



**TARGETED MARKET CONDUCT REPORT ON EXAMINATION
OF THE
EQUITABLE FINANCIAL LIFE INSURANCE COMPANY**

AS OF DECEMBER 31, 2020

EXAMINER:

ELKIN WOODS

DATE OF REPORT:

JUNE 16, 2022

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

October 26, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment Number. 32284, dated July 28, 2021, and annexed hereto, an examination has been made into the condition and affairs of Equitable Financial Life Insurance Company, hereinafter referred to as "the Company". The Company's home office is located at 1290 Avenue of the Americas, New York, NY 10104. The examination was conducted remotely because of the COVID-19 pandemic.

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 findings and violations contained in this report are summarized below.

- The Company violated Section 3201(b)(1) of the New York Insurance Law by providing applicants for replacements of annuity contracts to be issued in New York with a replacement policy form that was not filed with and approved by the superintendent. (See item 4B of this report.)
- The Company violated Section 3201(b)(1) of the New York Insurance Law by using various individual life insurance application forms and amendment application forms that were not filed with and approved by the superintendent, and by using policy forms in a manner that was not approved by the superintendent. (See item 4B of this report.)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2020, to December 31, 2020.

The examination comprised a review of the Company's electronic application process and related market conduct activities.

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 July 26, 1859, under the name of Equitable Life Assurance Society of the United States. The Company was licensed on July 25, 1859, and commenced business on July 28, 1859. In 1917, the Company commenced a process to become a mutual life insurance company. The Company completed its conversion to a mutual company in 1925.

On July 22, 1992, the Company demutualized and converted back to a stock life insurance company and became a wholly-owned subsidiary of The Equitable Companies Incorporated (“EQ”). In connection with the demutualization, the Company’s eligible policyholders received cash, policy credits, or common stock of EQ. At the time of the demutualization, AXA S.A. (“AXA”), a French holding company for an international group of insurance and related financial services companies, became the owner of 49% of EQ’s common shares outstanding as well as the owner of convertible preferred stock and convertible debentures. As a result, AXA’s ownership percentage of EQ as of December 31, 1995, increased to 60.6%.

On September 3, 1999, EQ changed its name to AXA Financial, Inc. (“AXA Financial”). In 1999, AXA Client Solutions, LLC (“Client Solutions”) was formed as a wholly-owned direct subsidiary of AXA Financial. At the same time, AXA Financial contributed all of the Company’s common stock to Client Solutions, making Client Solutions the direct parent of the Company.

On August 30, 2000, AXA Financial received a proposal from AXA for the acquisition of all of the outstanding common shares of AXA Financial not owned by AXA. On January 2, 2001, AXA completed its acquisition of the remaining minority interest in AXA Financial.

On January 1, 2002, Client Solutions distributed all of the Company’s common stock to AXA Financial, thereby making AXA Financial the direct parent of the Company. On April 22, 2002, Client Solutions changed its name to AXA Financial Services, LLC. Effective June 1, 2002, AXA Financial transferred ownership of the Company back to AXA Financial Services, LLC thereby making it once again the parent of the Company.

Effective September 7, 2004, the Company, formerly known as The Equitable Life Assurance Society of the United States, changed its name to AXA Equitable Life Insurance Company.

Effective November 7, 2007, AXA Financial Services, LLC changed its name to AXA Equitable Financial Services, LLC (“AXA Equitable Financial”).

Since the 2008 global financial crisis, European insurance companies, including AXA Equitable Financial’s ultimate controlling parent, AXA, experienced challenges with tougher and sometimes conflicting capital requirements between European and U.S. regulators for many types of life insurance products. Partly in response to changes in European insurance company accounting and solvency laws, AXA began the process of divesting its interest in AXA Equitable Financial Holdings, Inc. (“AXA Equitable Holdings”), the direct parent of AXA Equitable Financial from AXA in 2017.

On May 24, 2018, AXA completed an initial public offering in which it sold its shares of AXA Equitable Holdings’ common stock to the public. As of December 31, 2020, AXA owned less than 10% of the outstanding common stock of AXA Equitable Holdings and continued to divest its ownership interests. On May 17, 2021, AXA completed the divestiture of all its ownership interest in AXA Equitable Holdings.

In 2020, both AXA Equitable Holdings and AXA Equitable Financial Services removed “AXA” from its legal entity name and AXA Equitable Life Insurance Company received approval from the Department to change its name to Equitable Financial Life Insurance Company (“EFLIC”) on June 15, 2020.

B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all 50 states, the District of Columbia, Puerto Rico, the US Virgin Islands and Canada. Policies are written on a participating and non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2020:

| <u>Life Insurance Premiums</u> | | <u>Annuity Considerations</u> | |
|--------------------------------|---------------|-------------------------------|--------------|
| New York | 20.2% | New York | 12.1% |
| Minnesota | 9.8 | New Jersey | 9.3 |
| California | 9.3 | California | 8.5 |
| Florida | 6.9 | Texas | 7.5 |
| New Jersey | <u>5.7</u> | Florida | <u>7.4</u> |
| Subtotal | 51.9% | Subtotal | 44.8% |
| All others | <u>48.1</u> | All others | <u>55.2</u> |
| Total | <u>100.0%</u> | Total | <u>100.0</u> |

The Company's agency operations are conducted on a general agency basis. The Company distributes its annuity, life insurance and other products directly to the public through the financial professionals associated with Equitable Advisors LLC and Equitable Network LLC.

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's electronic application processes for life insurance and annuities 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 sales activities, solicitation and the replacement of insurance policies as part of the Company's electronic application process review.

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 as part of the Company's electronic application process review.

Section 3201(b)(1) of New York Insurance Law states, in part:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. . . .”

In 4 of 95 (4%) of the individual annuity contracts reviewed, the Company provided policy form Replacement-30-ICC titled “Notice of Thirty-Day Right to Examine and Cancel Annuity Contract” to the policyholders. Policy form Replacement-30-ICC was not submitted to the superintendent for approval.

The Company violated Section 3201(b)(1) of the New York Insurance Law by providing applicants for replacements of annuity contracts to be issued in New York with a replacement policy form that was not filed with and approved by the superintendent.

The Company indicated that Replacement-30-ICC was included due to a technical error. The Company also indicated that it corrected the error and that the form was not used for any underwriting or any other purposes for the cases at issue.

In 87 of 90 (97%) individual life insurance policies reviewed, the Company used supplemental form number BEN2012 together with application form number AXA-Life-2011NY (rev. 6/12) during the application process of the policies. The examiner was unable to locate a record of supplemental form BEN2012 in the Department's files.

In 46 of 90 (51%) individual life insurance policies reviewed, the Company used form number AXA-BTA-2014 "Broker Transfer Authorization Form for Individual Life Application" together with application form number AXA-Life-2011NY (rev. 6/12) during the application process of the policies. According to the Department's records, the examiner noted that the authorization form AXA-BTA-2014 was withdrawn by the Company on December 9, 2020.

During the review of the sample of 90 individual life insurance policies, the examiner noted that the Company utilized the supplemental forms in its electronic application process with application AXA-Life-2011NY (rev. 6/12). However, the examiner was unable to locate the Department's approval for electronic use of the supplemental forms listed below:

- In 64 cases (71%), the Company utilized supplemental form AXA-Consent-2014NY.
- In 42 cases (47%), the Company utilized supplemental form AXA-PARAMED-2016NY (Rev. 1/17), a "paramedical questionnaire".
- In 18 cases (20%), the Company utilized supplemental form number AXA-LTC-2012NY, an "accelerated death benefit for long term care services rider questionnaire".
- In 62 cases (69%), the Company utilized supplemental form number 180-237S-NY, "AMENDMENT TO APPLICATION" form.
- In 7 cases (8%), the Company utilized supplemental form number AXA-FIN2011NY, a "financial questionnaire" form.
- In 5 cases (6%), the Company utilized application form number AXA-TCONV-2011NY.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using various individual life insurance application forms and amendment application forms that were not filed with and approved by the superintendent, and by using policy forms in a manner that was not approved by the superintendent.

The Company indicated that the forms were used for administrative and efficiency purposes and were not used for underwriting purposes.

C. Option to Opt-Out

The examiner verified that the applicants had an opportunity to opt out of the electronic process as required by Section 309 of the New York State Technology Law.

5. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|--|--------------------|
| A | The Company violated Section 3201(b)(1) of the New York Insurance Law by providing applicants for replacements of annuity contracts to be issued in New York with a replacement policy form that was not filed with and approved by the superintendent. | 7 |
| B | The Company violated Section 3201(b)(1) of the New York Insurance Law by using various individual life insurance application forms and amendment application forms that were not filed with and approved by the superintendent, and by using policy forms in a manner that was not approved by the superintendent. | 8 |

Respectfully submitted,

Elkin Woods

Elkin Woods
Senior Insurance Examiner

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

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

Elkin Woods

Elkin Woods

Subscribed and sworn to before me

this 26th day of October, 2022

Audrey Hall

AUDREY HALL
Notary Public, State of New York
No. 01HA6274900
Qualified in Kings County
Commission Expires January 26, 2025

APPOINTMENT NO. 32284

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, **Linda A. Lacewell**, 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:

ELKIN WOODS

as a proper person to examine the affairs of the
EQUITABLE FINANCIAL LIFE INSURANCE COMPANY
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 28th day of July, 2021

LINDA A. LACEWELL
Superintendent of Financial Services

By: *Mark McLeod*

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

