



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
ML LIFE INSURANCE COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2009

DATE OF REPORT:

APRIL 21, 2011

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EXAMINER:

PHARES CATON

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

Andrew M. Cuomo
Governor

James J. Wrynn
Superintendent

May 13, 2011

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 30464, dated January 7, 2010 and annexed hereto, an examination has been made into the condition and affairs of ML Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 440 Mamaroneck Avenue, Harrison, NY 10528.

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

1. EXECUTIVE SUMMARY

The material violation and comments contained in this report are summarized below:

- The Company violated Section 4228(h) by failing to have a qualified actuary provide the required demonstrations. (See item 6 of this report)
- AEGON USA, Inc. (AEGON) purchased the Company from Merrill Lynch & Co., Inc. on December 28, 2007 for \$.13B. (See item 3 of this report)
- The Company's name was changed to Transamerica Advisors Life Insurance Company of New York effective July 1, 2010. (See item 3 of this report)
- The Company is not currently writing any new business. The Company did not write any life business during the examination period, and effective September 30, 2009, it also stopped selling annuity products. (See item 4 of this report)

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2009 Edition* (the “Handbook”). The examination covers the five-year period from January 1, 2005 through December 31, 2009. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2009, but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted utilizing a risk focused approach in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners (“NAIC”). The Handbook guidance provides for the establishment of an examination plan based on the examiner’s assessment of risk in the insurer’s operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that may threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management’s compliance with Department statutes and guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

The examination was conducted in conjunction with the coordinated examination of the U.S. domiciled insurer affiliates of AEGON USA, LLC (“the Companies”). The coordinated examination was led by the State of Iowa with participation from Arkansas, New York, Ohio and Vermont. Since the lead and participating states are accredited by the NAIC, all states deemed it appropriate to rely on each other’s work. The Companies’ operations are organized into four operating divisions, which include specific lines of business across insurance legal entities. The coordinated examination team identified and assessed risks in key functional activities across the

divisions. The examination team also assessed the relevant prospective risks as they related to the operating divisions and insurance legal entities.

Information about the Company's organizational structure, business approach and control environment were utilized to develop the examination approach. The Company's risks and management activities were evaluated incorporating the NAIC's nine branded risk categories. These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2005 and 2006 by the accounting firm Deloitte & Touche LLP and for the years 2007 through 2009 by the accounting firm of Ernst & Young LLP. The Company received an unqualified opinion in all the years under review. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company has an operational risk and internal control group which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 ("SOX"). Where applicable, SOX workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Company with respect to the violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

This report on examination is confined to financial statements and comments on those 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 the State of New York on November 28, 1973 under the name of Agway Life Insurance Company. The Company was licensed and commenced business on March 27, 1974.

The Company's stock was purchased by the Equitable Life Assurance Society of the United States ("Equitable") on May 21, 1986 for \$9,500,000. Equitable renamed the Company Royal Tandem Life Insurance Company on August 26, 1986.

On July 31, 1987, Equitable sold 25% of its interest in the Company to Merrill Lynch & Co., Inc. ("Merrill Lynch"). Immediately following the sale, Equitable and Merrill Lynch contributed their respective interest in the Company to the initial capitalization of Tandem Financial Group, Inc., ("Tandem Group") a Delaware insurance holding company. Royal Tandem Life Insurance Company ("Royal Tandem") and its affiliate, Tandem Insurance Group, Inc. ("Tandem Insurance"), were direct wholly owned subsidiaries of Tandem Group.

On October 11, 1989, Merrill Lynch exercised its option under a shareholder's agreement with Equitable to purchase all of Equitable's interest in Tandem Group. As a result, Tandem Group became a wholly owned subsidiary of Merrill Lynch. On September 6, 1990, Tandem Group was renamed Merrill Lynch Insurance Group, Inc. ("MLIG"). On September 9, 1991, the Company's name was changed to ML Life Insurance Company of New York ("MLLICNY"). The Company's affiliate, Tandem Insurance, was merged into Merrill Lynch Life Insurance Company ("MLLIC"), an Arkansas insurance company, on October 1, 1991.

On December 28, 2007, AEGON USA, Inc. ("AEGON") purchased MLLIC and its affiliate MLLICNY from Merrill Lynch for \$1.12 billion and \$.13 billion respectively, for a total price of \$1.25 billion.

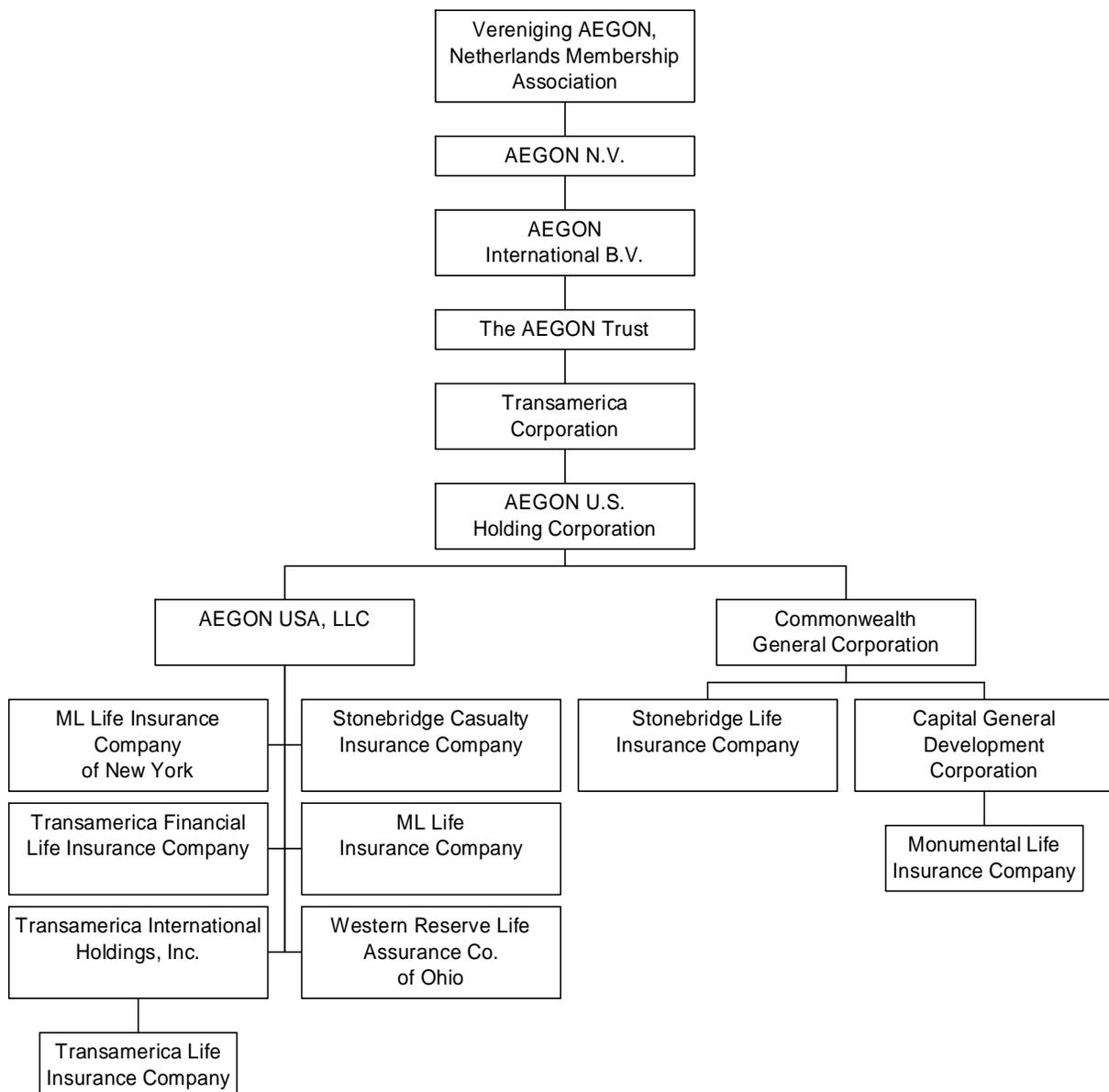
On July 1, 2010, the Company's name was changed to Transamerica Advisors Life Insurance Company of New York.

B. Holding Company

The Company is now a wholly owned subsidiary of AEGON USA LLC; the ultimate parent of the Company is currently Vereniging AEGON, a Netherlands based multinational financial services membership association.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2009 follows:



D. Service Agreements

The Company had nine service agreements in effect with affiliates during the examination period. These service agreements reflect only those agreements that were in effect since the Company was acquired by AEGON; all other service agreements that were in effect prior to such acquisition were terminated.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Investment Management Agreement File #38277	12/31/07	AEGON USA Investment Mgmt., LLC	The Company	Investment management for the investment and reinvestment of assets and funds	2008- (\$133,496) 2009- (\$84,411)
Management & Administrative & Advisory Agreement File #38278	1/1/08	AEGON USA Realty Advisors, Inc.	The Company	Services pertaining to all real property and mortgage loan assets	2008 -0- 2009 -0-
Service Agreement #38276 Amendment File #38276A	12/28/07 7/23/09	Transamerica Life Insurance Company	The Company	General services including accounting and data processing services. Furnish professional services including legal and actuarial advisory services, claims, underwriting, marketing and policyholder services and printing services.	2008-(\$1,798,286) 2009-(\$2,182,174)
Principal Underwriting Agreement File #40542	8/1/08	Transamerica Capital, Inc.	The Company	Serve as distributor and principal underwriter of single premium modified guaranteed annuity products, certain variable life insurance and certain variable annuity contracts.	2008-(0) 2009-(\$3,573)

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Distribution and Shareholder Services Agreement (Investor)(Re: Transamerica Series Trust) File #40665	8/1/08	The Company	Transamerica Capital, Inc.	Agreement covers activities in connection with the distribution of shares of certain portfolios of Transamerica Series Trust of which TCI is the principal underwriter and the servicing of existing and prospective holders of certain variable products.	2008-\$510 2009-\$108
Distribution and Shareholder Services Agreement (Retail)(Re: Transamerica Funds) File #40666	8/1/08	The Company	Transamerica Capital, Inc.	Agreement covers activities in connection with the distribution of shares of certain portfolios of Transamerica Funds of which TCI is the principal underwriter and servicing of existing and prospective holders of certain variable products.	2008-\$473 2009-\$ 45
Service Agreement File #41828	7/1/09	Western Reserve Life Assurance Co. of Ohio	The Company	Furnish general services including accounting and data processing services, legal and actuarial, claims, underwriting, marketing and policyholder services, printing and related services.	2006- 0 2007- 0 2008- 0 2009-(\$171,598)
Administrative Services Agreement (10/1/08) (Investor) (Re: Transamerica Series Trust) File #40423	10/1/08	The Company	Transamerica Asset Management, Inc.	Maintenance of Books and Records, Purchase Orders, Redemption Orders, and other administrative support.	2008- \$841 2009-\$858

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Administrative Services Agreement (10/1/08) (Retail) (Re: Transamerica Funds) File #40422	10/1/08	The Company	Transamerica Asset Management, Inc.	Maintenance of Books and Records, Purchase Orders, Redemption Orders, and other administrative support.	2008-\$789 2009-\$ 67

*Amount of Income or (Expense) Incurred by the Company

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than seven and not more than 13 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2009, the board of directors consisted of 13 members. Meetings of the board are held quarterly.

The 13 board members and their principal business affiliation, as of December 31, 2009, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Karen Alvarado Cedar Rapids, IA	Director; Assistant Vice President ML Life Insurance Company of New York	2008
William Brown, Jr.* White Plains, NY	Executive Director Property Development & Management Co.	2007
William L. Busler* Solon, Iowa	Retired	2007
Frank A. Camp Cedar Rapids, IA	Director; Secretary ML Life Insurance Company of New York	2007
Robert F. Colby Larchmont, NY	Vice President, Counsel and Assistant Secretary Transamerica Financial Life Insurance Company	2007
Robert R. Frederick Cedar Rapids, IA	Senior Vice President ML Life Insurance Company of New York	2007

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Steven E. Frushtick* Mamaroneck, NY	Partner Wiener, Frushtick & Straub	2007
John Mallett Cedar Rapids, IA	Vice-President ML Life Insurance Company of New York	2007
Ronald F. Mosher* Laguna Niguel, CA	Retired	2007
Lonny J. Olejniczak Robins, IA	Chairman of the Board and President ML Life Insurance Company of New York	2007
Peter P. Post* Armonk, NY. 10504	President 3P Consulting LLC	2007
Cornelis H. Verhagen Sarasota, Florida 34236	Director; Past President AEGON Management Co.	2007
Ronald L. Ziegler Swisher, IA	Vice President ML Life Insurance Company of New York	2007

* Not affiliated with the Company or any other company in the holding company system

On May 28, 2010, the Department approved changes to the Company's amended and restated by-laws and amended and restated charter. The by-laws and charter were revised in accordance with the recent changes in Section 1201 of the Insurance Law which permit a reduction in the minimum size of the board of directors of domestic insurance corporations from 13 (or nine for smaller companies) to seven and a reduction in the New York State residency requirements of the boards of domestic insurers from two to one.

In January 2010, Karen Alvarado resigned from the board.

In April, 2010, William L. Busler, Robert R. Frederick, Ronald F. Mosher, Cornelis H. Verhagen, and Ronald L. Ziegler were not re-elected to the board.

In December, 2010, Robert F. Colby and Lonny J. Olejniczak resigned from the board of directors and were replaced by Marc Cahn and Thomas A. Swank, respectively.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2009:

<u>Name</u>	<u>Title</u>
Lonny J. Olejniczak	President and Chairman of the Board
Frank A. Camp	Secretary
Eric J. Martin	Vice President and Corporate Controller
James D. Purvis	Vice President and Chief Financial Officer

Carole Trostl is the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

In March 2010, Eric J. Martin replaced James Purvis as Vice President, Treasurer and Chief Financial Officer.

In December 2010, Thomas A. Swank replaced Lonny J. Olejniczak as Chairman of the Board.

4. TERRITORY AND PLAN OF OPERATIONS

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 nine states, namely Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. However, it currently limits its marketing to the state of New York. In 2009 annuity considerations represented 96.9% of the total considerations and premiums collected. The Company did not write any life business during the examination period, and in September of 2009, the Company stopped selling annuity products. The Company will continue to service all contracts sold prior to that date. The Company's parent, AEGON, has continued to maintain all Company's licenses, but has no immediate plans to write business through the Company.

A. Statutory and Special Deposits

As of December 31, 2009, the Company had \$500,000 (par value) of United States Treasury Notes on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company. As reported in Schedule E of the 2009 filed annual statement and verified with confirmations, an additional \$374,457 was being held by the states of Massachusetts and Virginia.

B. Direct Operations

As of September 30, 2009, the Company, in addition to no longer issuing life insurance products, discontinued selling any annuity products. The Company's emphasis, prior to September 30, 2009, had been on the sale of variable annuity products in New York. These products were designed to address the retirement planning needs of Merrill Lynch & Co's brokerage clients.

The Company's agency operations were conducted on a general agency basis.

C. Reinsurance

As of December 31, 2009, the Company had reinsurance treaties in effect with 14 companies, of which four were authorized or accredited. The Company's life business is reinsured on a coinsurance and a yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$500,000. The total face amount of life insurance ceded as of December 31, 2009 was \$49,965,662, which represents 11.6% of the total face amount of life insurance in force. No reserve credit was taken for reinsurance ceded to unauthorized companies.

The total face amount of life insurance assumed as of December 31, 2009 was \$1,174,888.

5. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

	December 31, <u>2004</u>	December 31, <u>2009</u>	Increase (Decrease)
Admitted assets	<u>\$1,251,443,889</u>	<u>\$882,567,552</u>	<u>\$(368,876,337)</u>
Liabilities	<u>\$1,218,763,519</u>	<u>\$800,839,751</u>	<u>\$(417,923,768)</u>
Common capital stock	\$ 2,200,000	\$ 2,200,000	\$ 0
Increase in admitted deferred tax assets pursuant to SSAP No. 10R	0	5,704,651	5,704,651
Gross paid in and contributed surplus	82,102,296	82,102,286	(10)
Unassigned funds (surplus)	<u>(51,621,926)</u>	<u>(8,279,136)</u>	<u>43,342,790</u>
Total capital and surplus	<u>\$ 32,680,370</u>	<u>\$ 81,727,801</u>	<u>\$ 49,047,431</u>
Total liabilities, capital and surplus	<u>\$1,251,443,889</u>	<u>\$882,567,552</u>	<u>\$(368,876,337)</u>

The majority (78%) of the Company's admitted assets, as of December 31, 2009, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2009, exclusive of Separate Accounts, were mainly comprised of bonds (39.9%), policy loans (35.8%), and cash and short-term investments (24.3%).

The majority (99.1%) of the Company's bond portfolio, as of December 31, 2009, was comprised of investment grade obligations.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

	<u>Ordinary Annuities</u>				
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Outstanding, end of previous year	9,982	9,154	8,390	7,558	6,791
Issued during the year	339	390	234	105	7
Other net changes during the year	<u>(1,167)</u>	<u>(1,154)</u>	<u>(1,066)</u>	<u>(872)</u>	<u>(1,074)</u>
Outstanding, end of current year	<u>9,154</u>	<u>8,390</u>	<u>7,558</u>	<u>6,791</u>	<u>5,724</u>

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Ordinary:					
Life insurance	\$3,746,155	\$3,359,114	\$3,676,109	\$444,922	\$4,702,806
Individual annuities	6,916,176	14,068,040	16,292,588	(14,188,826)	37,382,977
Supplementary contracts	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(18,146,269)</u>
Total ordinary	<u>\$10,662,331</u>	<u>\$17,427,154</u>	<u>\$19,968,697</u>	<u>\$(13,743,904)</u>	<u>\$23,939,494</u>
Total	<u>\$10,662,331</u>	<u>\$17,427,154</u>	<u>\$19,968,697</u>	<u>\$(13,743,904)</u>	<u>\$23,939,515</u>

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2009, as contained in the Company's 2009 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2009 filed annual statement.

A. Independent Accountants

The firm of Deloitte & Touche LLP was retained by the Company until December 2007. In 2008, the Company appointed the CPA firm of Ernst & Young LLP to audit the combined statutory basis statements of financial position of the Company going forward.

Ernst & Young LLP concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

Bonds	\$ 70,191,184
Cash, cash equivalents and short term investments	42,667,744
Contract loans	63,044,787
Investment income due and accrued	2,279,877
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	428
Deferred premiums, agents' balances and installments booked but deferred and not yet due	4,567
Reinsurance:	
Amounts recoverable from reinsurers	46,779
Other amounts receivable under reinsurance contracts	139,656
Net deferred tax asset	8,850,492
Guaranty funds receivable or on deposit	1,190
Receivables from parent, subsidiaries and affiliates	434,999
Account Receivable	2,623,428
From separate accounts, segregated accounts and protected cell accounts	<u>692,282,421</u>
Total admitted assets	<u>\$882,567,552</u>

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$106,034,614
Liability for deposit-type contracts	7,187,480
Contract claims:	
Life	1,255,372
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	36,420
Interest maintenance reserve	289,292
Commissions to agents due or accrued	155,378
General expenses due or accrued	77,298
Transfers to separate accounts due or accrued	(9,122,044)
Taxes, licenses and fees due or accrued, excluding federal income taxes	505,460
Current federal and foreign income taxes	367,762
Amounts withheld or retained by company as agent or trustee	62,867
Amounts held for agents' account	499
Remittances and items not allocated	775,844
Miscellaneous liabilities:	
Asset valuation reserve	314,098
Reinsurance in unauthorized companies	19,662
Funds held under reinsurance treaties with unauthorized reinsurers	46,581
Payable to parent, subsidiaries and affiliates	550,747
From Separate Accounts statement	<u>692,282,421</u>
 Total liabilities	 <u>\$800,839,751</u>
 Common capital stock	 \$ 2,200,000
Increase in admitted deferred tax assets pursuant to SSAP no 10R	5,704,651
Gross paid in and contributed surplus	82,102,286
Unassigned funds (surplus)	<u>(8,279,136)</u>
 Total capital and surplus	 <u>\$ 81,727,801</u>
 Total liabilities, capital and surplus	 <u>\$882,567,552</u>

D. Condensed Summary of Operations

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Premiums and considerations	\$ 41,216,200	\$ 59,358,290	\$ 34,849,027	\$ 9,138,925	\$ 2,701,475
Investment income	7,840,931	8,198,560	8,289,106	8,109,012	7,560,485
Miscellaneous income	<u>18,436,195</u>	<u>19,535,721</u>	<u>20,821,008</u>	<u>13,362,411</u>	<u>13,875,274</u>
Total income	\$ <u>67,493,326</u>	\$ <u>87,092,571</u>	\$ <u>63,959,141</u>	\$ <u>30,610,348</u>	\$ <u>24,137,234</u>
Benefit payments	\$151,993,007	\$156,457,814	\$ 161,419,586	\$105,366,644	\$ 82,383,950
Increase in reserves	(4,663,742)	(12,608,774)	(12,696,286)	21,332,673	(23,409,168)
Commissions	0	0	0	0	2,852,034
General expenses and taxes	6,609,397	7,140,485	5,692,669	5,983,790	3,194,336
Increase in loading on deferred and uncollected premiums	(5)	23	115	0	0
Net transfers to (from) separate accounts	(99,665,274)	(84,941,313)	(114,183,301)	(88,129,221)	(65,678,860)
Miscellaneous deductions	<u>(29,738)</u>	<u>(35,842)</u>	<u>(13,068)</u>	<u>(11,765)</u>	<u>131</u>
Total deductions	\$ <u>54,243,645</u>	\$ <u>66,012,393</u>	\$ <u>40,219,715</u>	\$ <u>44,542,121</u>	\$ <u>(657,577)</u>
Net gain (loss)	\$ 13,249,681	\$ 21,080,178	\$ 23,739,426	\$ (13,931,773)	\$ 24,794,811
Federal and foreign income taxes incurred	<u>2,587,350</u>	<u>3,653,024</u>	<u>3,770,729</u>	<u>(187,869)</u>	<u>855,297</u>
Net gain (loss) from operations before net realized capital gains	\$ 10,662,331	\$ 17,427,154	\$ 19,968,697	\$ (13,743,904)	\$ 23,939,514
Net realized capital gains (losses)	<u>(53)</u>	<u>(20)</u>	<u>(126)</u>	<u>631,740</u>	<u>(1,682,703)</u>
Net income	\$ <u>10,662,278</u>	\$ <u>17,427,134</u>	\$ <u>19,968,571</u>	\$ <u>(13,112,164)</u>	\$ <u>22,256,811</u>

E. Capital and Surplus Account

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Capital and surplus, December 31, prior year	<u>\$32,680,370</u>	<u>\$43,307,035</u>	<u>\$56,734,354</u>	<u>\$ 76,870,665</u>	<u>\$51,928,286</u>
Net income	\$10,662,278	\$17,427,134	\$19,968,571	\$(13,112,164)	\$22,256,811
Change in net deferred income tax	(1,188,859)	(1,454,571)	13,361,585	4,312,936	(6,900,366)
Change in non-admitted assets and related items	1,152,583	1,412,522	(7,758,954)	(9,173,117)	8,447,210
Change in liability for reinsurance in unauthorized companies	32,809	(85,094)	(120,868)	127,725	58,575
Change in asset valuation reserve	(32,145)	238,031	139,412	(97,759)	232,634
Change in treasury stock	0	0	0	0	0
Dividends to stockholders	0	(4,110,704)	(5,453,435)	(7,000,000)	0
Increase in admitted deferred tax assets pursuant to SSAP No. 10R	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,704,651</u>
Net change in capital and surplus for the year	<u>\$10,626,665</u>	<u>\$13,427,318</u>	<u>\$20,136,311</u>	<u>\$(24,942,379)</u>	<u>\$29,799,515</u>
Capital and surplus, December 31, current year	<u>\$43,307,035</u>	<u>\$56,734,353</u>	<u>\$76,870,665</u>	<u>\$ 51,928,286</u>	<u>\$81,727,801</u>

F. Reserves

Section 4228(h) of the New York Insurance Law states, in part:

“No company shall offer for sale any life insurance policy form or annuity contract form covered by this section or any debit life insurance policy form which shall not appear to be self-supporting on reasonable assumptions as to interest, mortality, persistency, taxes, agents' and brokers' survival and expenses resulting from the sale of the policy or contract form. For all such forms offered for sale in this state, and for all forms filed for use outside this state by domestic life insurance companies, a statement that the requirements of this subsection have been met, signed by an actuary who is a member in good standing of the American Academy of Actuaries and meets the requirements prescribed by the superintendent by regulation shall be submitted with each such life insurance policy or annuity contract form filed pursuant to paragraph one or six of subsection (b) of section three thousand two hundred one of this chapter. A demonstration supporting each such statement, signed by an actuary meeting such qualifications, shall be retained in the company's home office, while such form is being offered in this state and for a period of six years thereafter and be available for inspection”

The examiner conducted a review of the pricing adequacy for various products subject to Section 4228(h) of the New York Insurance Law. This review included an examination of the required actuarial statements of self support and the supporting demonstrations. The examiner requested statements and corresponding demonstrations for all of the Company's policy forms subject to Section 4228(h). Concerns were raised with respect to the unavailability of some of these materials.

For five separate variable annuity policy forms, with a total of 1,735 contracts issued, there was no signature or date on the demonstrations. These contracts also had various riders that could be issued with them. There were seven rider forms, with a total of 2,145 riders issued, for which no demonstration could be provided. As a result, the Company violated Section 4228(h) by failing to have a qualified actuary provide the required demonstrations.

In response to the Department's concerns, the Company agreed to provide updated statements of self support prior to resuming any sales of the aforementioned variable annuity contracts. The Company further agreed that future demonstrations will be signed, dated and finalized prior to the date of the statement of self support, with such future demonstrations being well organized, containing detailed narrative descriptions of the methodologies and material

assumptions used such that another actuary can make a reasonable assessment of the analyses performed.

7. 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.

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

B. Underwriting and Policy Forms

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

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.

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

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the 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 Company violated Section 1505(d)(3) of the New York Insurance Law when it did not notify the Superintendent in writing of its intention to enter into five agreements with affiliates prior to doing so.</p> <p>These agreements were terminated after the sale of the Company.</p>
B	<p>The examiner recommends that the Company exercise greater care in the preparation of its filed annual statements and report all agreements in effect in its annual statements going forward.</p> <p>The examination review did not reveal any instances where the annual statement was prepared incorrectly.</p>
C	<p>The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to comply with its approved service agreements.</p> <p>These agreements were terminated after the sale of the Company.</p>
D	<p>The examiner recommends that the Company review its service agreements and formally amend any agreements where the terms of the agreements conflict with how they are being implemented. The Company should also file any such amended service agreements with the Department.</p> <p>These agreements were terminated after the sale of the Company.</p>
E	<p>The examiner recommends that the Company either withdraw service agreements with affiliates whereby no income or expense was reported for services, or provide an acceptable explanation as to why there is no income or expense reported for such service agreements.</p> <p>These agreements were terminated after the sale of the Company. New review procedures have been implemented.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Section 1202(b)(2) of the New York Insurance Law when its independent committees failed to evaluate the performance and recommend the compensation of the Company's principal officers.</p> <p>The Board adopted a procedure immediately following the acquisition that provides for the audit committee to be responsible to annually review the allocations and performance of the services under the service agreement in order to satisfy their oversight responsibilities</p>
G	<p>The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to obtain proof of receipt by the applicant of the "IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts" and or the "Disclosure Statement".</p> <p>The Company's new business processing is being administered in accordance with Department Regulation No. 60.</p>
H	<p>The Company violated Section 51.6(b)(4) of Department Regulation No. 60 when it did not furnish to the insurers whose coverages were being replaced a copy of the proposal and sales materials used in the sale of its products.</p> <p>The Company's new business processing is being administered in accordance with Department Regulation No. 60.</p>
I	<p>The Company violated Section 51.6(b)(5) of Department Regulation No. 60 when it did not submit quarterly reports to the Superintendent of Insurance, within 30 days of the end of each quarter indicating which insurers, if any, have failed to provide the information required by the regulation.</p> <p>Pursuant to Circular Letter No. 5 (2006), insurers are now required to submit annual reports to the Department. The Company now submits annual reports to the Department</p>
J	<p>The Company violated Section 51.6(b)(7) of Department Regulation No. 60, because where the required forms were not received with the application, or if the forms did not meet the requirements of the Regulation, the Company failed to, within ten days from the date of receipt of the application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore.</p> <p>The Company's new business processing is being administered in accordance with Department Regulation No. 60.</p>

<u>Item</u>	<u>Description</u>
K	<p>The examiner recommends that the Company develop and implement an audit plan designed to review, test and monitor compliance with Department Regulation No. 60.</p> <p>Internal review programs are in place at the corporate law and divisional compliance levels.</p>

9. 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 4228(h) by failing to have a qualified actuary provide the required demonstrations for five variable annuity policy forms and seven rider forms.	20

Respectfully submitted,

_____/s/_____
Phares Caton
Associate Insurance Examiner

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

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

_____/s/_____
Phares Caton

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 30464

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

PHARES CATON

as a proper person to examine into the affairs of the

ML LIFE INSURANCE COMPANY OF NEW YORK

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

COMPANY

with such other information as he 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 7th day of January, 2010



JAMES J. WRYNN
Superintendent of Insurance

A handwritten signature in cursive script, appearing to read "James J. Wrynn".

Superintendent