



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

----- X

In the Matter of

**METROPOLITAN LIFE INSURANCE COMPANY,**

No. 2019-0002-S

Respondent.

----- X

**CONSENT ORDER**

**WHEREAS**, the Department of Financial Services (the “Department”) conducted a Market Conduct Examination (the “Examination”) of Metropolitan Life Insurance Company (hereinafter “Respondent”) for the period from January 1, 2009 through February 21, 2018, and a supplemental review of the Respondent’s pension risk transfer group annuity operations and plans to issue its Report on the Examination.

**WHEREAS**, this Stipulation & Consent Order contains the Department’s findings and the relief agreed to by the Department and Respondent.

**NOW, THEREFORE**, the Department and Respondent are willing to resolve the matters cited herein in lieu of proceeding by notice and hearing.

**FINDINGS**

1. Respondent is a domestic insurance company authorized to transact life, annuities, and accident and health insurance business in this State pursuant to Section 1113(a) of the New York Insurance Law.

2. Respondent, for the time period 1992 to 2018:

- a) failed to annually value, or cause to be valued, reserves for certain outstanding in-force group annuity contracts for its pension risk transfer business based on the lack of action (response) from the certificate holder to letters mailed by the Respondent in 13,712 cases;
- b) failed to initially implement reasonable standards in certain circumstances within its process to locate, contact, and pay group annuity certificate holders within its pension risk transfer business ("Expedited Outreach Process") to effectuate prompt, fair, and equitable settlements of group annuity claims;
- c) failed to adequately inform certain claimants of pertinent facts or policy provisions relating to group annuity coverages at issue;
- d) failed to adequately search for New York group annuity certificate holders to whom it owed benefits; and
- e) failed to escheat certain unclaimed property owed to certificate holders under group annuity contracts for the period between Normal Retirement Date ("NRD") and date of death.

3. Respondent, for the examination period 2009 to 2018:

- a) failed to perform a cross-check of certain group annuity certificate holders for which the social security number is missing or invalid with the Social Security Death Master File and to timely search for beneficiaries;
- b) for certain policyholders, failed to confirm the death of such policyholders, perform manual research, and timely commence outreach to beneficiaries where the Respondent did not have specific or correct information in the administrative systems;
- c) for certain deferred individual annuitants for whom the Respondent had returned mail and no current address, Respondent failed to attempt to pay benefits and failed to timely refer any potential unclaimed property;

- d) failed to examine the Disclosure Statement pursuant to Insurance Regulation 60 for certain variable annuity replacement transactions to ascertain that they were accurate and met the requirements of the Insurance Law;
  - e) failed to present an accurate comparison for certain variable annuity replacement transactions of the fees and expenses between the existing and the proposed variable annuity contracts on its Disclosure Statements;
  - f) failed to ensure that the required forms were received with the application for certain individual life insurance replacement transactions, or the forms did not meet the requirements of Insurance Regulation 60 or were not accurate; 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 therefor;
  - g) failed to provide the replaced insurer a copy of the completed "Disclosure Statement" and other required materials within the required ten-day period for certain individual life insurance replacement transactions; and
  - h) paid agent compensation during the examination period according to schedules of agent compensation that were not filed with the Department.
4. Respondent's violations during the aforementioned time period contravened New York Insurance Law.

### **VIOLATIONS**

5. By reason of the foregoing, as reflected in the Department's Report on the Examination, Respondent violated:
- New York Insurance Law Sections 4228(f)(1)(A); 4217; 3240; 2601(a)(3); and 2601(a)(4); Insurance Regulation No. 60 (2nd Amendment), 11 NYCRR Section 51.6(b)(3); Insurance Regulation No. 60 (3rd Amendment), 11 NYCRR Section 51.6(b)(4); Insurance Regulation No. 60 (2nd Amendment), 11 NYCRR Section 51.6(b)(4); Regulation No. 60 (2nd Amendment), 11 NYCRR Section 51.6(b)(7); Insurance Regulation No. 11, 11 NYCRR 92; and Insurance Regulation No. 151, 11 NYCRR 99.

## **AGREEMENT**

**IT IS HEREBY UNDERSTOOD AND AGREED** by Respondent, its successors and assigns (on behalf of its agents, representatives, employees, parent company, holding company, and any corporation, subsidiary or division through which Respondent operates) that:

6. Respondent will establish and maintain full statutory reserves in accordance with Section 4217 for all group annuity certificate holders until Respondent pays all benefits, definitively determines that it has no payment obligation pursuant to the group annuity contract, or escheats the benefits in accordance with applicable unclaimed property law.
7. Respondent will pay retroactive benefits to all impacted group annuity certificate holders or surviving beneficiaries in accordance with Remediation Plan 1 from the NRD with interest based on the 5-Year Treasury Constant Maturity Rate provided by the Federal Reserve Bank of St. Louis, or other applicable state law, or contractual provision.
8. Respondent will send letters to all group annuity certificate holders no later than 5 years prior to the NRD, including a certified letter at or around the NRD, and letters at least every five years thereafter until Respondent pays the benefit, definitively determines that it has no payment obligation pursuant to the group annuity contract, or initiates the escheatment process in accordance with applicable unclaimed property law.
9. Respondent will retain a third-party service approved by the Department, which can only be changed with the consent of the Department, to identify or confirm addresses for group annuity certificate holders who are due benefits that have not been paid. Respondent will utilize this service to check addresses prior to mailing to any certificate holders and to research alternative addresses for those certificate holders prior to the NRD for whom Respondent does not have complete, accurate or up-to-date contact information (due to returned mail or otherwise). Respondent shall be fully and solely responsible for all proper fees, expenses, and disbursements of the service provider.

10. Respondent will fully correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action. Within sixty (60) days from Respondent's signing of this Stipulation & Consent Order, the Respondent shall provide to the Department four (4) detailed remediation plans which provide for payment or restitution to policyholders or their beneficiaries, where applicable, for each finding set forth in paragraphs 2 and 3 of this Stipulation & Consent Order. The remediation plans are subject to the Department's approval in its sole discretion. The Department may, as a condition of its approval, impose additional remediation requirements to a plan if necessary to satisfactorily rectify the findings. The plans shall include provisions for, but not limited to:

- i. "Plan 1." Plan 1 will require the Respondent to establish and implement procedures: 1) to include reasonable standards to maintain accurate data in its administrative systems for current and future group annuity pension risk transfers. In addition to the data that the Respondent maintains, the data for future group annuity pension risk transfers for certificate holders in deferred payment status should include the beneficiary name, Social Security Number, date of birth, and address if different from that of the certificate holder; 2) to pay all interest amounts due on retroactive group annuity benefit payments; 3) to include reasonable standards for making group annuity benefit payments during the claim process; 4) to effectuate prompt, fair, and equitable settlements of group annuity claims submitted in which liability has become reasonably clear; 5) to inform the annuitant of pertinent facts or policy provisions relating to group coverages at issue; 6) for an ongoing training program for the group annuity benefit claim analysts. The training program should enforce a uniform set of questions claims analysts are to ask to determine if an individual is entitled to annuity benefits. This set of questions should be limited to those that are necessary to establish that the individual is entitled to the benefits.

Respondent will continue performing its Expedited Outreach Processes to 1) quickly identify, locate, and remediate the New York group annuitants (or his/her spouse, beneficiary or estate) that were due benefits; 2) determine whether a group annuity benefit is owed and initiate the payment process when a participant (or his/her spouse, beneficiary or estate) is identified or located; 3) in cases where it cannot locate a participant (or his/her spouse, beneficiary or estate), determine whether he/she is still alive or determine whether any amounts should be escheated under the applicable state abandoned property statutes and regulations; and 4) hold a liability for any group annuity benefit owed until Respondent pays the benefit, determines it has no obligation pursuant to the group annuity contract, or until any amounts due to be escheated have been remitted to the appropriate state.

- ii. "Plan 2." Plan 2 will require the Respondent to search the Social Security Administration Death Master File or an equivalent database that is no less comprehensive to identify life insurance policyholders' or certificate holders' and annuity contract holders' deaths and cross-check that data against policies for which no claims have been made, perform a diligent search to locate the beneficiary of such proceeds and make prompt payment to the beneficiary for benefits (including interest) from the date of death to the date of payment, for which the Respondent is liable for or otherwise in accordance with all applicable laws, rules and regulations. Respondent will enhance its procedures under Section 3240 to incorporate certain data, if available, from paper records for certain individual life insurance policies into its administrative systems so that they can be matched against the Social Security Death Master File or an equivalent database that is no less comprehensive to enhance the match quality. Respondent will complete implementation of enhanced third-party vendor matching into its regular process. The third-party vendor process will contain an enhanced death database which includes deceased data from other sources in addition to the Social Security Death Master File, and matching will be expanded to perform address matching based on street address, city, and zip code, including combinations of the address

elements. If the Respondent cannot locate the beneficiary within ninety (90) days of a death match, the Respondent shall continue to perform such due diligence searches for the beneficiary until the Respondent initiates the escheatment process in accordance with applicable state law.

- iii. "Plan 3." Plan 3 will require that for certain individual deferred annuitants for whom Respondent has received returned mail from the United States Postal Service and has not yet identified updated mailing information ("Lost Owners"), it will update its procedures to: 1) perform a search for the correct Social Security Number ("SSN") of individual annuitants who have been classified as "Lost Owner" of an individual deferred annuity contract for which the Respondent has found that it has the incorrect SSN; 2) use the correct SSN or other valid method to search for the addresses of annuitants who are placed on "Lost Owner status;" 3) investigate all lines of business to determine whether there are other instances in the in-force contracts and policies, where a contract may have an address of "PO Box 14514, Des Moines, IA 05306", but was not included in the list provided to the Department and provide an updated list to the Department; and 4) include a time period after which it will escheat any unclaimed property consistent with applicable law.
- iv. "Plan 4." Plan 4 will apply to all variable annuity to variable annuity contract replacements in the state of New York processed between January 1, 2009 and June 30, 2016. Respondent shall make restitution to each of the contract holders who did not receive an accurate Disclosure Statement. The restitution amount in aggregate shall be one million five hundred thousand dollars (\$1,500,000), to be distributed proportionally in a manner acceptable to the Department that shall reflect the size of the policy which was involved in the replacement.

Plans 1, 2, 3, and 4 shall require the Respondent to rectify all violations cited herein and provide full restitution where applicable on a rolling basis, with all remediation, including restitution payments, commencing no later than ninety (90) days from the approval of

Plans 1, 2, 3 and 4. Quarterly, the Respondent shall provide to the Department a written report reflecting its remediation progress, including all restitution payments made to policyholders. Respondent should include in the quarterly report any failure it has discovered in its adherence to any of Plans 1, 2, 3 or 4 along with the corrective action taken. The remediation for Plans 1, 2, 3 and 4 are to conclude no later than twelve (12) months from the date of Respondent's signing of this Stipulation & Consent Order unless extended with the consent of the Department. After each Plan, the Respondent shall provide a certificate signed by an officer of the Company authorized to bind the Respondent that the Plan has been successfully completed.

#### **MONETARY PENALTY**

11. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of Nineteen Million Seven Hundred Fifty Thousand Dollars (\$19,750,000). Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.
12. The above referenced payment shall be payable to the New York State Department of Financial Services via electronic transfer in accordance with instructions provided by the Department.

#### **BREACH OF THE CONSENT ORDER**

13. In the event that the Department believes Respondent to be materially in breach of this Consent Order ("Breach"), the Department will provide written notice of such Breach to Respondent and Respondent must, within ten (10) business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and have an opportunity to rebut the evidence, if any, of the



Department that a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.

14. Respondent understands and agrees that Respondent's failure to appear before the Department to make the required demonstration within the specified period as set forth herein is presumptive evidence of Respondent's Breach. Upon a finding of Breach, the Department has all the remedies available to it under New York or other applicable laws and may use any and all evidence available to the Department for all ensuing examinations, hearings, notices, orders, and other remedies that may be available under New York or other applicable laws.

#### **OTHER PROVISIONS**

15. If Respondent defaults on any of its obligations under this Consent Order, the Department may terminate the Consent Order, at its sole discretion, upon ten (10) days' written notice to Respondent. In the event of such termination, Respondent expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against Respondent or from using in any way the statements, documents, or other materials produced or provided by Respondent prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.
16. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Respondent and the Department's own factual examination. To the extent that representations made by Respondent are later found to be materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.

17. Upon the request of the Department, Respondent shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.
18. All notices, reports, requests, certifications, and other communications to the Department regarding this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York State Department of Financial Services  
One State Street, 19<sup>th</sup> Floor  
New York, NY 10004-1511  
Attention: Laura Evangelista, Executive Deputy Superintendent for Insurance

If to the Respondent:

Metropolitan Life Insurance Company  
200 Park Avenue  
New York, NY 10166  
Attention: Tracey Gilliam, SVP & Chief Counsel, U.S. Insurance Law

19. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
20. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.
21. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.
22. This Consent Order constitutes the entire agreement between the Department and Respondent relating to the violations identified herein and supersedes any prior

communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

23. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.
24. Upon execution by the parties to this Consent Order, no further action will be taken by the Department against Respondent for the conduct set forth in this Consent Order, subject to the terms of this Order.
25. This Consent Order may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services.

METROPOLITAN LIFE INSURANCE COMPANY

By 

Michel Khalaf

President, U.S. Business & EMEA

Dated: 1-28-2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By 

Laura Evangelista

Executive Deputy Superintendent for Insurance

Dated: 1-28-2019

**THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.**

By 

Maria T. Vullo

Superintendent of Financial Services

Dated: 1-28-2019