitable has not assigned a substandard risk classification on the basis of race, color, creed, or national origin. Beginning at an unknown date and continuing from time to time until approximately 1932, it appears from Equitable's underwriting manuals that race, color, creed, and/or national origin may have been a factor (although unlikely a determinative factor) utilized by Equitable underwriters in determining whether to assign substandard risk ratings to Chinese and Japanese applicants. Equitable's review of the 32 in-force policies issued prior to 1932 with substandard premiums charged did not reveal any specific instance in which the substandard risk rating was assigned on the basis of the applicant's race, color, creed, or national origin.

8. Crediting of or Providing Lower Dividends, Policy Benefits, or Nonforfeiture Values

Based on our review, we do not believe that Equitable has credited or provided lower dividends, policy benefits, or nonforfeiture values on the basis of race, color, creed, or national origin.

9. Making any Distinction as to Policy Terms or Conditions

Based on our review, we do not believe that Equitable has made any distinction as to policy terms or conditions on the basis of race, color, creed, or national origin.

10. Imposing of Greater Underwriting Requirements (Medical vs. Non-Medical)

Based on our review, we believe that since 1956, Equitable underwriters have not considered race, color, creed, or national origin when evaluating underwriting risk. At various times prior to 1956, the documents reviewed indicate that Equitable underwriters would not have accepted non-medical applications from certain Asian applicants (thereby requiring these applicants to submit to a medical examination), and would have considered applications from Equitable agents only. In addition, a single reference in a 1932 underwriting document indicates that race, color, creed, and/or national origin may have been considered by the Company's underwriters in determining whether to submit to an underwriting committee applications from members of certain groups (Chinese, Japanese, Hawaiians, Native Americans, Mexicans, Filipinos, Croatians, Greeks, Armenians, Syrians, Turks, Indians, Puerto Ricans, African Americans, any non-Caucasian residing outside his or her native country, and other unidentified groups from Southern Europe and Asia Minor).⁴

11. Fixing of any Fees or Commissions in a Manner as to Encourage or Discourage the Writing or Renewing of a Specific Type of Policy

The documents reviewed indicate that since approximately 1935, Equitable has not fixed any fees or commissions in a manner as to encourage or discourage the

⁴ The documents reviewed provided no additional information regarding this underwriting committee.

writing or renewing of a specific type of policy in connection with business sold in New York State. Our review also reflects that since approximately 1956, Equitable has not fixed any fees or commissions in a manner as to encourage or discourage the writing or renewing of a specific type of policy in connection with business sold in other states. From approximately 1913 to approximately 1935 within New York State, and to approximately 1956 in other states, Equitable's commission policy provided for a reduced agent commission of 5% on policies insuring African American policyholders.

C. Conclusion

On the basis of our review, we have determined that Equitable never sold industrial life policies or debit insurance, nor have race, color, creed, or national origin been factors in determining the dividends paid by Equitable on any policy. In our review of over 100,000 pages of documents, a single memorandum from 1886 and two underwriting manuals from 1915 and 1920 indicate that race, color, creed, or national origin may have been a factor considered in connection with the determination of premiums. However, we have not located any evidence that establishes that such classifications were in fact used to determine premiums on any policy. Moreover, a review of relevant in-force policies indicates that race, color, creed, or national origin did not affect the calculation of premiums on any policies currently in-force. Therefore, for these and other reasons, we do not believe that it is necessary to take any remedial action.

Equitable remains uncompromisingly committed to making its products and services available to consumers regardless of race, color, creed, or national origin.

State of New York)
) ss.:
County of New York)

Michael Hegarty, President of The Equitable Life Assurance Society of the United States, being duly sworn, deposes and says that, to the best of his information, knowledge and belief, the attached Amended Report, together with all attachments thereto, is true and complete and not misleading and contains the most accurate information available at the time of its submission.

Michael Hegarty
President

Subscribed and sworn to before me this 17th day of October, 2000.

Notary Public

FRANCESCA DIVONE
Notary Public, State of New York
No. 01DI6016725
Qualified in Richmond County
Commission Expires November 30, 2002