



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

CONDITION:

DECEMBER 31, 2010

DATE OF REPORT:

JANUARY 31, 2012

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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AS OF

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EXAMINER:

MARC A. TSE, CFE, CLU

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

April 21, 2014

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

Sir:

In accordance with instructions contained in Appointment No. 30829, dated February 10, 2012 and annexed hereto, an examination has been made into the condition and affairs of MONY 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.

The examination was conducted by the New York State Department of Financial Services. 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 violation contained in this report is summarized below.

- The Company violated Section 3227 of the New York State Insurance Law by failing to pay the required interest on surrendered policies. (See Section 4C)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2006 through 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 5 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 mutual insurance company under a special act of the New York State Legislature on April 12, 1842, and commenced business on February 1, 1843, under the name Mutual Life Insurance Company of New York (“MONY”). On April 1, 1952, the Company began to issue individual accident and health insurance. In 1953, the Company entered the group insurance business by offering a plan known as “module insurance,” which provided for various combinations of life insurance, accident and health insurance and retirement income in a single package to small employer groups. In 1989, the Company exited the group employer life and accident and health insurance business. In 1990, the Company stopped writing group association life and accident and health insurance business.

On December 31, 1993, the Company entered into an agreement with AEGON USA, Inc. under which the Company agreed to transfer substantially all of its group pension business and operations, including its full service group pension contracts, to AEGON USA, Inc.’s wholly owned subsidiary, AUSA Life Insurance Company, Inc., now known as Transamerica Financial Life Insurance Company.

On November 16, 1998, pursuant to an order issued by the New York Superintendent of Insurance approving a Plan of Reorganization (“The Plan”) under Section 7312 of the New York Insurance Law, as amended, the Company converted from a mutual life insurance company to a domestic stock life insurance company and became a wholly owned subsidiary of The MONY Group Inc. (“The MONY Group”), a Delaware corporation organized for the purpose of becoming the parent holding company of MONY. Also on November 16, 1998, The MONY Group consummated an initial public offering of approximately 12.9 million shares of its common stock at \$23.50 per share.

Under The Plan, The MONY Group, in exchange for its policyholder membership interests in the MONY, issued approximately 34.4 million shares of common stock, accrued or paid \$20.6 million in cash, and credited \$13.3 million in policy credits to its policyholders. Unassigned surplus of \$610.7 million was transferred to paid in surplus in conjunction with the issuance of common stock to policyholders.

Effective November 16, 1998, the Company changed its name to MONY Life Insurance Company.

On February 27, 2002, pursuant to the Articles of Incorporation approved by the Delaware Secretary of State, MONY Holdings, LLC became a wholly owned subsidiary of The MONY Group. All issued and outstanding shares of the Company have been transferred to MONY Holdings, LLC.

On July 8, 2004, AXA Financial, Inc. completed its acquisition of The MONY Group. On November 30, 2007, MONY Holdings, LLC merged into AXA Equitable Financial Services, LLC, a wholly owned subsidiary of AXA Financial Inc.

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, Guam, Puerto Rico, U.S. Virgin Islands, and Canada. In 2010, 21.5% of life premiums, 93.7% of annuity considerations, and 10.4% accident and health premiums were received from New York.

On December 31, 2005, the Company discontinued writing its products in New York, except for face amount increases to in force policies, in order to avoid competing with its New York domestic affiliate, AXA Equitable Life Insurance Company.

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 Company did not write new policies during the period under examination. The examiner's review of sales activities consisted of a sample of internally replaced insurance policies.

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

B. Underwriting and Policy Forms

The review of underwriting and policy forms consisted of the sample of internal replacements noted above.

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

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.

Section 3227 of the New York State Insurance Law states, in part:

- “(a) Interest, at the rate provided for in section three thousand two hundred fourteen of this article, shall be payable by life insurers . . . upon:
(1) the value of policies surrendered by policyholders for cash values, including the rollover of annuity funds to other entities, and (2) the funds disbursed as policy loans. Such interest payment shall be added to and be a part of the total sum paid or be paid separately at the option of the insurer.
- (b) The interest calculated on amounts described in paragraphs one and two of subsection (a) hereof shall be calculated from the date the documentation necessary to complete the transaction is received by the

insurer and shall be payable if the funds are not mailed or delivered by the insurer within ten working days of said receipt.

(c) No interest need be payable pursuant to this section unless the amount of such interest is at least twenty-five dollars or if the payment of benefits by the insurer has been deferred pursuant to other provisions of this chapter. . . .”

The examiner reviewed a sample of 32 surrenders. The examiner noted three instances where the Company was required to pay interest in accordance with Section 3227 of the New York State Insurance Law. The Company failed to pay such interest in all three instances.

The Company violated Section 3227 of the New York State Insurance Law by failing to pay the required interest on surrendered policies. The Company took corrective actions when this error was brought to its attention.

5. 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, and the Company agreed to, 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 the advertisement files indicated that the Company added a statement indicating the assets under management of the Company to advertisements disseminated in New York that make reference and call attention to the assets under management of the AXA Group (the Company's ultimate parent) and AXA Financial (the Company's indirect parent).</p>
B	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A in those cases where it failed to maintain a notation relating to the manner and extent of distribution certain advertisements.</p> <p>The review 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 in those cases where it failed to use comparisons that conform to all the requirements established by the Superintendent by Regulation and examine and ascertain that Disclosure Statements were accurate and met the requirements of the New York Insurance Law and Department Regulation No. 60.</p> <p>Based upon the sample reviewed, the Company used comparisons that met the requirements of the Section 4226(b) of the New York Insurance Law and Section 51.6(b)(3) of Department Regulation No. 60.</p>
D	<p>The Company violated Section 51.6(b)(9) of Department Regulation No. 60 in those cases where it failed to provide a revised Appendix 10A Disclosure Statement when the life insurance policy issued differed from the life insurance policy applied for.</p> <p>Based upon the sample reviewed, the Company is now in compliance with Section 51.6(b)(9) of Department Regulation No. 60.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60 in those cases where it failed to correct deficiencies involving Appendix 10A Disclosure Statement or Definition of Replacements forms or reject the application within ten days from the date of receipt of the application.</p> <p>Based upon the sample reviewed, the Company is now in compliance with Section 51.6(b)(7) of Department Regulation No. 60.</p>
F	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 in those cases where it failed to furnish the existing insurer a copy of the sales material used in the sale of the proposed annuity contract and the completed Appendix 10B Disclosure Statement within ten days of receipt of the application.</p> <p>The Company did not have any external replacements during the examination period therefore Section 51.6(b)(4) of Department Regulation No. 60 is not applicable.</p>
G	<p>The Company violated Section 2611(a) of the New York Insurance Law in those cases where it failed to obtain written informed consent prior to subjecting the applicant to HIV related testing.</p> <p>The Examiner's review did not reveal any instances where the Company failed to obtain written informed consent prior to subjecting the applicant to HIV related testing.</p>
H	<p>The Company violated Section 53-3.6(a)(viii) of Department Regulation No. 74 by disseminating annual reports to certain universal life policyholders that did not contain certain required language regarding policy net cash surrender values.</p> <p>Based upon the sample reviewed, the Company appears to be in compliance with Section 53-3.6(a)(viii) of Department Regulation No. 74.</p>
I	<p>The Company violated Section 53-3.6(b) of Department Regulation No. 74 by disseminating annual reports to certain universal life policyholders during the examination period through February 2007 that did not contain certain required language regarding receipt of current illustrations.</p> <p>Based upon the sample reviewed, the Company is now in compliance with Section 53-3.6(b) of Department Regulation No. 74.</p>

<u>Item</u>	<u>Description</u>
J	<p>The Company violated Section 54.11(a) of Department Regulation No. 77 by disseminating annual statements to certain variable life policyholders that did not contain certain required language regarding policy grace periods.</p> <p>Based upon the sample reviewed, the Company is now in compliance with Section 54.11(a) of Department Regulation No. 77.</p>
K	<p>The Company violated Section 4221(a)(7) of the New York Insurance Law by disseminating annual reports to certain universal life policyholders that did not contain certain required information regarding policy loan values.</p> <p>Based upon the sample reviewed, the Company is now in compliance with Section 4221(a)(7) of the New York Insurance Law.</p>
L	<p>The examiner recommends that the Company review TPA agreements that existed as of the prior examination period and survey each TPA or vendor who has access to confidential customer information to determine whether privacy and safeguarding language is needed.</p> <p>The Company reviewed existing TPA agreements and surveyed vendors to determine the necessity for privacy safeguard language. No exceptions were noted.</p>
M	<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 complied with the recommendation. 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>
N	<p>The examiner recommends that the Company develop and implement a plan to improve the Company's control over TPA activities, including how TPAs secure the Company's customer non-public personal health and financial information.</p> <p>The Company complied with the recommendation. 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>

<u>Item</u>	<u>Description</u>
O	<p>The examiner recommends that the audit committee increase its 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>The Company complied with the recommendation. Annual reporting to the Audit Committee includes pertinent updates on vendor assessment activities.</p>
P	<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 vendor management policy and vendor risk management framework that requires monitoring of disaster recovery and business continuity plans of vendors that are determined to be critical or strategic.</p>
Q	<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's vendor management policy and vendor risk management framework requires the review of disaster recovery and business continuity plans of vendors that are determined to be critical or strategic.</p>

6. SUMMARY AND CONCLUSIONS

Following is the violation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 3227 of the New York State Insurance Law by failing to pay the required interest on surrendered policies. The Company took corrective actions when this error was brought to its attention.	7

Respectfully submitted,

_____/s/_____
Marc A. Tse, CFE, CLU
Principal 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. 30829

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

MONY 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

