



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

CONDITION:

DECEMBER 31, 2014

DATE OF REPORT:

MAY 12, 2016

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON MARKET CONDUCT EXAMINATION

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AS OF

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EXAMINER:

PABLO RAMOS

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

November 7, 2016

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

Madam:

In accordance with instructions contained in Appointment No. 31287, dated August 12, 2015 and annexed hereto, an examination has been made into the condition and affairs of the Monitor Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 502 Court Street, Utica, NY 13502.

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

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

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim form. (See item 4C of this report)
- The Company violated Section 403(d) of the New York Insurance Law and Section 86.4(e) of Department Regulation No. 95 by using group life claim forms that contained fraud warning statements that differed from the statutory fraud warning statement without submitting such forms to the Insurance Frauds Bureau for prior approval. (See item 4C of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2012 through December 31, 2014. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2014 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 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 stock life insurance company under the laws of New York on October 15, 1971, under the name Monitor Insurance Company of New York. The Company was licensed to write accident and health business as specified by paragraph 3 of Section 1113(a) of the New York Insurance Law and commenced business on June 1, 1972.

On August 15, 1978, the Company amended its charter to include the writing of life insurance and annuities as specified in paragraphs 1 and 2 of Section 1113(a) of the New York Insurance Law.

On April 25, 1979, the Company's name was changed to Monitor Life Insurance Company of New York.

On January 1, 2011, the Company was purchased by AmFirst Insurance Company ("AmFirst"), an Oklahoma domiciled insurance company.

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 25 states and the District of Columbia. In 2014, 82.4% of life premiums were received from New York (69.4%) and Pennsylvania (13%), and 90.0% of accident and health premiums were received from aggregate other aliens (58.2%), Texas (17.9%) and Florida (13.9%). Policies are written on a non-participating basis.

Prior to its acquisition by AmFirst in January 2011, the Company had previously marketed a combination of ordinary life, group term life and annuity business. After the change in ownership, the Company sold group term life and supplemental medical (medical gap) products, both on a direct and assumed basis. The Company's medical gap product, the "Premium Saver" plan, which is an employer sponsored group supplemental accident and health insurance plan designed to help reduce the cost of group medical coverage, is the primary product of the Company's supplemental medical portfolio. Beginning in 2012, the Company also began to write international medical, and, in 2013, a lump sum disability product in the international market, predominantly in Latin America and the Caribbean.

In 2015, the Company exited the group term life market through an agreement with Cigna Life Insurance Company of New York (“Cigna”) and Life Insurance Company of New York (“LINA”), whereas Cigna acquired all of the Company’s New York business and LINA acquired all of the remaining non-New York business.

The Company’s current agency operations are conducted through its affiliate general agency, Morgan White Ltd., or through independent agents.

4. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

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

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.

Section 403(d) of the New York Insurance Law states, in part:

“All applications for commercial insurance, individual, group or blanket accident and health and all claim forms ... shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’ . . .”

Sections 86.4 of Department Regulation No. 95 states, in part:

“(a) ... all claim forms for insurance,... shall contain the following statement:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’ ...

(d) Location of warning statements and type size. The warning statements required by subdivisions (a), (b) and (e) 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. On claim forms which require execution by a person other than the claimant, or in addition to the claimant, the warning statements required by subdivisions (a), (b) and (e) of this section shall be placed at the top of the first page of the claim form or in the page containing instructions, either in print, by stamp or by attachment and shall be in type size which will produce a warning statement of conspicuous size...

(e) ... insurers may use substantially similar warning statements provided such warning statements are submitted to the Insurance Frauds Bureau for prior approval.”

A review of the Company’s individual life claim forms utilized during the examination period revealed that the required New York fraud warning statement was not located immediately above the space provided for the signature of the person executing the claim form.

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

A review of group life claims revealed that the Company’s group life claim forms contained a fraud warning statement that differed from the language required by Section 403(d) and Section 86.4(a) of Department Regulation No. 95. The Company imported the phrase “and in the state of New York” into the fraud warning statement used on its group life claim forms without submitting the revised fraud warning statement to the Insurance Frauds Bureau for prior approval, as required by Section 86.4(e) of Department Regulation No. 95.

The Company violated Section 403(d) of the New York Insurance Law and Section 86.4(e) of Department Regulation No. 95 by using group life claim forms that contained fraud warning statements that differed from the statutory fraud warning statement without submitting such forms to the Insurance Frauds Bureau for prior approval.

Section 226.3(a) of Department Regulation No. 200 states, in part:

“Upon receiving notification of the death of an insured or account holder or in the event of a match made by a death index cross-check pursuant to section 226.4 of this Part, an insurer shall search every policy or account subject to this Part to determine whether the insurer has any other policies or accounts for the insured or account holder.”

A review of a sample of 20 matches selected for review from the Company’s inventory of matches related to Department Regulation No. 200 revealed that the Company failed to maintain documentation that confirms that the Company conducted a multiple policy search to determine whether the insurer has any other policies or accounts for the insured or account holder.

The examiner recommends that the Company maintain documentary evidence of multiple policy searches associated with life insurance claims and matches conducted during the death index cross checks performed pursuant to Section 226.3(a) of Department Regulation No. 200.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations 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 3214(c) of the New York Insurance Law by failing to pay interest on death claims.</p> <p>A review of individual life and group life paid claims revealed that the Company paid sufficient interest from date of death to date of payment.</p> |
| B | <p>The Company violated Section 3211(g) of the New York Insurance Law by failing to provide an annual notification to policyholders, whose policies are applicable to this section and contain a cash surrender value, that the policy contains a cash surrender value and that further information, including the amount thereof, is available from the insurer upon written request from the policyowner. This is a repeat violation.</p> <p>A review of annual notification to policyholders, whose policies contain a cash surrender value, revealed that the Company provided an annual notification to the policyholders to express that the policy contains a cash surrender value and that further information, including the amount thereof, is available from the Company upon written request from the policyholder.</p> |

6. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|---|--------------------|
| A | The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the required fraud warning statement immediately above the space provided for the signature of the person executing the claim. | 7 |
| B | The Company violated Section 403(d) of the New York Insurance Law and Section 86.4(e) of Department Regulation No. 95 by using group life claim forms that contained fraud warning statements that differed from the statutory fraud warning statement without submitting such forms to the Insurance Frauds Bureau for prior approval. | 8 |
| C | The examiner recommends that the Company maintain documentary evidence of multiple policy searches associated with life insurance claims and matches conducted during the death index cross checks performed pursuant to Section 226.3(a) of Department Regulation No. 200. | 8 |

Respectfully submitted,

_____/s/
Pablo Ramos
Senior Insurance Examiner

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

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

Pablo Ramos

Subscribed and sworn to before me
this _____ day of _____

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ANTHONY J. ALBANESE, Acting 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:

PABLO RAMOS

as a proper person to examine the affairs of the
MONITOR 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 he 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 12th day of August, 2015

ANTHONY J. ALBANESE
Acting Superintendent of Financial Services

By:



MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU

