



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
AXA EQUITABLE LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2010

DATE OF REPORT:

FEBRUARY 11, 2012

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

MARC TSE, CFE

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Company	4
	A. History	4
	B. Territory and plan of operations	5
4.	Market conduct activities	7
	A. Advertising and sales activities	7
	B. Underwriting and policy forms	8
	C. Treatment of policyholders	9
6.	Prior report summary and conclusions	10
7.	Summary and conclusions	16



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

January 2, 2014

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30828, dated February 10, 2012 and annexed hereto, an examination has been made into the affairs of AXA Equitable Life Insurance Company, hereinafter referred to as “the Company,” at its home office located at 1290 Avenue of the Americas, New York, New York 10104.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

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

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer whose coverage is being replaced, a copy of the revised Disclosure Statement used in the sale of life insurance policies when the policy issued differed from the life insurance policy applied for. A similar violation appeared in the prior report on examination. (See Item 4A of this report)
- The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide a revised Disclosure Statement to the applicant in the cases where the life insurance policy issued differed from the life insurance policy applied for. This violation appeared in the prior report on examination. (See Item 4A of this report)
- The Company violated Section 2611(a) of the New York Insurance Law by failing to require a proper HIV consent form prior to subjecting an applicant to an HIV related test. This violation appeared in the prior report on examination. (See Item 4B of this report)
- The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to include in the preliminary information, a statement indicating that there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid. (See Item 4B of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2006 to December 31, 2010. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2010 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' Market Regulations Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 6 of this report.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on July 26, 1859 under the name of Equitable Life Assurance Society of the United States. The Company was licensed on July 25, 1859 and commenced business on July 28, 1859. In 1917, the Company commenced the process to become a mutual life insurance company. The Company completed its conversion to a mutual company in 1925.

On July 22, 1992, the Company demutualized and converted back to a stock life insurance company and became a wholly-owned subsidiary of The Equitable Companies Incorporated (“EQ”). In connection with the demutualization, the Company’s eligible policyholders received cash, policy credits or common stock of EQ. At demutualization on July 22, 1992, AXA, a French holding company for an international group of insurance and related financial services companies, became the owner of 49% of EQ’s common shares outstanding as well as the owner of convertible preferred stock in exchange for a \$1 billion investment. On December 19, 1994, EQ exchanged all its outstanding redeemable preferred stock and substantially all of its convertible preferred stock for common stock, a new series of convertible preferred stock and convertible debentures. As a result, AXA’s ownership percentage of EQ as of December 31, 1995 increased to 60.6%.

On September 3, 1999, EQ changed its name to AXA Financial, Inc. (“AXA Financial”).

In 1999, AXA Client Solutions, LLC (“Client Solutions”) was formed as a wholly-owned direct subsidiary of AXA Financial. At the same time, AXA Financial contributed to Client Solutions all of the Company’s common stock, making Client Solutions the direct parent of the Company.

On August 30, 2000, AXA Financial received a proposal from AXA for the acquisition of all of the outstanding common shares of AXA Financial not owned by AXA. On January 2, 2001, AXA completed its acquisition of the remaining minority interest in AXA Financial.

On January 1, 2002, Client Solutions distributed all of the Company’s common stock to AXA Financial, thereby making AXA Financial the direct parent of the Company. On April 22, 2002, Client Solutions changed its name to AXA Financial Services, LLC. Effective June 1,

2002, AXA Financial transferred ownership of the Company back to AXA Financial Services, LLC thereby making it once again the direct parent of the Company.

Effective September 7, 2004 the Company, formerly known as Equitable Life Assurance Society of the United States, changed its name to AXA Equitable Life Insurance Company.

Effective November 7, 2007 AXA Financial Services, LLC changed its name to AXA Equitable Financial Services, LLC.

B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Canada. In 2010, 17.2% of life premiums, 13.2% of annuity considerations, and 25.7% of accident and health premiums were received from New York. Policies are written on both a participating and non-participating basis.

The Company and its subsidiaries offer a broad portfolio of life insurance products, primarily whole life and a variety of term life insurance products in addition to variable life and interest sensitive life insurance products. The Company also offers a variety of annuity products which included fixed deferred annuities, payout annuities, and variable annuities. The Company exited the accident and health line of business in the early 1990s. The Company's in-force accident and health business consists of a closed block of long term disability and major medical policies.

Following the acquisition of MONY Life Insurance Company ("MONY") by AXA Financial, all of MONY's operations were integrated with those of the Company, AXA Financial and its affiliates, and MONY limited the marketing of its existing life and annuity products.

The Company's agency operations are conducted through an affiliated general agency, AXA Network, and its subsidiaries and an affiliated wholesale broker/dealer, AXA Distributors, LLC ("ADL"). Annuity, life insurance and mutual fund products are issued directly to the public through financial professionals associated with AXA Network and AXA Advisors. AXA Network functions primarily as a retail distributor, selling products directly to customers through individual AXA Network insurance agents. Variable products are sold by AXA Network agents

who are also registered representatives of AXA Advisors, AXA Network's affiliated broker-dealer. The Company pays compensation to AXA Network on AXA Network sales pursuant to the terms and conditions of a sales agreement between the Company and AXA Network. AXA Network pays compensation to the AXA Network agents making the sales pursuant to the terms and conditions of the agents' associate agreements with AXA Network.

On April 5, 2005, certain wholesalers who were previously part of the MONY wholesale distribution channel known as MONY Partners became wholesalers of AXA Distributors LLC ("ADL"). On June 6, 2005, MONY's affiliated insurance agencies, MONY Brokerage, Inc. and MONY Securities, Inc., ceased operations, and certain insurance agents in MONY's branch system became part of AXA Network.

ADL operates as a wholesaler, distributing the Company's products to third party general agents. ADL has two divisions: an annuity division which is referred to internally as ADL and a life division which is referred to internally as AXA Partners. The annuity division focuses on distributing the Company's annuity products through third party general agents associated with wirehouses, securities brokerage firms, banks and financial planners. The life division concentrates on distributing the Company's and MONY of America's life insurance products to brokerage general agents. The Company pays compensation to ADL on sales made by third parties through ADL pursuant to the terms and conditions of a sales agreement between the Company and ADL. ADL pays compensation to the third party general agents and brokerage general agents making the sales pursuant to the terms and conditions of the sales agreements with ADL.

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Section 51.6 of Department Regulation No. 60 states, in part:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed “Disclosure Statement” . . .

(9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the information relating to the life insurance policy or annuity contract as issued, including but not limited to the revised "Disclosure Statement," any revised or additional sales material used and acknowledgement by the applicant of receipt of such revised material.”

The examiner reviewed 43 life replacement files and 50 (10 internal and 40 external) annuity replacement files for compliance with Department Regulation No. 60. The examiner's review revealed:

In ten of the twelve life replacement cases reviewed where a revised illustration was required, the Company provided a revised illustration and Disclosure Statement to the applicant, but did not provide the revised documents to the company being replaced.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer whose coverage is being replaced, a copy of the revised Disclosure Statement or revised sales material used in the sale of life insurance policies when the policy

issued differed from the life insurance policy applied for. A similar violation appeared in the prior report on examination.

In three of the 43 (7.0%) life Disclosure Statements reviewed, the life insurance policy issued differed from the life insurance policy applied for, but a revised Disclosure Statement was not provided to the applicant.

The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide a revised Disclosure Statement to the applicant in the cases where the life insurance policy issued differed from the life insurance policy applied for. This violation appeared in the prior report on examination.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Section 2611 of the New York Insurance Law states, in part:

“(a) No insurer or its designee shall request or require an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.

(b) Written informed consent to an HIV related test shall consist of a written authorization that is dated . . .”

The prior report on examination contained violations of Section 2611(a) of the New York Insurance Law by failing to obtain written informed consent prior to subjecting the applicant to HIV-related testing. The Company stated that effective March 10, 2010, in response to the prior report findings, steps were taken to reinforce its procedures to ensure compliance with Section 2611 of New York Insurance Law. The examiner reviewed 25 policies requiring an HIV consent form that were processed after March 10, 2010. Out of these 25 policies, two cases (8%) did not have a proper HIV consent form prior to performing the HIV related test.

The Company violated Section 2611(a) of the New York Insurance Law by failing to require a proper HIV consent form prior to subjecting an applicant to an HIV related test. This violation appeared in the prior report on examination.

Section 3209(d) of the New York Insurance Law states, in part:

“The preliminary information shall be in writing and include, to the extent applicable, the following:

(7) . . . there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid . . .”

The Company issued 21,895 term life policies in New York during the examination period. The examiner reviewed a sample of 66 term life policy underwriting files. In all instances the Company failed to include in the preliminary information, a statement indicating that there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.

The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to include in the preliminary information, a statement indicating that there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

Based on the sample reviewed, no significant findings were noted.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the market conduct violations and recommendations contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company either add a statement to these advertisements showing the assets under management of the Company or cease use of these advertisements.</p> <p>The review of a sample of advertisements indicated that the Company added a statement showing the assets under management of the Company.</p>
B	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain a notation relating to the manner and extent of distribution of any policy advertised.</p> <p>The review of a sample of advertisement files indicated that the Company maintains the manner and extent of distribution of all policies advertised.</p>
C	<p>The Company violated Section 4226(b) of the New York Insurance Law and Section 51.6(b)(3) of Department Regulation No. 60 by failing to use comparisons that conform to all the requirements established by the Superintendent by regulation, reduce the surrender values and death benefit values for the hypothetical rates of return on the Appendix 10B Disclosure Statements by investment fund level charges during the examination period and examine the Appendix 10B Disclosure Statements for the variable annuity replacements and ascertain that they were accurate and met the requirements of the New York Insurance Law and Department Regulation No. 60.</p> <p>The review of annuity replacements indicated that the Company did not violate section 4226(b) of the New York Insurance Law or Section 51.6(b)(3) of Department Regulation No. 60.</p>

<u>Item</u>	<u>Description</u>
D	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 in all cases where it failed to examine and ascertain that a composite Appendix 10A Disclosure Statement was required and to provide such in situations where more than one existing policy was being replaced.</p> <p>The review of replacements indicated that a composite Appendix 10A Disclosure Statement was provided in situations where more than one existing policy was being replaced.</p>
E	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60 in all cases where it failed to correct deficiencies involving Appendix 10A Disclosure Statements or reject the application within ten days from date of receipt of the application.</p> <p>The review of replacements did not reveal any violations of Section 51.6(b)(7) of Department Regulation No. 60.</p>
F	<p>The Company violated Section 51.6(b)(9) of Department Regulation No. 60 in all cases where it failed to provide a revised Appendix A Disclosure Statement when the insurance policy issued differed from the policy applied for.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See Item 4A of this report)</p>
G	<p>The Company violated Section 51.6(b)(3) of Department Regulation No. 60 in the cases where it failed to examine the Appendix 10A Disclosure Statements to ascertain that they were accurate and met the requirements of the New York Insurance Law and the Regulation. The Company also violated Sections 243.2(b)(1) and (8) of Department Regulation No. 152 in the cases where it failed to maintain the information used to complete the Disclosure Statement that was received from the company being replaced.</p> <p>The review of replacements did not reveal any violations of Section 51.6(b)(3) of Department Regulation No. 60 or Sections 243.2(b)(1) and (8) of Department Regulation No. 152.</p>

<u>Item</u>	<u>Description</u>
H	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 in the cases where it failed to furnish the existing insurer a copy of the sales material used in the sale of the proposed variable annuity contract, and the completed Appendix 10B Disclosure Statement, within ten days of receipt of the application.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See Item 4A of this report)</p>
I	<p>The Company violated Section 51.6(e) of Department Regulation No. 60 in the cases where it failed to date stamp variable annuity and life insurance policy replacement documents upon receipt.</p> <p>The review of replacements indicated that the Company date stamped variable annuity and life insurance policy replacement documents upon receipt.</p>
J	<p>The Company violated Section 2611(a) of the New York Insurance Law by failing to obtain written informed consent prior to subjecting the applicant to HIV-related testing.</p> <p>The Company failed to take corrective action in response to this prior report violation. (See Item 4B of this report)</p>
K	<p>The examiner recommends that the Company refrain from changing policy form numbers after the policy forms are approved by the Superintendent.</p> <p>The review of policy forms indicated that the Company did not change any policy form numbers after the policy forms were approved by the Superintendent.</p>
L	<p>The Company violated Section 3201(b)(1) of the New York Insurance Law by using an unapproved policy form in connection with the Equi-Vest product.</p> <p>The Company submitted the form for approval in 2010. The Department approved this policy form on June 15, 2010.</p>
M	<p>The Company violated Section 216.4(a) of Department Regulation No. 64 by failing to acknowledge (in writing or by other means) receipt of notice of the claim.</p> <p>The review of claims did not note any situation where the Company failed to acknowledge the receipt of the notice of the claim.</p>

<u>Item</u>	<u>Description</u>
N	<p>The Company violated Section 216.11 of Department Regulation No. 64 by failing to make a notation in the variable annuity claim file or to retain a copy of any and all forms mailed to claimants.</p> <p>The review of claims did not reveal violations of Section 216.11 of Department Regulation No. 64.</p>
O	<p>The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain the date that the Company or its agent received notice from the policy owner of their wish to accelerate benefits.</p> <p>The review of claims did not reveal violations of Section 216.11 of Department Regulation No. 64.</p>
P	<p>The Company violated Section 3230(b)(1) of the New York Insurance Law by failing to date the accelerated benefit application upon transmittal.</p> <p>The review of accelerated benefits indicated that the Company now dates the accelerated benefit application upon transmittal.</p>
Q	<p>The Company violated Section 3230(d) of the New York Insurance Law by failing to provide the information required for accelerated benefit claims.</p> <p>The review of accelerated benefits indicated that the Company now provides the information required for accelerated benefit claims.</p>
R	<p>The Company violated Section 3230(c) of the New York Insurance Law by failing to wait the 14 days before paying the accelerated benefit claim.</p> <p>The review of accelerated benefits indicated that the Company now waits 14 days before paying the accelerated benefit claim.</p>
S	<p>The Company violated Section 216.11 of Department Regulation No. 64 by failing to: date stamp surrender documents; use either the approved request form or obtain a written request from the policyowner; and provide payment documents all of which are necessary to allow Department personnel to reconstruct the insurer's activities relating to the claim.</p> <p>The Company now date stamps surrender documents; uses either the approved request form or obtains a written request from the policyowner, and; provides payment documents allowing Department personnel to reconstruct the insurer's activities relating to the claim.</p>

<u>Item</u>	<u>Description</u>
T	<p>The Company violated Section 4221(a)(7) of the New York Insurance Law by failing to provide statements containing the policy loan value at least annually to universal life policyholders.</p> <p>The Company now provides statements containing the policy loan value at least annually to universal life policyholders.</p>
U	<p>The examiner recommends that the Company institute a formal communication channel (documented process) whereby the Company's Privacy Officer is notified of any privacy and safeguarding deficiencies noted when the Company's other business areas audit or review the functions of TPAs.</p> <p>The Company's Procurement Department, in consultation with the Privacy Office among others, has implemented a comprehensive vendor management program that includes business owner assessment of available SAS70 reports in coordination with Internal Audit.</p>
V	<p>The examiner recommends that the Company develop and implement a plan to improve the Company's control over TPA activities, including how third party service providers secure Company customer nonpublic personal health and financial information.</p> <p>The Company's Procurement Department, in consultation with the Privacy Office among others, has implemented a comprehensive vendor management program that includes business owner assessment of available SAS70 reports in coordination with Internal Audit.</p>
W	<p>The examiner recommends that the audit committee of the board increase their level of involvement and oversight over the Company's system of safeguarding Company customer personal non public financial and health information with regard to services outsourced to third parties.</p> <p>Annual reporting to the Audit Committee now includes pertinent updates on vendor assessment activities.</p>

<u>Item</u>	<u>Description</u>
X	<p>The examiner recommends that the Company develop a monitoring and control process to determine that TPAs have adequately prepared for and tested disaster recovery and business continuity plans in place at the TPA to ensure that outsourced operations and policyholder data can be recovered in the event of a disaster situation. This process should include an evaluation and assessment of each TPA to ensure that adequate measures have been taken to plan for the recovery of data, systems, operations, as well as critical business processes for those operations that the TPAs perform under service agreements with the Company.</p> <p>The Company developed a monitoring and control process to determine that TPAs have adequately prepared for and tested disaster recovery and business continuity plans in place at the TPA to ensure that outsourced operations and policyholder data can be recovered in the event of a disaster situation.</p>
Y	<p>The examiner recommends that the Company implement a procedure to review the results of any disaster recovery and/or business continuity tests performed at the TPA.</p> <p>The Company implemented a procedure to review the results of any disaster recovery and/or business continuity tests performed at the TPA.</p>

7. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish to the insurer whose coverage is being replaced, a copy of the revised Disclosure Statement or revised sales material used in the sale of life insurance policies when the policy issued differed from the life insurance policy applied for, within 10 days of receipt of the application. A similar violation appeared in the prior report on examination.	7
B	The Company violated Section 51.6(b)(9) of Department Regulation No. 60 by failing to provide a revised Disclosure Statement to the applicant in the cases where the life insurance policy issued differed from the life insurance policy applied for. This violation appeared in the prior report on examination.	8
C	The Company violated Section 2611(a) of the New York Insurance Law by failing to require a proper HIV consent form prior to subjecting an applicant to an HIV related test. This violation appeared in the prior report on examination.	8
D	The Company violated Section 3209(d)(7) of the New York Insurance Law by failing to include in the preliminary information, a statement indicating that there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.	9

Respectfully submitted,

_____/s/_____
Marc Tse
Associate Insurance Examiner

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

Marc Tse, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

_____/s/_____
Marc Tse

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 30828

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

MARC TSE

as a proper person to examine the affairs of the

AXA EQUITABLE LIFE INSURANCE COMPANY

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

COMPANY

with such other information as she shall deem requisite.

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

this 10th day of February, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

