NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY OF NEW YORK

CONDITION: DECEMBER 31, 2013

DATE OF REPORT: JULY 28, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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AS OF

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EXAMINER: IJEOMA NDIKA

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Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

July 17, 2017

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31091, dated March 7, 2014, and annexed hereto, an examination has been made into the condition and affairs of American Equity Investment Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 1979 Marcus Avenue, Suite 210, Lake Success, NY 11042.

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 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the superintendent at least ten days before the day of such election. (See item 3E of this report)
- The Company violated Section 4211(b) of the New York Insurance Law by electing successors to the board without filing a written notice of their election with the superintendent at least ten days prior to such successors taking office and exercising their duties. (See item 3E of this report)
- The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent within thirty days a statement in such form as the superintendent may prescribe, of the facts relative to such termination for cause. (See item 7A of this report)
- The Company violated Section 4223(k)(1) of the New York Insurance Law by failing to disclose the death benefits on the annual statements sent to the annuity contract holders. (See item 7C 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, 2016 Edition* (the "Handbook"). The examination covers the three-year period from January 1, 2011, through December 31, 2013. 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, 2013 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 on a risk focused basis 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 New York statutes and Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

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 2011 through 2013, by the accounting firm of KPMG LLP. The Company received an unqualified opinion in all years. Certain audit work-papers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company has an internal audit department and a separate internal control department which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 ("SOX"). Where applicable, SOX work-papers 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 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

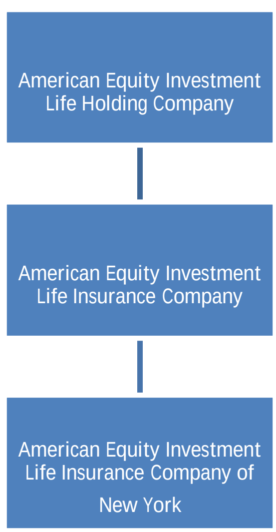
The Company was incorporated as a stock life insurance company under the laws of New York on March 15, 2001, was licensed on June 5, 2001 and commenced business on July 1, 2001. Initial resources of $10,000,000, consisting of common capital stock of $2,000,000 and paid in and contributed surplus of $8,000,000, were provided through the sale of 2,000,000 shares of common stock (with a par value of $1 each) for $5 per share. As of December 31, 2013, the Company reported total common capital stock and paid in and contributed surplus of $2,000,000 and $27,948,754 respectively.

B. Holding Company

The Company is a wholly owned subsidiary of American Equity Investment Life Insurance Company ("AELIC"), an Iowa life insurance company. AELIC is in turn a wholly owned subsidiary of American Equity Investment Life Holding Company ("AEL"), an Iowa life insurance holding company. The ultimate parent of the Company is AEL.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2013 follows:



D. Service Agreements

The Company had two service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider of Services	Recipient of Services	Specific Services Covered	Income/ (Expense)* For Each Year of the Examination
Management Services Agreement File No. 29073A	3/19/2001	AELIC	The Company	Agent licensing, commission payment, annuity policy issuance and service, accounting and financial, compliance, market conduct, general and informational services and marketing	2011 $(523,933) 2012 $(558,599) 2013 $(514,175)
Investment Advisory Agreement File No. 29073A	3/22/2001	AEL	The Company	Investment advisory services	2011 $(388,116) 2012 $(478,813) 2013 $(481,633)

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

The Company participates in a federal income tax allocation agreement with its parent and affiliates.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not fewer than nine and not more than 17 directors. The number of directors shall be increased to not fewer than 13 within one year following the end of the calendar year in which the admitted assets of the Corporation exceed one and one half billion dollars. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2013, the board of directors consisted of nine members. Meetings are held from time to time as determined by the resolution of the board and at least two regular meetings in addition to the annual meeting are held in each calendar year.

The nine board members and their principal business affiliation, as of December 31, 2013, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Alexander M. Clark* New York, NY	Senior Managing Director Griffin Financial Group	2005
Robert L. Howe* Des Moines, IA	Retired Deputy Commissioner and Chief Examiner Iowa Department of Insurance	2005
John M. Matovina Johnston, IA	Executive Vice President American Equity Investment Life Insurance Company of New York	2001
David S. Mulcahy* West Des Moines, IA	CPA, Retired Senior Tax Partner Ernst & Young LLP	2013
David J. Noble Longboat Key, FL	President and Chairman of the Board American Equity Investment Life Insurance Company of New York	2001
Terry A. Reimer Urbandale, IA	Retired Executive Officer American Equity Investment Life Insurance Company of New York	2012
Debra J. Richardson Des Moines, IA	Chief Administrative Officer and Secretary American Equity Investment Life Insurance Company of New York	2001
Thomas S. Swain* Brooklyn, NY	Owner Swainbrook Capital LLC	2001
Harley A. Whitfield Sr* Spirit Lake, IA	Attorney, Retired Partner Whitfield and Eddy, P.L.C	2001

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

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

1. Section 4211(a) of the New York Insurance Law states:

> "No election of directors of a domestic stock life insurance company shall be valid unless a copy of the notice of election shall have been filed in the office of the superintendent at least ten days before the day of such election in addition to the service thereof, as required by section six hundred five of the business corporation law."

The examiner reviewed the Department's records for filings made in accordance with Section 4211(a) of the New York Insurance Law and noted that no Section 4211(a) filings were received by the Department during the examination period.

The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the superintendent at least ten days before the day of such election.

2. Section 4211(b) of the New York Insurance Law states:

> "Whenever any directors of such a company shall have resigned and successors shall have been chosen pursuant to the provisions of the by-laws, such successors shall not take office nor exercise their duties until ten days after written notice of their election shall have been filed in the office of the superintendent."

The examiner's review of the Department's filing records of the Company revealed that the Department did not receive a written notice of election for Terry Reimer as the successor of Wendy Waugaman in the election of directors held at the board meeting on September 5, 2012. Also, the Department did not receive the notice of election of David Mulcahy as the successor of Robert Hilton in the election of directors held at the board meeting on June 6, 2013.

The Company violated Section 4211(b) of the New York Insurance Law by electing successors to the board without filing a written notice of their election with the superintendent at least ten days prior to such successors taking office and exercising their duties.

3. The Charter of the Investment Committee of the Board of Directors states:

> "(3) Meetings and Procedures of the Committee . . . The Committee shall meet at all times as deemed necessary, which shall be at least annually or more frequently as circumstances require . . . The Committee shall maintain minutes of its meeting and shall regularly report its actions to the board."

The Investment Committee of the board of directors did not hold any meetings during the years under examination (2011-2013).

The Company did not comply with its Investment Committee Charter when the committee failed to meet at least annually or more frequently as circumstances require and maintain the minutes of its meetings.

The examiner recommends that the Investment Committee of the board of directors meet at least annually and maintain the minutes of its meetings, in compliance with its Charter.

The following is a listing of the principal officers of the Company as of December 31, 2013:

Name	Title
David J. Noble	President and Chairman of the Board
Ted M. Johnson	Chief Financial Officer and Treasurer
Debra J. Richardson	Chief Administrative Officer and Secretary
William R. Kunkel	General Counsel and Executive Vice President
John M. Matovina	Executive Vice President
Ronald J. Grensteiner	Executive Vice President
Jeff D. Lorenzen	Chief Investment Officer and Senior Vice President
Matthew D. Hartle	Vice President, Internal Audit
John R. Miller	Vice President, Chief Actuary and Illustration Actuary
Harley A. Whitfield, Jr.*	Vice President, Resolutions and Assistant Secretary
Jackie Ward	Vice President, Chief Compliance Officer

* Designated consumer services officer per Insurance Regulation No. 64, 11 NYCRR Section 216.4(c)

4. TERRITORY AND PLAN OF OPERATIONS

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

The Company is licensed to transact business only in New York State. In 2013, 99.8% of annuity considerations were received from New York**.** Policies are written on a non-participating basis.

A. Statutory and Special Deposits

As of December 31, 2013, the Company had $400,000 (par value) of United States Treasury Bonds on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

B. Direct Operations

The Company writes Individual Single Premium Immediate Annuities and Flexible Premium Deferred Annuities. The Company reported 2,747 fixed annuities in force as of December 31, 2013 of which 97.4% were flexible premium deferred annuity contracts and 2.58% were single premium immediate annuity contracts. In 2012 and early 2013, the Company made a decision to stop offering the FPDA-1-NY, one of its flexible premium deferred annuities and to lower its commission rates on all of its products.

The products distribution system is comprised of national and regional marketing organizations. In 2013, the Company had five producing agents out of 791 active agents.

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

C. Reinsurance

As of December 31, 2013, the Company had no reinsurance treaties in effect.

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, 2010	December 31, 2013	Increase (Decrease)
Admitted assets	$175,194,883	$226,143,632	$50,948,749
Liabilities	$149,968,290	$198,515,285	$48,546,995
Common capital stock	$ 2,000,000	$ 2,000,000	$ 0
Gross paid in and contributed surplus	27,948,754	27,948,754	0
Application of SSAP 10R	162,788	0	(162,788)
Unassigned funds (surplus)	(4,884,949)	(2,320,407)	2,564,542
Total capital and surplus	$ 25,226,593	$ 27,628,347	$ 2,401,754
Total liabilities, capital and surplus	$175,194,883	$226,143,632	$50,194,883

The Company's invested assets as of December 31, 2013, were mainly comprised of bonds (97.4%).

The majority (99.6%) of the Company's bond portfolio, as of December 31, 2013, 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:

	Ordinary Annuities		
	2011	2012	2013
Outstanding, end of previous year	2,297	2,752	2,873
Issued during the year	556	181	19
Other net changes during the year	(101)	(60)	(145)
Outstanding, end of current year	2,752	2,873	2,747

The number of annuities issued each year declined during the period under examination. Due to the low interest rate environment, the company re-priced its annuities. The Company is not marketing new products and is reviewing its business plan in New York.

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:

	2011	2012	2013
Ordinary:			
Individual annuities	$ 917,599	$ 688,560	$2,208,212
Supplementary contracts	215,949	(303,250)	(121,835)
Total ordinary	$1,133,548	$ 385,311	$2,086,377
Total	$1,133,548	$ 385,311	$2,086,377

The decrease in gain from operations in 2012 was primarily as a result of the assessment of approximately $900,000 from the Life Insurance Company Guarantee Corporation of New York in connection with the liquidation of Executive Life Insurance Company of New York. The increase in gain from operations in 2013 was mainly due to a decrease in commission expense and a reduction in insurance taxes, licenses and fees.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2013, as contained in the Company's 2013 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, 2013 filed annual statement.

A. Independent Accountants

The firm of KPMG LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position as of December 31st of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

KPMG 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	$217,122,063
Cash, cash equivalents and short term investments	3,599,012
Other invested assets	2,130,768
Investment income due and accrued	2,509,580
Net deferred tax asset	222,508
Prepaid Assets	603
State Income Tax Recoverable	9,098
NY Insurance Department Refund	550,000
Total admitted assets	$226,143,632

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$194,408,603
Liability for deposit-type contracts	2,639,202
Interest maintenance reserve	150,655
General expenses due or accrued	10,311
Taxes, licenses and fees due or accrued, excluding federal income taxes	17,000
Current federal and foreign income taxes	672,379
Remittances and items not allocated	5,729
Asset valuation reserve	610,913
Payable to parent, subsidiaries and affiliates	493
Total liabilities	$198,515,285
Common capital stock	$ 2,000,000
Gross paid in and contributed surplus	27,948,754
Unassigned funds (surplus)	(2,320,407)
Surplus	$ 25,628,347
Total capital and surplus	$ 27,628,347
Total liabilities, capital and surplus	$226,143,632

D. Condensed Summary of Operations

	2011	2012	2013
Premiums and considerations	$46,789,136	$13,713,074	$ 1,048,874
Investment income	9,850,929	10,851,773	10,760,928
Total income	$56,640,065	$24,564,846	$11,809,802
Benefit payments	$ 9,981,422	$ 8,766,889	$12,605,619
Increase in reserves	40,788,616	12,263,500	(4,272,488)
Commissions	2,712,242	598,588	44,224
General expenses and taxes	1,421,266	1,871,992	699,480
Total deductions	$54,903,546	$23,500,969	$ 9,076,834
Net gain (loss)	$ 1,736,519	$ 1,063,879	$ 2,732,968
Federal and foreign income taxes incurred	602,972	678,568	646,591
Net gain from operations before net realized capital gains	$ 1,133,548	$ 385,311	$ 2,086,377
Net realized capital gains (losses)	132,403	(236,161)	12,162
Net income	$ 1,265,951	$ 149,149	$ 2,098,539

The decrease in premiums and considerations during the years under examination is due to the discontinuance of products that were no longer feasible because of existing market conditions. At the end of 2010, the Company stopped offering the single premium deferred annuity that was paying 6% first year interest with a minimum guarantee interest rate of 3%. In 2012, the Company stopped offering the flexible premium deferred annuity that was paying 5% first year interest with a minimum guaranteed interest rate of 3% and replaced it with the flexible premium deferred annuity that pays 2% first year interest with a minimum guaranteed interest rate of 1.5%.

E. Capital and Surplus Account

	2011	2012	2013
Capital and surplus, December 31, prior year	$25,226,593	$25,964,110	$26,175,173
Net income	$ 1,265,951	$ 149,149	$ 2,098,539
Change in net deferred income tax	(740,392)	487,195	(307,013)
Change in non-admitted assets and related items	(29,114)	(72,337)	(49,395)
Change in asset valuation reserve	224,437	(173,521)	(288,957)
Application of SSAP 10R	16,635	(179,423)	0
Net change in capital and surplus for the year	$ 737,517	$ 211,063	$ 1,453,174
Capital and surplus, December 31, 2013	$25,964,110	$26,175,173	$27,628,347

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 annuity contracts.

1. Producer Termination

Section 2112(d) of the New York Insurance Law states, in part:

> "Every insurer . . . doing business in this state shall, upon termination of the certificate of appointment . . . of any insurance agent licensed in this state, or upon termination for cause . . . file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause . . . "

In response to item 26 of the pre-examination letter, the Company stated that producer, John G. Williams, was terminated for cause. The Company provided letters and correspondence that were mailed to the producer and the Department. The examiner noted that the Company provided a copy of the certified mail receipt showing proof of mailing to the terminated producer, John G. Williams, but did not provide a copy of the certified mail receipt of the termination notice that was mailed to the Department. Also, the examiner's review of the Department's licensing database did not reflect any filing for termination for cause for said producer.

The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent within thirty days a statement in such form as the superintendent may prescribe, of the facts relative to such termination for cause.

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

Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) states, in part:

> "The warning statements required by subdivisions (a) . . . of this section shall be placed immediately above the space provided for the signature of the person executing the application or claim form and shall be printed in type which will produce a warning statement of conspicuous size . . . "

The review of the Company's death claim form revealed that the form did not have the required fraud warning statement placed immediately above the space provided for the signature of the person executing the claim form. Instead, the fraud warning statement is placed on the preceding page and not immediately above the space provided for the signature of the person executing the claim form.

The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim form.

Section 4223(k)(1) of the New York State Insurance Law states, in part:

> "At least once in each contract year, the company shall mail to each holder of a contract subject to this section under which benefit payments have not yet commenced a statement as of a date during such year as to any paid-up annuity benefit or the amount available under each account to provide a paid-up annuity benefit, any cash surrender benefit and any death benefit, under the contract."

The examiner reviewed a sample of 20 annual statements mailed to annuity contract holders during the examination period under which benefit payments have not yet commenced. The review revealed that the Company did not disclose the death benefits available under the contract in all 20 (100%) annual statements sent to the annuity contract holders for each year under examination.

The Company violated Section 4223(k)(1) of the New York Insurance Law by failing to disclose the death benefits available under the contract in the annual statements sent to the annuity contract holders under which benefit payments have not yet commenced.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the violation contained in the prior report on examination and the subsequent actions taken by the Company in response to the citation:

Item	Description
A	The Company violated Section 1202(b) of the New York Insurance Law by failing to have its independent audit committee evaluate the performance of the principal officers of the Company and recommend the compensation of such principal officers. The review of the Audit Committee minutes revealed that the Committee now evaluates the performance of the Company's principal officers and approves their salaries.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 4211(a) of the New York Insurance Law by failing to file a notice of election with the superintendent at least ten days before the day of such election.	8
B	The Company violated Section 4211(b) of the New York Insurance Law by electing successors to the board without filing a written notice of their election with the superintendent at least ten days prior to such successors taking office and exercising their duties.	8
C	The examiner recommends that the Investment Committee of the board of directors meet at least annually and maintain the minutes of its meetings, in compliance with its charter.	9
D	The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent within thirty days a statement in such form as the superintendent may prescribe, of the facts relative to such termination for cause.	17
E	The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim form.	18
F	The Company violated Section 4223(k)(1) of the New York Insurance Law by failing to disclose the death benefits on the annual statements sent to the annuity contract holders	19

Respectfully submitted,

_____________/s/____________
Ijeoma Ndika
Senior Insurance Examiner

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

Ijeoma Ndika, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____________/s/____________
Ijeoma Ndika

Subscribed and sworn to before me

this__________ day of ___________________

APPOINTMENT NO. 31091

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:

IJEOMA NDIKA

as a proper person to examine the affairs of the

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY OF NEW YORK

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 7th day of March, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:

MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

NEW YORK STATE ★ DEPARTMENT OF FINANCIAL SERVICES ★ EXCELSIOR