



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

**MARKET CONDUCT
EXAMINATION REPORT**

OF

**AXA EQUITABLE LIFE
INSURANCE COMPANY
NEW YORK, NY**

**As of: May 21, 2014
Issued: June 17, 2014**

**MARKET ACTIONS BUREAU
LIFE AND HEALTH DIVISION**

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
AXA EQUITABLE LIFE :
INSURANCE COMPANY : Sections 903(a) and 904(b) of the
Avenue of the America's : Insurance Department Act, Act of 1290
New York, NY 10104 : May 17, 1921, P.L. 789, No. 285
: (40P.S. § 323.3 and 323.4)
: :
: Sections 641.1-A, 671-A and 671.1-A
: of Act 147 of 2002 (40 P.S. §§310.41a
: 310.71 and 310.71a)
: :
: Sections 354, 404-A, 406-A,
: 408-A(e)(1)(i), 408-A(e)(2)(i),
: 408-A(e)(2)(iii), 408-A(e)(5)
: 410-D(a)(3) and 410F(c)(5)(i) and (ii)
: of the Insurance Company Law,
: Act of May 17, 1921, P.L. 682,
: No. 284 (40 P.S. §§ 477b, 625-4,
: 625-6, 625-8, 510c, and 510e
: :
: Title 31, Pennsylvania Code, Sections
: 81.4(b)(1), 81.5(b), 81.6(a)(1)
: 81.6(a)(2)(ii), 81.6(c), 83.3
: 83.3(a)(4)(i), 83.4a, 83.4b, 90c.5(m)
: 146.5, 146.6, 146.7 and 146a.21
: :
: Sections 5(a)(8) and (a)(10)(ii)(iii)(v)
: of the Unfair Insurance Practices Act,
: Act of July 22, 1974, P.L. 589,
: No. 205 (40 P.S. §§1171.5)
: :
: Title 18, Pennsylvania Consolidated
: Statute, Section 4117(k)
: :
Respondent : Docket No. MC14-06-004

CONSENT ORDER

AND NOW, this 17th day of June, 2014, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra. or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is AXA Equitable Life Insurance Company, and maintains its address at 1290 Avenue of the Americas, New York, NY 10104.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2011 to December 31, 2011.

(c) On May 21, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on May 29, 2014 and Respondent has asserted that it cooperated fully with the Department during the Examination, that the referenced violations were not the result of any conscious company policy to evade the requirements of the Pennsylvania Insurance Law, and that Respondent has taken the necessary corrective actions in response to the Department's findings.

(e) The Examination Report notes the following violations:

(i) Section 903 of the Insurance Department Act, Act of May 17, 1921 (40 P.S. §323.3), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

(ii) Section 904(b) of the Insurance Department Act, Act of May 17, 1921 (40 P.S. §323.4), which requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being

examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so;

(iii) Section 641.1-A of Act 147 of 2002 (40 P.S. § 341.1a), which prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license;

(iv) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act and requires an insurer upon request to certify to the Department the names of all the licensees appointed by the insurer;

(v) Section 671.1-A of Act 147 of 2002 (40 P.S. § 310.71), which requires an insurer which terminates an appointment to notify the department in writing within 30 days following the effective date of the termination;

(vi) Section 354 of the Insurance Company Law (40 P.S. § 477b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

(vii) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires that when the individual policy or annuity is delivered to the

policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand-delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;

(viii) Section 406-A of the Insurance Company Law, No. 284 (40 P.S. § 625-6), which states no alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant;

(ix) Section 408-A(e)(1)(i) of the Insurance Company Law, No. 284 (40 P.S. §625-8), which states if the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no

later than the time the application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant;

(x) Section 408-A(e)(2)(i) of the Insurance Company Law, No. 284(40 P.S. §625-8), which requires that the producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form, the applicant shall acknowledge that no illustration was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer as soon as practical after the application is signed by the applicant;

(xi) Section 408-A(e)(2)(iii) of the Insurance Company Law, No. 284 (40 P.S. §625-8), which states the following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed: if the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer as soon as practical after the policy is delivered;

(xii) Section 408-A(e)(5) (40 P.S. §625-8) which states a copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other

than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force;

(xiii) Section 410D(a)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which states individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery; (“free look provision”);

(xiv) Section 410F(c)(5)(i) and (ii) of Insurance Company Law, No. 284 (40 P.S. §510e), which requires the company to:

(i) notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan;

(xv) Title 31, Pennsylvania Code, Section 81.4(b)(1), which requires that if a replacement is involved, the agent or broker shall present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;

(xvi) Title 31, Pennsylvania Code, Section 81.5(b), which requires an insurer, as part of a completed application for life insurance or annuity, require a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;

(xvii) Title 31, Pennsylvania Code, Section 81.6(a)(1), which requires an insurer that uses an agent or broker in a life insurance or annuity sale shall require with or as part of a completed application for life insurance or annuity, a statement signed by the agent or broker regarding whether the broker knows replacement is or may be involved in the transaction;

(xviii) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which states an insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by Section 83.3, or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner;

(xix) Title 31, Pennsylvania Code, Section 81.6(c), which requires the replacing insurer to maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities;

(xx) Title 31, Pennsylvania Code, Section 83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;

(xxi) Title 31, Pennsylvania Code, Section 83.3(a)(4)(i), which requires the disclosure statement to list the name of the producer, home address or agency address and home or agency telephone number of the insurance producer making the solicitation;

(xxii) Title 31, Pennsylvania Code, Section 83.4a, which states the agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant;

(xxiii) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute *prima facie* evidence that no disclosure statement was provided to the prospective purchaser of life insurance;

(xxiv) Title 31, Pennsylvania Code, Section 90c.5(m), which requires the insurer when using another companies medical exam report that the report not be older than 180 days from the date of application;

(xxv) Title 31, Pennsylvania Code, Section 146.5, which requires every insurer, upon receiving notification of a claim, shall within 10 working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated;

(xxvi) Title 31, Pennsylvania Code, Section 146.6 which requires that if an Investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xxvii) Title 31, Pennsylvania Code, Section 146.7, which provides that within 15 working days after receipt by the insurer of properly executed proof of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer;

(xxviii) Title 31, Pennsylvania Code, Section 146a.21, which sets forth conditions for disclosure: except as authorized in the chapter, a licensee may not directly or through an affiliate , disclosure non- public personal financial information about a

consumer to a non-affiliated third parties unless all conditions are met as prescribed in the chapter;

(xxix) Section 5(a)(8) [40 P.S. 1171.5(a)(8)], which states an unfair method of competition or deceptive act or practice is defined as knowing permitting or offering to make any contract of insurance as to such contract as to plainly expressed in the insurance contract or paying or offering to pay as an inducement any rebate of premium on the contract;

(xxx) Section 5(a)(10)(ii) of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. §1171.5), Section 5(a)(10)(ii) which prohibits failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies;

(xxxii) Section 5(a)(10)(iii) of the Unfair Insurance Practices Act, (40 P.S. §1171.5(a)(10)), which prohibits failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(xxxiii) Section 5(a)(10)(v) of Act 205 (40 P.S. § 1171.5(a)(10)), which prohibits the affirming or denying coverage of claims within a reasonable time after proof of loss statement have been completed and communicated to the company or its representative;

(xxxiii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “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 subjects such person to criminal and civil penalties”.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent’s violations of Section 641.1-A , 671-A and 671.1-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violation of Section 354 of The Insurance Company Law is punishable by the following, under Section 354 of The Insurance Company Law (40 P.S. § 477b):

(i) suspension or revocation of the license(s) of Respondent;

(ii) refusal, for a period not to exceed one year thereafter, to issue a new License to Respondent;

(iii) imposition of a fine of not more than one thousand dollar (\$1,000.00) for each act in violation of the Act.

(d) Respondent's violations of 40 P.S. §§625-4, 625-6, 625-8, 510c, and 510e are punishable by the following, under 40 P.S. §625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

(e) Respondent's violations of Title 31, Pennsylvania Code, Chapter 81, are punishable under Title 31, Pennsylvania Code, Section 81.8(b) and (c), which provide that failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);

(f) Respondent's violations of Title 31, Pennsylvania Code, Chapter 83 are punishable under Title 31, Pennsylvania Code, Section 83.6: For failing to insure adequate disclosure of basic information, after a hearing,

(i) a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

(g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5, 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(h) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company new or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

(ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

(c) Respondent shall comply with all recommendations contained in the attached Report.

(d) Respondent shall pay Sixty Thousand Dollars (\$60,000) to the Pennsylvania Insurance Department, Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to Christopher Monahan, Director, Bureau of Market Actions, and 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than June 20, 2014.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

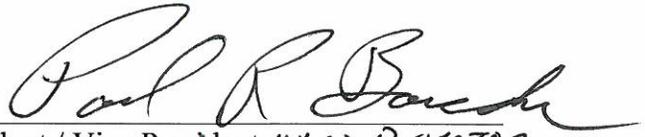
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

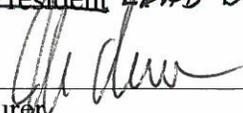
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

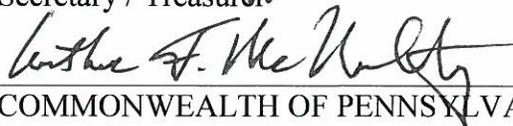
BY: AXA EQUITABLE LIFE INSURANCE
COMPANY, Respondent



President / Vice President ~~HEAD DIRECTOR~~



Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA

By: Arthur F. McNulty
Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27th day of April, 2011, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.




Michael F. Consedine
Insurance Commissioner

AXA EQUITABLE LIFE INSURANCE COMPANY
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I. INTRODUCTION

The Market Conduct Examination was conducted on AXA Equitable Life Insurance Company; hereafter referred to as “Company,” at the Company’s office located in New York, New York, the Pennsylvania Insurance Department Office and the contractor’s (AGI) office in Tyrone, Georgia from October 26, 2012, through January 8, 2014. Subsequent review and follow-up was also conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

The following examiners participated in the Examination and in the preparation of this Report.

Yonise A. Roberts Paige, MCM
Pennsylvania Insurance Department
Market Conduct Division Chief

John Humphries, ASA, MAAA, CFE, CISA, AES, MCM
AGI Services
Supervisor

Tom Wohlbach, CIE, FSA, MAAA, FLMI
AGI Services
Market Conduct Examiner in Charge

Sean Betta, MCM
AGI Services
MCAS IT Examiner
Market Conduct Examiner

Adam Lewis
AGI Services
Market Conduct Examiner

Verification

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Tom Wohlbach, CIE, FSA, MAAA, FLMI
Examiner-In-Charge

Sworn to and Subscribed Before
me

This 11th Day of December '2013



Notary Public

MELANIE
BROOKS NOTARY
PUBLIC FAYETTE
COUNTY
STATE OF
GEORGIA

My Commission Expires October 30,
2011

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §323.3 and §323.4) of the Insurance Department Act and covered the experience period of January 1, 2010 through December 31, 2011, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

The examination focused on the market conduct activities in areas such as: Company Operations/Management, Advertising, Consumer Complaints, Forms, Agent/Broker Licensing, Underwriting Practices and Procedures, Claim Handling Practices and Procedures, and Data Integrity, which includes a review of the Market Conduct Annual Statement (MCAS) submissions.

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance or Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

III. COMPANY HISTORY AND LICENSING

Equitable Life Assurance Society of the United States (Equitable Life), was incorporated in the State of New York on July 26, 1859. Effective September 7, 2004 the Company changed its name to AXA Equitable Life Insurance Company. The Company was admitted in the Commonwealth of Pennsylvania on March 13, 1874. The Company is authorized to do business in the District of Columbia, Puerto Rico, U.S. Virgin Islands, Canada and all states.

Equitable Life is an indirect wholly owned subsidiary of AXA Financial, Inc., formerly The Equitable Companies Incorporated. Equitable Life principally issues the life insurance and annuity products for AXA Financial, Inc. Group.

AXA Equitable Life markets a wide variety of life insurance and annuity products, including traditional and term life insurance, variable and fixed annuities, and variable and interest-sensitive life products.

As of their December 2011 annual statement for Pennsylvania, the Company reported direct premiums for ordinary life insurance, annuities and deposit contract funds in the amount of \$453,574,638; group annuity consideration and other considerations in the amount of \$140,662,300; and direct premium for accident and health in the amount of \$8,043,953.

IV. COMPANY OPERATIONS AND MANAGEMENT

The Company was requested to provide information documenting its management and operational procedures in areas for which they conduct business for the Commonwealth of Pennsylvania. The following areas were reviewed:

- General Procedures and Company History
- Internal Audit and Compliance Procedures
- Controls of Computer Information
- Antifraud and Disaster Recovery Plans
- Outsourcing and Monitoring of Management Services
- Retention of Records
- Information: Collection, Use, & Disclosure (including Privacy of Personal Info)
- Licensed for Lines of Business

These areas were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulation. No violations were noted.

V. MARKETING, SALES AND ADVERTISING

A. Marketing Sales and Advertising Material

The Company was requested to provide a list of all advertising and marketing material utilized during the experience period. The Company provided a list of 3,373 pieces of advertising utilized in the Commonwealth. The advertising consisted of: letters, direct mailers, brochures, presentations, fact cards, articles, media scripts, cards, illustrations, product guides, product manuals and the company's web page. A sample of 20 pieces of advertising was requested, received and reviewed. The 20 advertising materials and the Company's web site were reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. §1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and Title 31, Pennsylvania Code, Chapter 51. No violations were noted.

B. Advertising Certificate of Compliance

The Company was requested to provide a copy of the advertising certificate of compliance submitted to the Department for the experience period. The 2010 – 2011 certifications were requested, received and reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 51.5. Section 51.5 provides that "A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth." No violations were noted.

VI. FORMS

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with Insurance Company Law, Section 354 and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), Fraud notice. The following violations were noted:

17 Violations – Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)

All applications for insurance and all claim forms shall contain or have attached thereto the following notice: *“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 subjects such person to criminal and civil penalties.”* Evidence of the fraud statement on the application could not be established in the 14 noted files and evidence of providing the fraud notice prior to the date that either the premium is accepted or the applicant’s signature was not established in 3 noted files.

VII. PRODUCER LICENSING

The company was requested to provide a list of all producers active and terminated during the experience period. The company provided the following six lists of producers: (1) active adl wholesale producers (axa partners), (2) active adl variable product producers (adl-rss), (3) active axa retail producers (axa network), (4) terminated axa partners, (5) terminated rss and (6) terminated axa network. The company identified 13,359 active and 4,800 terminated producers during the experience period. A random sample of 366 active producers and 113 terminated producers was requested, received and reviewed. The sample of 366 actives and 113 terminations were compared to Departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the 271 producers identified on applications reviewed in the policy issued sections of the exam. The following violations were noted:

16 Violations – Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)

- (a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
 - (1) Delineates the services to be provided; and
 - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer
- (c) Notification to department – An insurer that appoints an insurance producer shall file with the department a notice of appointment. The notice shall state for which companies within the insurer’s holding company system or group the appointment is made.
- (d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer’s license is suspended, revoked or otherwise terminated.

- (e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.
- (f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer.

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for 16 producers. The Company listed these producers as active during some portion or all of 2011; or the producers signed an application without being active on the date of the signing and the Department records did not indicate their active appointment.

7 Violations – Insurance Department Act, No. 147, Section 641.1-A (40 P.S. §310.41a)

- (a) Any insurance entity or licensee accepting applications or orders for insurance or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5000 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.
- (b) A person that violates this section commits a misdemeanor of the third degree.

The Company listed 7 individuals as producers for the Company; however, Department records do not identify the 7 individual as holding a Pennsylvania insurance license.

**46 Violations – Insurance Department Act, No. 147, Section 671.1-A
(40 P.S. §310.71a) Termination of Appointments**

- (a) Termination. - An insurer which terminates an appointment pursuant to section 671-A(d) shall notify the department in writing on a form approved by the department, or through an electronic process approved by the department, within 30 days following the effective date of the termination.

(b) Reason for termination. – If the reason for the termination was a violation of this act or if the insurer had knowledge that the licensee was found to have engaged in any activity prohibited by this act, the insurer shall inform the department in the notification.

The Company listed 46 individuals as terminated by the company but they were not reported as terminated to the Department or the termination was not reported within 30 days following the effective date of the termination to the Department.

1 Violation – Insurance Department Act, No. 147, Section 671-A(f) (40 P.S. §310.71)

(f) Reporting – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer. The Company was not able to provide a complete and accurate list of all producers that were licensed and appointed in 2011.

VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2008, 2009, 2010 and 2011. The Company identified 101 consumer complaints received during the experience period. Of the 101 complaints identified, 10 were forwarded from the Department. A random sample of 57 complaints was requested, received and reviewed. The Department's list of written consumer complaints that was forwarded to the Company during the experience period was compared to the Company's complaint log for completeness.

The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5). Section 5 (a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The complaint record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Unfair Claims Settlement Practices and Title 31, PA Code, Section 146. Written complaint files involving non-public personal financial information were reviewed for compliance with Title 31, Pa Code, Section 146a. The following violations were noted:

8 Violations – Title 31 Pennsylvania Code, Section 146a.21 - Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.

(a) *Conditions for disclosure.* Except as otherwise authorized in this chapter, a licensee may not, directly or through an affiliate, disclose nonpublic personal financial information about a consumer to a nonaffiliated third party unless all of the following conditions are met:

- (1) The licensee has provided to the consumer an initial notice as required under § 146a.11 (relating to initial privacy notice to consumers required).
- (2) The licensee has provided to the consumer an opt-out notice as required in § 146a.14 (relating to form of opt out notice to consumers and opt out methods).
- (3) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure.
- (4) The consumer does not opt out.

Evidence that the Company disclosed nonpublic personal financial information to nonaffiliated third parties without authorization was noted in 8 consumer complaint files.

IX. UNDERWRITING

The Underwriting review consisted of 24 general segments.

- A. Underwriting Guidelines
- B. Group Annuity Certificates Issued
- C. Whole Life Policies Issued
- D. Individual Term Life Policies Issued
- E. Individual Variable Life Policies Issued
- F. Individual Fixed & Variable Annuity Contracts Issued
- G. Whole Life Policies Issued as Replacements
- H. Term Life Policies Issued as Replacements
- I. Individual Variable Life Policies Issued as Replacements
- J. Individual Annuity Internal/External Replacements
- K. Individual Whole Life Policies Surrendered
- L. Individual Term Life Policies Surrendered
- M. Individual Variable Life Policies Surrendered
- N. Group Annuity Surrenders - Variable (DST)
- O. Individual Annuity Surrenders - Variable (Assoc./SPDA/wmA)
- P. Individual Annuity Surrenders - Variable (Equivest)
- Q. Individual Annuity Surrenders - Variable (Vantage)
- R. Individual Annuity Surrenders - Fixed (Annuity Benefit)
- S. Individual Life Policy Loans
- T. Annuity Contracts with Loans – Association
- U. Annuity Contracts with Loans – DST
- V. Annuity Contracts with Loans – Equivest
- W. Annuity Contracts with Loans – RSS
- X. Individual Life Policy Declinations

Each segment was reviewed for compliance with underwriting practices and included forms identification and producer identification. Issues relating to forms or licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

A. Underwriting Guidelines

The Company was requested to provide copies of all underwriting guidelines and manuals utilized during the experience period. The documents provided were reviewed to ensure that underwriting guidelines were in place and being followed in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered

discriminatory in nature or specifically prohibited by the Commonwealth's statutes and regulations.

The following Guidelines and procedures were provided and reviewed:

- Life Product Manual, Life Underwriting & Administration (Floppy Disc)
- Guardian On-Line Underwriting Guidelines: Resources/Document Library/Quick Reference/Product Manuals/Underwriting/State Approvals/Materials for Client Use
- Life Electronic Reference and News "LERN"

Members of the Underwriting staff were also interviewed regarding their use of the guidelines. No violations were noted.

B. Group Annuity Certificates Issued

The Company was requested to provide a list of all group annuity certificate holders enrolled during the experience period. The Company provided a list of 2,505 group annuity certificate holders. A random sample of 5 replacement and 35 non-replacement certificate holders enrolled was requested for review. Of the 40 files requested for review, 8 certificate holders were not funded and 8 were issued in another state (New York or New Jersey) and therefore not subject to Pennsylvania law. The remaining 24 files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

C. Whole Life Policies Issued

The Company identified a universe of 286 whole life policies issued during the experience period. A random sample of 25 whole life policy files was requested and received. Of the 25 life policy files received, the application from 1 file was determined to have been signed and issued in another state (California) and therefore not subject to Pennsylvania law. The remaining 24 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

6 Violations - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. Verification of the required agent's certification of disclosure statement delivery was not evident in the 6 noted files.

D. Individual Term Life Policies Issued

The Company identified a universe of 1,212 individual term life policies issued during the experience period. Of the 1,212 life policies issued, 881 were identified as term life policies non-replacements. A random sample of 50 term life policies was requested and received. Of the 50 policies requested, 2 applications were signed and issued in another state (New Jersey) and 1 was signed outside the experience period. These 3 files were therefore not subject to Pennsylvania law. The remaining 47 policy files, including 3 that had replacement activity, were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.4(b)(1)

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was dated after the application date in the noted file.

1 Violation - Title 31, Pennsylvania Code, Section 81.5(b)

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The applicant's replacement question was not answered in the noted file.

2 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall:

Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agents question on replacement was not completed in the 2 noted files.

7 Violations -Title 31, Pennsylvania Code, Section 83.3(a)(4)(i)

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation. The agents telephone number and/or address were absent in the 7 noted files.

11 Violations - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. Evidence that the agent's certification of disclosure delivery was completed in accordance with this section could not be established in the 11 noted files.

6 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. Evidence of alterations to the application without the applicants consent was found in the 6 noted files.

2 Violations – Insurance Company Law, Section 408-A(e)(1)(i) (40 P.S. §625-8)

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the

application is signed by the applicant. The agent certification and applicants acknowledgement of the illustration used was signed and dated after the application date in the 2 noted files.

1 Violation – Insurance Company Law, Section 408-A(e)(2)(i) (40 P.S. §625-8)

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. Evidence of the signed certification and acknowledgement indicating no illustration was used in the sale of the life insurance policy could not be established in the noted file.

1 Violation – Insurance Company Law, Section 408-A(e)(2)(iii) (40 P.S. §625-8)

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. Evidence of the signed certification and acknowledgement of the delivery of an illustration, at the time of policy issuance and delivery, could not be established in the noted file.

E. Individual Variable Life Policies Issued

The Company identified a universe of 154 variable life policies issued during the experience period. Of the 154 variable life policies issued, 130 were identified as non-replacement variable life policies. Of the 130 variable life policies, a random sample of 10 policies was requested, and subsequently received. Of the 10 files requested for review, 1 application was signed and issued in another state (New York) and therefore was not subject to Pennsylvania law. The remaining 9 files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b)

It shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell or dispose of any policy, contract or certificate covering life insurance or use application, riders or endorsements in connection therewith until the forms have been submitted to, and formally approved by, the Insurance Commissioner. A MONY/AXA licensed agent for the Company sold a MONY policy that was issued as an AXA policy in the noted file.

1 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agents question on replacement was not completed in the noted application.

1 Violation - Insurance Department Act, Section 903(a) (40 P.S. §323.3)

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. The responses on the application were incomplete in the noted file.

1 Violation - Title 31, Pennsylvania Code, Section 90.c.5 (m)

Medical exam report - When using another company's medical exam report the following apply:
(1) The report is provided to the new company only by the applicant or with specific authorization in writing from the applicant. (2) The new application that incorporates the other company's medical exam report provides for the applicant to state that the medical condition as stated in the medical exam report is unchanged only if the applicant has a copy of the report. (3) The medical exam is no older than 180 days. The evidence of the new application containing the applicant's statement of medical condition since the prior exam could not be established and the prior medical exam report was greater than 180 days from the application date in the noted file.

F. Individual Fixed & Variable Annuity Contracts Issued

The Company identified a universe of 4,511 annuity contracts issued during the experience period. Of the 4,511 annuity contracts issued, 4,018 were identified as non-replacement annuity contracts. A random sample of 50 contracts was requested and received. Of the 50 annuity contract files received, 1 application was signed and issued in another state (New Jersey) and therefore was not subject to Pennsylvania law. The remaining 49 contract files were reviewed to determine compliance with issuance and replacement statutes and regulations. The following violations were noted:

2 Violations - Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Evidence of the delivery receipt could not be established in the 2 noted files.

1 Violation– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration to the application without the applicants consent was evident in the noted file.

G. Whole Life Policies Issued as Replacements

The Company identified a universe of 490 life policies issued as replacements during the experience period. Of the 490 life replacements, 135 were determined to be whole life. A random sample of 21 replacements was requested, received and reviewed. The policy files were

reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

3 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 3 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. Verification that the required disclosure information was provided could not be established in the 3 noted files.

2 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration to the application without the applicants consent was evident in the 2 noted file.

5 Violations– Insurance Company Law, Section 408-A(e)(1)(i) (40 P.S. §625-8)

(e) (1) the following applies if a basic illustration is used by a producer in the sale of a life insurance policy. (i) If the policy is applied for as illustrated a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. Evidence of a timely notification of illustration was not evident in the 5 noted files.

1 Violation – Insurance Company Law, Section 408-A(e)(5) (40 P.S. §625-8)

A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated shall be retained by the insurer until three (3) years after the policy is no longer in force. Evidence of a properly executed illustration was not evident in the noted file.

2 Violations – Insurance Company Law, Section 410D(a)(3) (40 P.S. §510c)

Individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery. Verification that the “20 day” free look notice was provided could not be established in the 2 noted files.

H. Term Life Policies Issued as Replacements

The Company identified a universe of 490 life policies issued as replacements during the experience period. Of the 490 life replacements, 331 were identified as term life. A random sample of 50 replacements, from the 331 term life replacement files, was requested, received and reviewed. The replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.4(b)(1)

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was dated after the application date in the noted file.

1 Violation - Title 31, Pennsylvania Code, Section 81.6(a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. Evidence of a signed statement by the agent or broker was not established in the noted file.

20 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. Verification that the required disclosure information was provided could not be established in the 20 noted files.

2 Violations – Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement

(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. Evidence of agent information could not be established in the 2 noted files.

14 Violations - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. Verification of the agent's certification of disclosure was not evident in the 14 noted files.

2 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration to the application without the applicants consent was evident in the 2 noted file.

1 Violation – Insurance Company Law, Section 410D(a)(3) (40 P.S. §510c)

Individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery. Verification that the “20 day” free look notice was provided could not be established in the noted file.

I. Individual Variable Life Policies Issued as Replacements

The Company identified a universe of 490 life policies issued as replacements during the experience period. Of the 490 life replacements 24 were identified as variable life policies. A random sample of 4 files was requested, received and reviewed. Of the 4 variable life replacement policy files reviewed, 1 application was signed and issued in another state (New Jersey) and therefore was not subject to Pennsylvania law. The remaining 3 replacement policy files were reviewed to determine compliance to issuance, underwriting and replacement statutes and regulations. No violations were noted.

J. Individual Annuity Internal/External Replacements

The Company identified a universe of 4,511 annuity contracts issued during the experience period. Of the 4,511 individual annuity contracts issued, 493 were identified as individual variable annuity internal/external replacements. A random sample of 50 replacement files was requested. Of the 50 files requested 1 application was signed and issued in another state (New Jersey) and therefore was not subject to Pennsylvania law. The remaining 49 annuity files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. In addition, 15 of the 49 sampled contracts were issued as a group plan. Accordingly, these files should be listed as certificates and not contract replacements. The following violations were noted:

Department Concern:

The Company provided group issued products and identified them as individual issued products. Group policies and certificates are not subject to Pennsylvania replacement laws which compromised the testing of compliance for this examination section. The Department requests that the Company implement the necessary procedures to ensure that its products are accurately identifiable within their records for future market conduct examination purposes.

1 Violation - Title 31, Pennsylvania Code, Section 81.4(b)(1)

If replacement is involved, the agent or broker shall: present to the applicant not later than at the time of taking the application a Notice Regarding Replacement of Life Insurance and Annuities. The Notice Regarding Replacement was dated after the application in the noted file.

3 Violations - Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Evidence of the delivery receipt could not be established in the 3 noted files.

2 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. An alteration to the application without the applicants consent was evident in the 2 noted file.

K. Individual Whole Life Policies Surrendered

The Company was requested to provide a list of all whole life policies surrendered during the experience period. The Company provided a list of 1,259 whole life policies surrendered. A random sample of 18 individual life policies surrendered was requested of which 16 files were received and reviewed, as the Company did not provide files for two policies. The 16 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

Department Concern:

There was a policy written in 1933 that appeared to have been paid-up in 1936. When the policy matured in 2011, correspondence was sent to same address as shown on application in 1933 which was 78 years earlier. Accordingly, since the Company could not locate the insured/beneficiary; the funds were escheated to the State. Therefore, the Company is encouraged to review their processes and procedures for maintaining regular contact with policy holders to increase the possibility of locating those whom the Company has lost contact.

L. Individual Term Life Policies Surrendered

The Company was requested to provide a list of all term life policies surrendered during the experience period. The Company provided a list of 671 whole life policies surrendered. A random sample of 15 term life policy files was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

M. Individual Variable Life Policies Surrendered

The Company was requested to provide a list of all variable life policies surrendered during the experience period. The Company provided a list of 1,164 variable life policies surrendered. A random sample of 17 individual variable life policies surrendered was requested and received. Of the 17 life policy files received, 1 was identified as a not-taken policy. The remaining 16

policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

N. Group Annuity Surrenders - Variable (DST)

The Company was requested to provide a list of annuities surrendered during the experience period. The Company identified a universe of 272 group variable annuities (DST) contracts surrendered. A sample of 7 contracts was requested, received and reviewed for compliance with Insurance Department Act, Section 903(a) (40 P.S. §323.3); Title 31, Pennsylvania Code, Chapter 90c; and, to ensure compliance with contract provisions, termination laws and regulations as well as the proper return of any unearned premiums. No violations were noted.

O. Individual Annuity Surrenders – Variable (Assoc./SPDA/wmA)

The Company was requested to provide a list of annuities surrendered during the experience period. The Company identified a universe of 140 variable annuities consisting of 4 different products (Association, SPDA, SPDA-IVA, and, wmA). A sample of 9 contracts was requested, received and reviewed to ensure compliance with Insurance Department Act, Section 903 (40 P.S. §323.3) and Title 31, Pennsylvania Code, Chapter 90c. The files were also reviewed to ensure compliance with contract provisions, termination laws and regulations as well as the proper return of any unearned premiums. No violations were noted.

Department Concern:

The Company provided group issued products and identified them as individually issued products. Group policies and certificates are not subject to Pennsylvania replacement laws which compromised the testing of compliance for this examination section. The Department requests that the Company implement the necessary procedures to ensure that its products are accurately identifiable in their records for future market conduct examination purposes.

P. Individual Annuity Surrenders - Variable (Equivest)

The Company was requested to provide a list of annuities surrendered during the experience period. The Company identified a universe of 2,574 variable equivest annuities surrendered. A sample of 18 contracts was requested. Of these, 2 contracts were issued in other states and therefore not subject to Pennsylvania law. The remaining 16 files were reviewed to ensure compliance with Insurance Department Act, Section 903 (40 P.S. §323.3) and Title 31, Pennsylvania Code, Chapter 90c. The files were also reviewed to ensure compliance with contract provisions, termination laws and regulations as well as the proper return of any unearned premiums. No violations were noted.

Q. Individual Annuity Surrenders - Variable (Vantage)

The Company was requested to provide a list of annuities surrendered during the experience period. The Company identified a universe of 790 variable vantage annuities. A sample of 15 contracts was requested, received and reviewed to ensure compliance with Insurance Department Act, Section 903 (40 P.S. §323.3) and Title 31, Pennsylvania Code, Chapter 90c. The files were also reviewed to ensure compliance with contract provisions, termination laws and regulations as well as the proper return of any unearned premiums. The following violations were noted:

2 Violations - Insurance Department Act, Section 903 (40 P.S. §323.3)

Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. Verification of the details regarding surrender of the contract could not be established in the 2 noted files.

R. Individual Annuity Surrenders – Fixed (Annuity Benefits)

The Company was requested to provide a list of annuities surrendered during the experience period. The Company identified a universe of 1 fixed annuity file. The file was requested, received and reviewed for compliance with Insurance Department Act, Section 903 (40 P.S. §323.3); Title 31, Pennsylvania Code, Chapter 90c; and, to ensure compliance with contract provisions, termination laws and regulations, termination laws and regulations as well as the proper return of any unearned premiums. No violations were noted.

S. Individual Life Policy Loans

The Company was requested to provide a list of all individual life policies issued and that included loan activity during the experience period. The Company provided a list of 360 individual life policies issued and included loans. A random sample of 50 files was requested, received and reviewed. The files were reviewed to determine compliance with the Commonwealth of Pennsylvania policy provisions (including loan provisions), statutes and regulations. The following violation was noted:

1 Violation - Section §410F(c)(5)(i) and (ii) of Insurance Company Law, No. 284 -- (40 P.S. §510e(C) (5)(i)(ii)) -- Policy Loan Interest Rates

(i) notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan; (ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c)(5)(iii). The Company failed to notify the policyholder of the initial interest rate at the time the cash loan was made in the noted file.

T. Annuity Contracts with Loans - Association

The Company was requested to provide a list of all annuity contracts with loans – association issued during the experience period. The Company provided a list of 12 annuity contracts issued.

A sample of 3 contract loan files were requested, received, and reviewed. The files were reviewed to determine compliance with the Commonwealth of Pennsylvania policy provisions (including loan provisions), statutes and regulations. No violations were noted.

U. Annuity Contracts with Loans - DST

The Company was requested to provide a list of all annuity contracts with loans - DST issued during the experience period. The Company provided a list of 53 contracts issued. A sample of 8 files were requested, received, and reviewed. The files were reviewed to determine compliance with the Commonwealth of Pennsylvania policy provisions (including loan provisions), statutes and regulations. The following violations were noted:

2 Violations - Section §410F(c)(5)(i) and (ii) of Insurance Company Law, No. 284 -- (40 P.S. §510e(C) (5)(i)(ii)) -- Policy Loan Interest Rates

(i) notify that policyholder at the time a cash loan is made of the initial rate of interest on the loan; (ii) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c)(5)(iii). Verification of the Company's notification to the policyholder of the initial interest rate at the time the loan was made was not evident in the 2 noted files.

V. Annuity Contracts with Loans - Equivest

The Company was requested to provide a list of all annuity contracts with loans during the experience period. The Company provided a list of 599 annuity contracts issued as "Equivest" with a loan. A sample of 38 contract loan files were requested, received, and reviewed to determine compliance with the Commonwealth of Pennsylvania policy provisions (including loan provisions), statutes and regulations. The following violations were noted:

5 Violations – Act 205, Section 5(a)(8) (40 P.S. §1171.5)

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means: (8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon, or paying or allowing, or giving or offering to pay, allow or give as inducement to such insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration, inducement or anything of value whatsoever which is not specified in the contract. Evidence of the contract holder receiving the requested maximum loan, as allowed by the contract, could not be established in 5 noted files.

W. Annuity Contracts with Loans - RSS

The Company was requested to provide a list of all Annuity Contracts with Loans during the experience period. The Company provided a list of 3 annuity contracts issued as “RSS” with a loan. A sample of 1 contract was requested, received, and reviewed to determine compliance with the Commonwealth of Pennsylvania policy provisions (including loan provisions), statutes and regulations. No violations were noted.

X. Individual Life Policy Declinations

The Company was requested to provide a list of all policies declined during the experience period. The Company identified 85 individual life policies declined. A random sample of 32 files was requested, received, and reviewed. The files were reviewed to ensure that the declinations were not the result of any discriminatory and or underwriting practices. The files were reviewed to ensure the proper return of any unearned premiums. No violations were noted.

Note: approximately 60% of the declinations were attributed to either abnormal laboratory results (34.4%) or pertained to information received from the doctor (25.2%).

X. CLAIMS & CLAIMS MANUALS

The Claim review consisted of 7 general segments.

- A. Claims Manual
- B. Individual Life Claims Paid
- C. Life Claims Denied
- D. Variable Annuity Claims Paid
- E. Group Variable Annuity Claims Paid – (DST)
- F. Fixed Annuity Claims Paid
- G. Group Fixed Annuity Claims Paid

All claim requested files were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171) and Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

A. Claims Manual

The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The Company provided the following claim manuals:

- Claims Procedures – Life – Claims Experience Specialist Manual
- Claims Procedures – RSG – DST *et seq*
- Claims Procedures – RSG – Equivest *et seq*
- Claims Procedures – Life Frontend
- Claims Procedures – RSG – Group Pen *et seq*
- Claims Procedures – RSG – SPDA *et seq*
- Claims Procedures – RSS *et seq*
- Claims Procedures – Life Claims Manual Payments NU
- Claims Procedures – Life 70 Claims Processing Jobs Aide
- Claims Procedures – RSG – Annuity *et seq*
- Claims Procedures – RSG – Association *et seq*

The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory; specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

B. Individual Life Claims Paid

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 1224 individual life claims paid. A random sample of 56 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence that the Company provided timely status letters could not be established in the noted file.

C. Life Claims Denied

The Company was requested to provide a list of claims denied during the experience period. The Company identified 46 individual life claims denied. All 46 individual claims were requested and review. Of the 46 files received, 2 files were identified by the Company as errors due to not being death claims. The 44 claim files were reviewed to ensure the Company claims settlement process was adhering to the provisions of the policy contract. No violations were noted.

D. Variable Annuity Claims Paid

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 501 variable annuities claims paid. A sample of

46 files was requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.5

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Evidence that the Company acknowledged the claim request within 10 working days could not be established in the noted claim file.

7 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. Evidence that the Company provided timely status letters could not be established in 7 noted claim files.

1 Violation - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the insurer shall advise the first-party claimant of the acceptance or denial of the claim. Evidence that the Company provided a timely accepted or denial letter could not be established in the noted claim file.

8 Violations – Insurance Department Act 205, Section 5 (40 P.S. §1171.5(a) (10))

(a) “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means: (10) Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices:

- ii. Failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies.
- iii. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- v. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the company or its representative.

The noted violations were committed or performed with such frequency to indicate a business practice. Accordingly, 6 claim files did not include timely status letters. In addition, 1 claim file did not include either an acknowledgement or an appropriate timely status letter. And finally, 1 claim did not provide evidence that the claim affirmed or denied coverage.

E. Group Variable Annuity Claims Paid – (DST)

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 4 group variable annuities claim paid files. All 4 files were requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

F. Fixed Annuity Claims Paid

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 81 Fixed Annuities claim paid files. A sample of 4 files was requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

G. Group Fixed Annuity Claims Paid

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 995 Group Fixed Annuities claim paid files. A sample of 10 files was requested, received and reviewed. The claim files were reviewed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

XI. MCAS REPORTING

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The MCAS data is submitted in compliance with Pennsylvania Insurance Department Act, Section 903(a) [40 P.S. §323.3] which states in part, “Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth.” The MCAS data is submitted, protected and analyzed under the referenced Pennsylvania examination law as a means to validate the continued solvency of an insurer.

The Market Conduct Data Integrity Examination was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §323.3 and §323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2010 and 2011. The review included the evaluation of the Company’s activities surrounding the accuracy and completeness of the mandatory filing of data for the MCAS report, which is used by regulators to collect underwriting, claims, and complaint data. All files were selected and reviewed to ensure compliance with the Commonwealth of Pennsylvania’s Statutes and Regulations.

The Examination team reviewed the Company’s 2010 and 2011 MCAS Life and MCAS Annuity submissions in conjunction with the Company’s procedures and source data used in compiling those submissions. In addition, the Company was requested to provide procedures, data extraction, and, the report generation process to support the creation of the MCAS reports. The review of the information was twofold: first to determine if the Company had Information Technology (IT) and data integrity controls in place along with policies and procedures, to ensure the validity of the data extraction processes and MCAS creation; and second, to determine if the 2010 and 2011 MCAS data report was accurate and complete.

The following MCAS reporting sections were reviewed during the course of the examination.

SECTION TITLES

- A. 2010 Life Report (MCAS)
- B. 2011 Life Report (MCAS)
- C. 2010 Annuity Report (MCAS)
- D. 2011 Annuity Report (MCAS)
- E. Policies and Procedures; Data Extraction and Report Generation (MCAS)

The statutes used to determine compliance with the Pennsylvania MCAS reporting requirements were:

Pennsylvania Insurance Department Act, Section 903 (a) (40 P.S. §323.3) and Section 904(b) 40 P.S. §323.4

It is worth noting that throughout the course of the examination, the company's representatives cooperated with and consistently facilitated the examination.

MCAS Reference: Market Conduct Annual Statement General Filing Information – Company Attestation

All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company.

Summary of MCAS Findings:

- A. 2010 Life: 1 Violation
- B. 2011 Life: 21 Violations
- C. 2010 Annuity: 1 Violation
- D. 2011 Annuity: 14 Violations
- E. Policies and Procedures - Data Extraction and Report Generation: 1 Violation

A. 2010 Life Report (MCAS)

The Company was requested to provide all data sets for each MCAS line item during the experience period. In a response provided by the Company dated May 21, 2013, it stated in part that the Company was not able to provide the source files to justify the totals recorded in the 2010 MCAS Life submission, “as it will take substantial amount of time and resources to recreate the data.” A total of 1 violation was noted.

Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2010 MCAS Life Report.

LINE	MCAS DATA CALL
0	Does the company have data to report for this product type?
1	Number of new replacement policies applied for during period (include all replacements regardless of whether an insurance policy was actually issued)
2	Number of new replacement policies issued during period (include only the number of replacement insurance policies issued)
3	Do replacement counts provided include internal replacements?
4	Do replacement counts include policies surrendered?
5	Do replacement counts provided include policies/contracts purchased using loan proceeds from existing life policies and/or annuity contracts?
6	Do replacement counts provided include policies/contracts purchased through 1035 exchanges?
7	Does company maintain replacement register?
8	Number of in force policies with loan balance over 25% of maximum loan value as of end of reporting period
9	Number of policies surrendered during period
10	Number of partial surrenders during period
11	Does count of policies surrendered include partial surrenders?
12	Number of new 1035 exchanges coming into company during period
13	Number of new policies issued by the company during period
14	Number of policies in force at end of period (the number of active policies that the company has outstanding at the end of the reporting period)
15	Dollar amount of direct premium during period
16	Dollar amount of insurance issued during period (face amount)
17	Dollar amount of insurance in force at the end of period (face amount)
18	Number of complaints received directly from consumers
19	Number of complaints received directly from the corresponding department of insurance

20	Does the company maintain complaint register?
21	Number of death claims closed with payment, during period, within 60 days from date of due proof of loss (include claims where final decision was payment in full, and was made within 60 days from when date of due proof of loss occurred)
22	Number of death claims closed with payment, during period, beyond 60 days from date of due proof of loss (include claims where final decision was payment in full, and was NOT made within 60 days from when date of due proof of loss occurred)
23	Number of death claims denied, resisted or compromised during period (a claim is considered resisted when in dispute and not resolved on statement date)
24	Total number of death claims received during period (include any claim received during the period as determined by the first date the claim was opened on the company system)

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 903(a) (40 P.S. §323.3)

The source documents used for MCAS reporting could not be verified and did not allow for the independent verification of the accuracy of the Company’s response to the 2010 MCAS Life Report

B. 2011 Life Report (MCAS)

The examination team reviewed the Company’s 2011 MCAS Life submissions, the supporting source documents and randomly selected files corresponding to the MCAS data call in order to determine the completeness and accuracy of the information attested to by the Company in the MCAS submission. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the Company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 Life MCAS Report. A total of 21 violations were noted.

Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 Life MCAS Report.

Line	INTERROGATORIES
0	Does the company have data to report for this product type?
1	Number of new replacement policies applied for during the period (include all replacements regardless of whether an insurance policy was actually issued)
2	Number of new replacement policies issued during the period (include only the number of replacement insurance policies issued)
3	Do the replacement counts provided include internal replacements?
4	Do the replacement counts provided include policies surrendered?
5	Do the replacement counts provided include policies/contracts purchased using loan proceeds from existing life insurance policies and/or annuity contracts?
6	Do the replacement counts provided include policies/contracts purchased through 1035 exchanges?
7	Does the company maintain a replacement register?
8	Number of in force policies with a loan balance over 25% of the maximum loan value as of the end of the reporting period
9	Number of replacement policies issued during period
10	Number of internal replacements issued during period
11	Number of external replacements issued during the period.
12	Number of policies replaced where age of insured at replacement was < 65
13	Number of policies replaced where age of insured at replacement was age 65 and over
14	Number of policies surrendered under 2 years from policy issue
15	Number of policies surrendered between 2 years and 5 years from policy issue
16	Number of policies surrendered between 6 years and 10 years from policy issue
17	Number of policies surrendered during the period
18	Number of new policies issued during the period where age of insured at issue was <65
19	Number of new policies issued during the period where age of insured at issue was age 65 and over
20	Number of new policies issued during the period
21	Number of policies in force at the end of the period

22	Dollar amount of direct written premium during the period
23	Face amount of insurance issued during the period
24	Face amount of insurance in force at the end of the period
25	Number of complaints received directly from consumers
26	Number of death claims closed with payment, during the period, within 60 days from the date of due proof of loss (include only claims where the final decision was payment in full)
27	Number of death claims closed with payment, during the period, beyond 60 days from the date of due proof of loss (include only claims where the final decision was payment in full)
28	Number of death claims denied, resisted or compromised during the period
29	Number of death claims received during the period

NUMBER OF REPLACEMENT POLICIES ISSUED
DURING THE PERIOD - LINE #9

MCAS Definitions – Replacement Policy is “a policy and/or annuity contract application received by your company that is intended to replace an existing policy and/or annuity contract according to each states definition of a replacement. This may include both external and internal replacements according to each state's replacement law.”

The Company reported a universe of individual life cash value and non-cash value new issued policies that were deemed as a replacement during the experience period for the 2011 Life MCAS Report Lines #9-13. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #9 of the 2011 MCAS Life Submission regarding the number of replacement policies issued during the experience period.

NUMBER OF INTERNAL REPLACEMENTS ISSUED
DURING THE PERIOD - LINE #10

MCAS Definitions – Internal Replacement occurs when “...the policy and/or annuity to be replaced was also issued by your company.”

The Company reported a universe of individual life cash value and non-cash value new issued policies that were deemed as a replacement during the experience period for the 2011 Life MCAS Report Lines #9-13. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #10 of the 2011 MCAS Life Submission regarding the number of internal replacement policies issued during the experience period.

NUMBER OF EXTERNAL REPLACEMENTS ISSUED
DURING THE PERIOD - LINE #11

MCAS Definitions – External Replacement occurs when “...the policy and/or annuity to be replaced was issued by another company.”

The Company reported a universe of individual life cash value and non-cash value new issued policies that were deemed as a replacement during the experience period for the 2011 Life MCAS Report Lines #9-13. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #11 of the 2011 MCAS Life Submission regarding the number of external replacement policies issued during the experience period.

**NUMBER OF POLICIES REPLACED WHERE AGE OF
INSURED AT REPLACEMENT WAS < 65 - LINE #12**

The Company reported a universe of individual life cash value new issued policies that were deemed as a replacement during the experience period for the 2011 Life MCAS Report Lines #9-13. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #12 of the 2011 MCAS Life Submission regarding the number of replacement policies issued to insured's < 65 during the experience period.

**NUMBER OF POLICIES REPLACED WHERE AGE OF INSURED
AT REPLACEMENT WAS AGE 65 AND OVER - LINE #13**

The Company reported a universe of individual life cash value new issued policies that were deemed as a replacement during the experience period for the 2011 Life MCAS Report Lines #9-13. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #13 of the 2011 MCAS Life Submission regarding the number of replacement policies issued to insured's age 65 and older during the experience period.

NUMBER OF POLICIES SURRENDERED UNDER
2 YEARS FROM POLICY ISSUE - LINE #14

MCAS Definitions – Surrendered Policy/Contract is a “life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period.”

The Company reported a universe of individual life cash value policies surrendered during the experience period for the 2011 Life MCAS submission Lines #14-17. A random sample of 17 policy surrender files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #14 of the 2011 MCAS Life Submission regarding the number of policies surrendered under 2 years from policy issue. The Company rounded their calculations to the nearest whole year when figuring the total number of years between the issue date and the date surrendered.

NUMBER OF POLICIES SURRENDERED BETWEEN 2 YEARS
AND 5 YEARS FROM POLICY ISSUE - LINE #15

The Company reported a universe of individual life cash value policies surrendered during the experience period for the 2011 Life MCAS submission Lines #14-17. A random sample of 17 policy surrender files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #15 of the 2011 MCAS Life Submission regarding the number of policies surrendered between 2 years and 5 years from policy issue. The Company rounded their calculations to the nearest whole year when figuring the total number of years between the issue date and the date surrendered.

**NUMBER OF POLICIES SURRENDERED BETWEEN 6 YEARS
AND 10 YEARS FROM POLICY ISSUE - LINE #16**

The Company reported a universe of individual life cash value policies surrendered during the experience period for the 2011 Life MCAS submission Lines #14-17. A random sample of 17 policy surrender files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #16 of the 2011 MCAS Life Submission regarding the number of policies surrendered between 6 years and 10 years from policy issue. The Company rounded their calculations to the nearest whole year when figuring the total number of years between the issue date and the date surrendered.

**NUMBER OF POLICIES SURRENDERED
DURING THE PERIOD - LINE #17**

MCAS Definitions – Surrendered Policy/Contract is a “life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period.”

The Company reported a universe of individual life cash value policies surrendered during the experience period for the 2011 Life MCAS submission Lines #14-17. A random sample of 17

policy surrender files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #17 of the 2011 MCAS Life Submission regarding the number of policies surrendered during the period. The Company included surrendered policies in the MCAS totals that had an address, at surrender, which was not in Pennsylvania

NUMBER OF NEW POLICIES ISSUED DURING THE PERIOD
WHERE AGE OF INSURED AT ISSUE WAS < 65 – LINE #18

The Company reported a universe of individual life policies issued during the experience period for the 2011 Life MCAS submission Line #18. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #18 of the 2011 MCAS Life Submission regarding the number of new policies issued during the period where the age of the insured was < 65. The Company utilized the following incorrect methods:

1. The Company excluded new policies issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 18-20 request the total number of new policies issued in the year, not the total number of new policies issued in the year that are in force at period end.
2. It appears that the Company is reducing the total new policies issued in the current calendar year by the number of prior year policies that were “reversals”.
3. The Company included policies with an effective date in the prior year.

NUMBER OF NEW POLICIES ISSUED DURING THE PERIOD
WHERE AGE OF INSURED AT ISSUE WAS AGE 65 AND OVER – LINE #19

The Company reported a universe of individual life policies issued during the experience period for the 2011 Life MCAS submission Line #19. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #19 of the 2011 MCAS Life Submission regarding the number of new policies issued during the period where the age of the insured was age 65 and over. The Company utilized the following incorrect methods:

1. The Company excluded new policies issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 18-20 request the total number of new policies issued in the year, not the total number of new policies issued in the year that are in force at period end.
2. It appears that the Company is reducing the total new policies issued in the current calendar year by the number of prior year policies that were “reversals”.
3. The Company included policies with an effective date in the prior year.

NUMBER OF NEW POLICIES ISSUED
DURING THE PERIOD – LINE #20

The Company reported a universe of individual life policies issued during the experience period for the 2011 Life MCAS submission Line #20. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #20 of the 2011 MCAS Life Submission regarding the number of new policies issued during the period. The Company utilized the following incorrect methods:

1. The Company excluded new policies issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 18-20 request the total number of new policies issued in the year, not the total number of new policies issued in the year that are in force at period end.
2. It appears that the Company is reducing the total new policies issued in the current calendar year by the number of prior year policies that were “reversals”.
3. The Company included policies with an effective date in the prior year.

**NUMBER OF POLICIES IN FORCE AT THE
END OF THE PERIOD – LINE #21**

MCAS Definitions – In Force policies represent the total “number of policies In Force at the end of the period (The number of active policies that the company has outstanding at the end of the reporting period.)”

The Company reported a universe of individual In Force policies as of December 31, 2011 for the 2011 Life MCAS submission Line #21. A random sample of 16 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #21 of the 2011 MCAS Life Submission regarding the total number of policies in force at the end of the period. As a result, there are policies that terminated in 2011 that were incorrectly included in the MCAS In Force Totals.

**DOLLAR AMOUNT OF DIRECT WRITTEN
PREMIUM DURING THE PERIOD – LINE #22**

The Company reported a universe of individual life policies during the experience period for the 2011 Life MCAS submission Line #22. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with:
Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4**

The Company provided an inaccurate response on line #22 of the 2011 MCAS Life Submission regarding the total dollar amount of direct written premium during the period.

**FACE AMOUNT OF INSURANCE ISSUED
DURING THE PERIOD – LINE #23**

The Company reported a universe of individual life policies issued during the experience period for the 2011 Life MCAS submission Line #23. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

**1 Violation - Failure to exercise sufficient due diligence to ensure compliance with:
Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4**

The Company provided an inaccurate response on line #23 of the 2011 MCAS Life Submission regarding the total face amount issued during the period.

**FACE AMOUNT OF INSURANCE IN FORCE
AT THE END OF THE PERIOD – LINE #24**

The Company reported a universe of individual In Force policies as of December 31, 2011 for the 2011 Life MCAS submission Line #24. A random sample of 16 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response on line #24 of the 2011 MCAS Life Submission regarding the total face amount of insurance in force at the end of the period.

COMPLAINTS – Line #25

MCAS Definitions – Complaints are “any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral communication, which is subsequently converted to a written form, will meet the definition of a complaint for this purpose.”

The Company provided a copy of the four year complaint log and a copy of the Company’s internal source document that identified the 2011 Life MCAS complaints for Line #25. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company provided an inaccurate response to Line #25 of the 2011 Life MCAS submission regarding the total number of complaints received during the period. The Company extracted the MCAS Complaint totals based upon resident state instead of the contract issue state.

DEATH CLAIMS CLOSED WITH PAYMENT, DURING THE PERIOD, WITHIN 60 DAYS FROM THE DATE OF DUE PROOF OF LOSS – LINE #26

MCAS Definitions – Claim is “a request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Claims with multiple beneficiaries should be counted as one claim. If a single insured dies and has multiple policies (for individual life products), a claim should be reported for each of the insured’s policies (for example, if an insured had 3 individual life policies (2 cash value products and one non-cash value product), 3 claims would be reported (2 claims under schedule 1 and 1 claim under schedule 2). It does not

include events that were reported for “information only” or an inquiry of coverage since a claim has not actually been presented (opened) for payment.”

The Company provided a universe listing the paid claims during the experience period and a copy of the Company’s internal source document that identified the 2011 Life MCAS Death Claims for Lines #26-29. A sample of 102 files was randomly selected to confirm the accuracy of the data fields presented in the source documents. The following violations were noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #26 of the 2011 Life MCAS submission regarding the total number of death claims during the reporting period. 24 of the 102 claims files reviewed were incorrectly excluded from the MCAS totals.

DEATH CLAIMS CLOSED WITH PAYMENT, DURING THE PERIOD, BEYOND 60 DAYS FROM THE DATE OF DUE PROOF OF LOSS – LINE #27

The Company provided a universe listing the paid claims during the experience period and a copy of the Company’s internal source document that identified the 2011 Life MCAS Death Claims for Lines #26-29. A sample of 102 files was randomly selected to confirm the accuracy of the data fields presented in the source documents. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #27 of the 2011 Life MCAS submission regarding the total number of death claims during the reporting period. 24 of the 102 claims files reviewed were incorrectly excluded from the MCAS totals.

**NUMBER OF DEATH CLAIMS DENIED, RESISTED OR COMPROMISED DURING
THE PERIOD – LINE #28**

The Company provided a universe listing the paid claims during the experience period and a copy of the Company’s internal source document that identified the 2011 Life MCAS Death Claims for Lines #26-29. A sample of 102 files was randomly selected to confirm the accuracy of the data fields presented in the source documents. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #28 of the 2011 Life MCAS submission regarding the total number of death claims during the reporting period. The Company was unable to provide justification for the 1 Denied Claim. Upon review, it appears that this claim should not have been classified as “denied”, thus overstating Line #28.

NUMBER OF DEATH CLAIMS RECEIVED DURING THE PERIOD – LINE #29

The Company provided a universe listing the paid claims during the experience period and a copy of the Company’s internal source document that identified the 2011 Life MCAS Death Claims for Lines #26-29. A sample of 102 files was randomly selected to confirm the accuracy of the data fields presented in the source documents. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #29 of the 2011 Life MCAS submission regarding the total number of death claims during the reporting period. Claims that were received and then subsequently determined to be a “maturity” should be excluded from both the “claims received” and “claims paid” MCAS totals. It appears that the Company was only excluding these as “claims paid”.

C. 2010 Annuity Report (MCAS)

The Company was requested to provide all data sets for each MCAS line item during the experience period. In a response provided by the Company dated May 21, 2013, it stated in part that the Company was not able to provide the source files to justify the totals recorded in the 2010 MCAS Annuity submission “as it will take substantial amount of time and resources to recreate the data.” A total of 1 violation was noted.

Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2010 Annuity MCAS Report.

Line	INTERROGATORIES
0	Does the company have data to report for this product type?
1	Number of new replacement contracts applied for during the period (include all replacements regardless of whether an annuity contract was actually issued)
2	Number of new replacement contracts issued during the period (include only the number of replacement contracts issued)
3	Do replacement counts include internal replacements?
4	Do replacement counts provided include policies/contracts purchased using loan proceeds from existing life policies and/or annuity contracts?
5	Do replacement counts provided include policies/contracts purchased through 1035 exchanges?
6	Does the company maintain a replacement register?
7	Number of contracts surrendered during the period
8	Number of new 1035 exchanges coming into company during period
9	Number of new contracts issued by the company during period
10	Number of contracts in force at the end of the period (the number of active contracts that the company has outstanding at the end of the reporting period)
11	Dollar amount of annuity considerations during the period

12	Number of complaints received directly from consumers
13	Number of complaints received directly from corresponding department of insurance
14	Does company maintain complaint register?

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 903(a) (40 P.S. §323.3)

Although the Company provided 2010 detail datasets using the same IT systems and criteria that it originally used to report the MCAS numbers, the Company did not retain the specific source files that contained the detailed data to support the numbers recorded by the Company. The source documents used for MCAS reporting could not be verified and did not allow for the independent verification of the accuracy of the Company’s response to the 2010 MCAS Annuity Report.

D. 2011 Annuity Report (MCAS)

The examination team reviewed the Company’s 2011 MCAS Annuity submissions, the supporting source documents, and randomly selected files corresponding to the MCAS interrogatories in order to determine completeness and accuracy of the information attested to by the Company in the MCAS submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the Company. Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 Annuity MCAS Report. A total of 14 violations were noted.

Below are the interrogatories that every Pennsylvania insurer was required to complete for the 2011 Annuity MCAS Report.

Line	INTERROGATORIES
1	Individual Fixed Annuities - Does the company have data to report for this product type?
2	Individual Variable Annuities - Does the company have data to report for this product type?

3 /4	Is there a reason that the reported Individual Fixed Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
5 /6	Is there a reason that the reported Individual Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming blocks of business; shifting market strategies; underwriting changes, etc)?
7	Additional state specific Individual Fixed Annuities comments (optional)
8	Additional state specific Individual Variable Annuities comments (optional):
9	Number of replacement contracts issued during the period
10	Number of internal replacement contracts issued during the period
11	Number of external replacement contracts issued during the period
12	Number of contracts replaced where age of annuitant at replacement was < 65
13	Number of contracts replaced where age of annuitant at replacement was age 65 to 80
14	Number of contracts replaced where age of annuitant at replacement was > 80
15	Number of new immediate contracts issued during the period
16	Number of new deferred contracts issued during the period where age of annuitant was > 65
17	Number of new deferred contracts issued during the period where age of annuitant was 65 to 80
18	Number of new deferred contracts issued during the period where age of annuitant was > 80
19	Number of new deferred contracts issued during the period
20	Number of contracts surrendered under 2 years from policy issue
21	Number of contracts surrendered between 2 years and 5 years from policy issue
22	Number of contracts surrendered 6 years and 10 years from policy issue
23	Number of contracts surrendered during the period
24	Number of contracts in force at the end of the period
25	Dollar amount of annuity considerations during the period
26	Number of complaints received directly from consumers

NUMBER OF REPLACEMENT CONTRACTS ISSUED – LINE #9

MCAS Definitions – Replacement Policy is “a policy and/or annuity contract application received by your company that is intended to replace an existing policy and/or annuity contract according to each states definition of a replacement. This may include both external and internal replacements according to each state's replacement law.” **External Replacement** occurs when

“...the policy and/or annuity to be replaced was issued by another company.” **Internal Replacement** occurs when “...the policy and/or annuity to be replaced was also issued by your company.”

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #9 of the 2011 Annuity MCAS submission regarding the total number of replacement contracts issued during the reporting period.

NUMBER OF INTERNAL REPLACEMENT CONTRACTS ISSUED – LINE #10

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. No violations were noted.

NUMBER OF EXTERNAL REPLACEMENT CONTRACTS ISSUED – LINE #11

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #11 of the 2011 Annuity MCAS submission regarding the total number of external replacement contracts issued during the reporting period.

**NUMBER OF CONTRACTS REPLACED WHERE
AGE OF ANNUITANT WAS < 65 – LINE #12**

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #12 of the 2011 Annuity MCAS submission regarding the total number of replacement contracts issued where the age of the annuitant was < 65.

**NUMBER OF CONTRACTS REPLACED WHERE
AGE OF ANNUITANT WAS 65 TO 80 – LINE #13**

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #13 of the 2011 Annuity MCAS submission regarding the total number of replacement contracts issued where the age of the annuitant was between 65 and 80.

**NUMBER OF CONTRACTS REPLACED WHERE
AGE OF ANNUITANT WAS > 80 – LINE #14**

The Company reported a universe of individual fixed and variable annuity contracts issued that were deemed a replacement during the experience period for the 2011 MCAS Annuity Report Lines #9-14. A random sample of 15 policy files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #14 of the 2011 Annuity MCAS submission regarding the total number of replacement contracts issued where the age of the annuitant was > 80.

NUMBER OF NEW IMMEDIATE CONTRACTS ISSUED – LINE #15

The Company reported there were no individual fixed and variable immediate annuity contracts issued during the experience period – which corresponds with the 2011 MCAS Annuity Report entry noted on Line #15. No immediate annuities were noted during review of the Company annuity files, thus, no violations noted.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED
WHERE AGE OF ANNUITANT WAS < 65 – LINE #16**

MCAS Definition - Annuity is “a contract under which an insurance company promises to make a series of periodic payments to a named individual in exchange for a premium or a series of premiums. Data is being requested for individual annuities only; data for group annuity contracts are not being requested.”

The Company provided a list of all new deferred annuity contracts issued in 2011, and also recreated the source document for the 2011 MCAS Annuity Report Lines #16-19 (the universe of new individual fixed and variable annuity contracts issued). A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #16 of the 2011 Annuity MCAS submission regarding the total number of deferred contracts issued during the reporting period, where the age of the annuitant is < 65. The following was noted:

1. The Company excluded new contracts issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 16-19, request the total number of new deferred contracts issued in the year, not the total number of new deferred contracts issued in the year that are also still in effect at period end.
2. The Company included several group contracts in the MCAS totals.

**NUMBER OF NEW DEFERRED CONTRACTS ISSUED WHERE
AGE OF ANNUITANT WAS BETWEEN 65 AND 80 – LINE #17**

The Company provided a list of all new deferred annuity contracts issued in 2011, and also recreated the source document for the 2011 MCAS Annuity Report Lines #16-19 (the universe of new individual fixed and variable annuity contracts issued). A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #17 of the 2011 Annuity MCAS submission regarding the total number of deferred contracts issued during the reporting period, where the age of the annuitant was between 65 and 80. The following was noted:

1. The Company excluded new contracts issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 16-19, request the total number of new deferred contracts issued in the year, not the total number of new deferred contracts issued in the year that are also still in effect at period end.
2. The Company included several group contracts in the MCAS totals.

NUMBER OF NEW DEFERRED CONTRACTS ISSUED
WHERE AGE OF ANNUITANT WAS > 80 – LINE #18

The Company provided a list of all new deferred annuity contracts issued in 2011, and also recreated the source document for the 2011 MCAS Annuity Report Lines #16-19 (the universe of new individual fixed and variable annuity contracts issued). A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #18 of the 2011 Annuity MCAS submission regarding the total number of deferred contracts issued during the reporting period, where the age of the annuitant is > 80. The following was noted:

1. The Company excluded new contracts issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 16-19, request the total number of new deferred contracts issued in the year, not the total number of new deferred contracts issued in the year that are also still in effect at period end.
2. The Company included several group contracts in the MCAS totals.

NUMBER OF NEW DEFERRED CONTRACTS ISSUED
DURING THE PERIOD – LINE #19

The Company provided a list of all new deferred annuity contracts issued in 2011, and also recreated the source document for the 2011 MCAS Annuity Report Lines #16-19 (the universe of new individual fixed and variable annuity contracts issued). A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response to line #19 of the 2011 Annuity MCAS submission regarding the total number of new deferred contracts issued during the reporting period. The following was noted:

1. The Company excluded new contracts issued in the reporting year that were also terminated during the reporting year. The MCAS Instructions for Lines 16-19, request the total number of new deferred contracts issued in the year, not the total number of new deferred contracts issued in the year that are also still in effect at period end.
2. The Company included several group contracts in the MCAS totals.

NUMBER OF CONTRACTS SURRENDERED UNDER
2 YEARS FROM POLICY ISSUE - LINE #20

MCAS Definition - Surrendered Policy/Contract is “a life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals (the withdrawal of a certain amount on a predetermined periodic basis for deferred annuities) and partial withdrawals should not be reported as “surrenders” for this statement.”

The Company reported a universe of individual fixed and variable annuity contracts surrendered during the experience period for the 2011 MCAS Annuity report Lines #20-23. A random sample of 15 annuity files surrendered were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. . Pertaining to Line #20, no violations were noted.

NUMBER OF CONTRACTS SURRENDERED BETWEEN
2 & 5 YEARS FROM POLICY ISSUE - LINE #21

The Company reported a universe of individual fixed and variable annuity contracts surrendered during the experience period for the 2011 MCAS Annuity report Lines #20-23. A random sample of 15 annuity files surrendered were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. Pertaining to Line #21, no violations were noted.

NUMBER OF CONTRACTS SURRENDERED BETWEEN
6 & 10 YEARS FROM POLICY ISSUE - LINE #22

The Company reported a universe of individual fixed and variable annuity contracts surrendered during the experience period for the 2011 MCAS Annuity report Lines #20-23. A random sample of 15 annuity files surrendered were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response on Lines #22 of the 2011 MCAS Annuities submission regarding the number of contracts surrendered between 6 and 10 years during the period. The Company excluded the contracts that were surrendered in the 10th year from Line #22, thus understating the total number of contracts in this line.

NUMBER OF CONTRACTS SURRENDERED DURING
THE PERIOD - LINE #23

The Company reported a universe of individual fixed and variable annuity contracts surrendered during the experience period for the 2011 MCAS Annuity report Lines #20-23. A random sample of 15 annuity files surrendered were requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. . The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response on Lines #23 of the 2011 MCAS Annuities submission regarding the number of contracts surrendered during the period. The Company included annuitized contracts in the MCAS totals for Lines #23, thus overstating the total surrendered contracts in 2011.

NUMBER OF IN FORCE CONTRACTS AT END OF PERIOD – LINE #24

MCAS Definition - Annuity is defined as “a contract under which an insurance company promises to make a series of periodic payments to a named individual in exchange for a premium or a series of premiums. Data is being requested for individual annuities only; data for group annuity contracts are not being requested.” **Annuity Considerations** are defined as “funds deposited to or used to purchase annuity contracts issued by the company. For the purpose of this statement, annuity considerations should be determined in the same manner used for the state pages of the company's financial annual statement.”

The Company provided a list of all deferred annuity contracts In Force at the end of 2011 while also recreating the source document for the 2011 MCAS Annuity Report Line #24 (the total number of contracts In Force at the end of the period). A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response on Line #24 of the 2011 MCAS Annuities submission regarding the number of In Force contracts during the period. The Company explained that the noted difference in the contract totals could have been due to a delay in the receipt of the cash premium payment.

1. During review of the files, it was noted that the Company inadvertently included several group considerations in the MCAS totals.

DOLLAR AMOUNT OF ANNUITY CONSIDERATIONS

DURING PERIOD – LINE #25

MCAS Definition - Annuity Considerations are defined as “funds deposited to or used to purchase annuity contracts issued by the company. For the purpose of this statement, annuity considerations should be determined in the same manner used for the state pages of the company's financial annual statement.”

The Company provided a list of all deferred annuity contract considerations during the period. A random sample of 15 contract files were requested, received and reviewed. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response on Line #25 of the 2011 MCAS Annuities submission regarding the dollar amount of individual annuity considerations during the period. The Company inadvertently included several group considerations in the MCAS totals.

NUMBER OF COMPLAINTS RECEIVED DIRECTLY

FROM CONSUMERS – LINE #26

MCAS Definitions – Complaints is “any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral

communication, which is subsequently converted to a written form, will meet the definition of a complaint for this purpose.”

The Company provided a copy of the four year complaint log and a copy of the Company’s internal source document that identified the 2011 MCAS Annuity complaints for Line #26. The following violation was noted:

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company has provided an inaccurate response on Line #26 of the 2011 MCAS Annuities submission regarding the total number of complaints received during the period. The Company extracted the MCAS Complaint totals based upon resident state instead of the contract issue state.

E. Policies and Procedures; Data Extraction and Report Generation (MCAS)

The examination team reviewed the Company’s 2010 and 2011 MCAS IT and data integrity controls, source documents and its general MCAS policies and procedures to determine if the Company had policies and procedures in place to ensure its compliance with the MCAS reporting requirements. A total of 1 violation was noted.

1 Violation - Failure to exercise sufficient due diligence to ensure compliance with: Pennsylvania Insurance Department Act, Section 904 (b) 40 P.S. §323.4

The Company’s informal policies and procedures related to the MCAS reporting process during the experience period did not provide the Company the ability to ensure the accuracy of the data reported in the 2010 and 2011 MCAS submissions.

Department Concern:

The Company should take the necessary steps to resolve the issues listed below, which have been identified as issues that impact their ability to produce complete and accurate MCAS report submissions.

- a. Inconsistent data extraction methods.
- b. The use of multiple methodologies to capture the data necessary to produce the MCAS report.
- c. The necessity for multiple manual elements in the data reporting process.
- d. The lack of a formal validation process.

XII. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of violations, or the nature and severity of other violations, noted in the Report.

1. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903 of the Insurance Department Act of 1921 (40 P.S. §323.3).
2. The Company must review and revise procedures to ensure compliance with Section 904 of the Insurance Department Act of 1921 (40 P.S. §323.4).
3. The Company must review and revise Licensing procedures to ensure compliance with Sections 641.1-A of the Insurance Department Act of 1921 (40 P.S. §§310.41a).
4. The Company must review and revise Licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. § 310.71)
5. The Company must review and revise procedures to ensure compliance with Section 354 of the Insurance Company Law (40 P.S. § 477b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner.
6. The Company must review and revise procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law (40 P.S. §625-4).
7. The Company must review and revise procedures to ensure compliance with Section 406-A of the Insurance Company Law, No. 284 (40 P.S. §625-6), prohibits alteration of any

written application for a life insurance policy or annuity without the applicant's written consent.

8. The Company must review and revise procedures to ensure compliance with Illustration requirements of Section 408-A of the Insurance Company Law (40 P.S. §625-8).
9. The Company must review and revise procedures to ensure compliance with the "free look" requirements of Section 410-D (a) (2) of the Insurance Company Law (40 P.S. §510c).
10. The Company must review and revise procedures to ensure compliance with the policy loan interest rate notification requirements of Section 410-F of the Insurance Company Law (40 P.S. §510e).
11. The Company must review and revise procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
12. The Company must review and revise procedures to ensure compliance with the disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
13. The Company must review and revise procedures to ensure compliance with the use of another company's medical exam report requirements of Title 31, Pennsylvania Code, Section 90.c.5(m).
14. The Company must review and revise procedures to ensure compliance with the unfair claims settlement practices of Title 31, Pennsylvania Code, Chapter 146.
15. The Company must review and revise procedures to ensure compliance with disclosure of nonpublic personal financial information to nonaffiliated third parties of Title 31 Pennsylvania Code, Section 146a.21.

16. The Company must implement procedures to ensure compliance with fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes, Section 4117(k).

17. The Company must review and revise procedures to ensure compliance with the requirements of Insurance Department Act of 1921 “Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance, Act 205, Section 5 (40 P.S. §1171.5).

XIII. COMPANY RESPONSE

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May 29, 2014

LAW DEPARTMENT

VIA FEDERAL EXPRESS MAIL & SECURED E-MAIL

Yonise Roberts Paige, Chief
Pennsylvania Insurance Department
Life, Accident and Health Division
Bureau of Market Actions
1326 Strawberry Square
Harrisburg, Pennsylvania 17120

Re: Response to Report on Market Conduct Examination of AXA Equitable Life Insurance Company- NAIC # 62944 ("AXA Equitable") ("the Response")

Dear Ms. Paige:

AXA Equitable Life Insurance Company ("AXA Equitable" or the "Company") has reviewed the Pennsylvania Insurance Department's Market Conduct Examination Report covering the period January 1, 2010 to December 31, 2011 (the "report"). Pursuant to the Department's letter dated May 20, 2014, AXA Equitable hereby submits its response to the Report.

AXA Equitable takes its obligations to comply with all Pennsylvania regulatory and statutory requirements very seriously. The Company is committed to continue improvement in its processes, procedures and controls to ensure compliance with all Pennsylvania regulatory and statutory requirements. Therefore, the Company acknowledges and appreciates the Department's Findings and Recommendations.

The Department noted certain deficiencies or concerns in certain areas including the fraud statement on certain policy forms, producer licensing, life policy illustrations and disclosures, annuity contract delivery receipts, replacements and claims. AXA Equitable has established procedures and controls in place to ensure compliance with all applicable requirements. As a result of the Department's findings, the Company will reinforce those procedures and controls and will remind pertinent personnel of applicable requirements.

As discussed with the Department, there are a number of findings in the Report where the Company respectfully disagrees with the Department and believes that the findings do not support the alleged violations, however, the Company has agreed to implement corrective actions nevertheless. The Company believes that there is no basis for any finding of violations of 40 P.S. §1171.5. The Company has at no time performed any of the referenced acts as a business practice. To the contrary

and as evidenced in the documents provided during the course of the examination, the Company's practices do not violate 40 P.S. §1171.5.

AXA Equitable acknowledges and appreciates the Department's recommendations in the section related to the Market Conduct Annual Statement ("MCAS") and will continue to work towards satisfying the Department that all processes and procedures are consistent with MCAS requirements and compliant with Pennsylvania law and regulations. The Company does note, however, that the NAIC has publicly acknowledged that the very nature of market conduct data makes its collection difficult. The NAIC also states that regulators created the MCAS "with the flexibility to allow companies to report data based on their business practices," and also instructs companies to generally follow the same methodology and definitions used to file the Financial Annual Statement ("FAS") and its corresponding applicable state's regulations. However, the MCAS instructions include certain definitions that differ from those used for FAS reporting. Certain MCAS instructions also do not fully anticipate the various product marketing, distribution, complexity, or regulatory approval differences present between certain products. Despite these various regulatory challenges, the Company has consistently attempted to follow the MCAS instructions and published guidance in good faith. The Company has also taken the following measures:

1. The Company formalized its established policies, procedures and controls for preparing and validating the MCAS submission data, using its current systems and resources.
2. The Company has implemented procedures to retain the data files supporting the MCAS submission.

AXA Equitable would like to thank the Department personnel, and you especially, for your assistance and professionalism and your willingness to discuss the issues that were raised during the examination.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Humboldt".