

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES**
New York, New York

**AS OF
March 5, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 26, 2004

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES

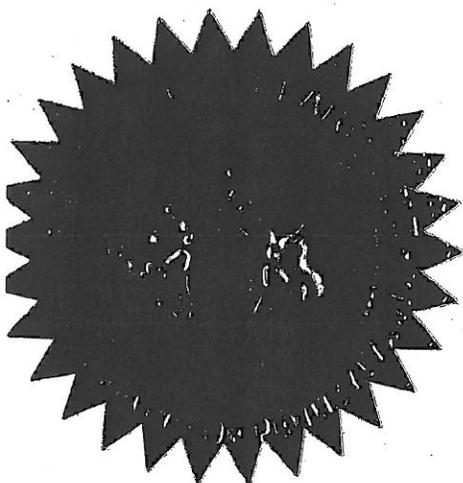
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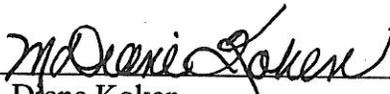
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, 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 Randolph L. Rohrbaugh, 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.





M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THE EQUITABLE LIFE	:	Sections 605, 606, 623 and 903(a) of
ASSURANCE SOCIETY OF THE	:	the Insurance Department Act, Act of
UNITED STATES	:	May 17, 1921, P.L. 789, No. 285
1290 Avenue of the Americas	:	(40 P.S. §§ 235, 236, 253 and 323.3)
New York, NY 10104	:	
	:	Sections 354, 404-A, 406-A, 408-
	:	A(c)(4)(i), 408-A(c)(4)(ii), 408-
	:	A(e)(1)(i), 408-A(e)(1)(ii), 408-A(e)(5),
	:	410-D(a)(2), 410D(a)(3), 410D(b)(3),
	:	410-E(b)(2) and 410-E(b)(3) 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
	:	510d)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	37.61, 51.29, 81.4(b)(1), 81.5(b),
	:	81.6(a)(1), 81.6(a)(2)(ii), 81.6(c),
	:	82.62, 83.3, 146.3, 146.5, 146.6 and
	:	146.7
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
Respondent.	:	Docket No. MC04-03-012

CONSENT ORDER

AND NOW, this 26th day of April, 2004, this Order is hereby
issued by the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

(a) Respondent is The Equitable Life Assurance Society of the United States, and maintains its address at 1290 Avenue of the Americas, New York, New York 10104.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2001 through June 30, 2002.

- (c) On March 5, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on April 5, 2004, 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 violations of the following:
 - (i) Section 605 of the Insurance Department Act, No. 285 (40 P.S. § 235), which requires that no agent shall do business on behalf of any entity without written appointment from that entity;

 - (ii) Section 606 of the Insurance Department Act, No. 285 (40 P.S. § 236), which requires all entities to report to the Department all appointments and terminations of appointments in the format and time frame required by the Department's regulations;

 - (iii) Section 623 of the Insurance Department Act, No. 285 (40 P.S. § 253), which prohibits doing business with unlicensed brokers;

- (iv) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination 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 may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (v) 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;

- (vi) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires 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 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;

- (vii) 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 shall be made by any person other than the applicant without the applicant's written consent;
- (viii) Section 408-A(c)(4)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the applicant or policy owner in the case of an illustration provided at time of delivery, reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are non-guaranteed."
- (ix) Section 408-A(c)(4)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the producer reading as follows: "I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any non-

guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.”

- (x) Section 408-A(e)(1)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires 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 application;

- (xi) Section 408-A(e)(1)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled “Revised Illustration.” The statement required by subsection (c)(4) shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than 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) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), requires 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 years after the policy is no longer in force;

(xiii) Section 410D(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which requires individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth unless they shall have prominently printed on the first page of such policy or attached thereto, a notice stating that the policyholder shall be permitted to return the policy within at least 45 days of its delivery (“free look provision”);

(xiv) Section 410D(a)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which requires 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 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 20 days of its delivery (“free look provision”);

- (xv) Section 410D(b)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510c) requires individual variable life 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 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 20 days of its delivery (“free look provision”);
- (xvi) Section 410E(b)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510d) which requires individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least 45 days of its delivery (“free look provision”);
- (xvii) Section 410E(b)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510d) which requires individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group shall not be entered into in the Commonwealth unless they shall have prominently printed on the first page of such contract

or attached thereto, a notice stating in substance that the contract holder shall be permitted to return the contract within at least 20 days of its delivery (“free look provision”);

(xviii) Title 31, Pennsylvania Code, Section 37.61 requires termination activity by an entity shall be reported to the Department on a monthly basis, in a format approved by the Department and filed within 30 days of the end of the month being reported;

(xix) Title 31, Pennsylvania Code, Section 51.29 prohibits an advertisement from directly or by implication falsely representing that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date or that the offer is available only to a specified group of individuals;

(xx) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;

(xxi) Title 31, Pennsylvania Code, Section 81.5(b), which requires the 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;

- (xxii) 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;
- (xxiii) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which requires 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;
- (xxiv) 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;

- (xxv) Title 31, Pennsylvania Code, Section 82.62, which requires the application for a variable life insurance policy to contain: 1) a prominent statement that the death benefit may be variable or fixed under specified conditions; 2) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account, subject to specified minimum guarantees; and 3) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant;
- (xxvi) 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;
- (xxvii) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;
- (xxviii) 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;

(xxix) Title 31, Pennsylvania Code, Section 146.6 states 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;

(xxx) Title 31, Pennsylvania Code, Section 146.7(a)(1) requires that within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial; and

(xxxi) 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 Deputy Insurance Commissioner makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Violations of Sections 605, 606 and 623 of the Insurance Department Act (40 P.S. §§ 235, 236 and 253) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (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) issue an order to cease and desist.

- (iv) impose such other conditions as the department may deem 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 dollars (\$1,000.00) for each act in violation of the Act.

- (d) Respondent's violations of Sections 404-A, 406-A, 408-A, 410-D and 410-E of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-6, 625-8, 510c and 510d) 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, Sections 81.4(b)(1), 81.5(b), 81.6(a)(1), 81.6(a)(2)(ii) and 81.6(a)(c) are punishable under Title 31,

Pennsylvania Code, Section 81.8(b) and (c), which provide 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, Section 83.3 are punishable under Title 31, Pennsylvania Code, Section 83.6:
 - (i) For failing to insure adequate disclosure of basic information, after a hearing, 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 51.29, 146.3, 146.5, 146.6 and 146.7(a)(1) 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 knew 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 Deputy Insurance Commissioner 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 Thirty Five Thousand Dollars (\$35,000.00) to the 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 Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

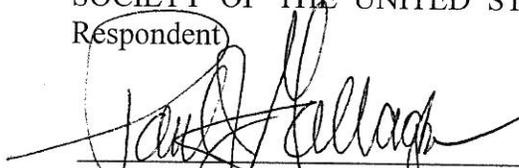
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

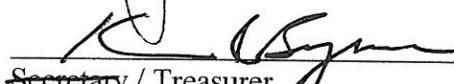
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

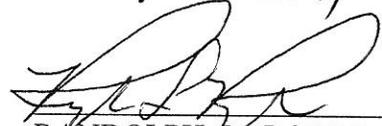
BY: THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, Respondent



~~President / Vice President~~
Senior Vice President



~~Secretary / Treasurer~~



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

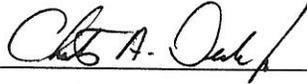
The Market Conduct Examination was conducted on The Equitable Life Assurance Society of the United States, hereafter referred to as "Company," at the Company's offices located in New York, New York, October 28, 2002, through January 24, 2003. Subsequent review and follow-up was conducted in the office 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.

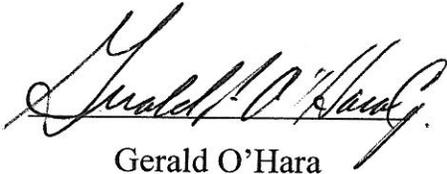
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials 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.

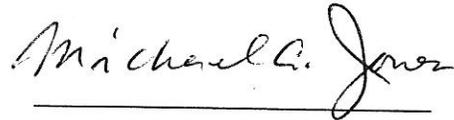
The undersigned participated in the Examination and in the preparation of this Report.



Chester A. Derk Jr., AIE, HIA
Market Conduct Division Chief



Gerald O'Hara
Market Conduct Examiner



Michael Jones
Market Conduct Examiner



Dan Stemcosky, AIE, FLMI
Market Conduct Examiner

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 July 1, 2001, through June 30, 2002, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

The examination focused on the Company's operation in areas such as: Advertising, Consumer Complaints, Forms, Agent/Broker Licensing, Underwriting Practices and Procedures, and Claim Handling Practices and Procedures.

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

The Equitable Life Assurance Society of the United States (Equitable Life), was incorporated in the State of New York on July 26, 1859. 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 the AXA Financial, Inc. group.

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, 2001, annual statement for Pennsylvania, the Company reported direct premium for ordinary life insurance, annuities and deposit contract funds in the amount of \$267,813,255; group annuity consideration and other considerations in the amount of \$208,373,752; and direct premium for accident and health in the amount of \$11,597,459.

IV. ADVERTISING

Title 31, Pennsylvania Code, Section 51.2(c) provides that “Any advertisements, whether or not actually filed or required to be filed with the Department under the provisions of this Regulation may be reviewed at any time at the discretion of the Department.” The Department, in exercising its discretionary authority for reviewing advertising, requested the Company to provide copies of all advertising materials used for solicitation and sales during the experience period.

The Company provided a list of 276 pieces of advertising utilized nationally. The advertising consisted of: Letters, Direct Mailers, Brochures, Presentations, Telemarketing Scripts, Cards, Illustrations, Web Pages, Product Guides and Manuals. A sample of 95 pieces of advertising was requested, received and reviewed. The advertising materials 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 and Chapter 89. The following violation was noted:

1 Violation -Title 31 Pennsylvania Code, Section 51.29

- (a) An advertisement shall not directly or by implication falsely represent that a contract or combination of contracts is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date or that the offer is available only to a specified group of individuals.
- (b) An advertisement shall not directly or by implication falsely represent that only a number of policies will be sold, or that a time is fixed for the discontinuance of the sale or the particular policy advertised.

The following advertising piece improperly lists a product name as “Universal Life Special Offer.”

Item	Form Number	Status Date	Material
82	21807	08/22/2001	Illustration

V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy contracts, riders, endorsements and applications used in order to determine compliance with requirements of Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b), as well as provisions for various mandated benefits. Applications and claim forms were also reviewed to determine compliance with Title 18, Pa. C.S., Section 4117(k). The following violations were noted:

3 Violations – Insurance Company Law, Section 354 (40 P.S. §477b)

It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner.

The following application form identified in an underwriting section of the exam was not filed for approval.

Form	Form Number	Description	Number of Files
Application	EDI-TL 4/01	Life Application	3

3 Violations - 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 following application form identified in an underwriting section of the exam did not contain an applicant statement regarding replacement.

Form	Form Number	Description	Number of Files
Application	EDI-TL 4/01	Life Application	3

3 Violations – Title 18 PA. C.S., 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.” The following application form identified in an underwriting section of the exam did not contain the required fraud statement.

Form	Form Number	Description	Number of Files
Application	EDI-TL 4/01	Life Application	3

VI. AGENT/BROKER LICENSING

The Company was requested to provide a list of all agents/brokers active and terminated during the experience period. Section 606 (40 P.S. §236) of the Insurance Department Act requires all entities to report all appointments and terminations to the Insurance Department. Section 605 (40 P.S. §235) of the Insurance Department Act prohibits agents from doing business on behalf of any entity without a written appointment from that entity. Section 623 (40P.S. §253) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. A random sampling of the Company's list of agents and those agents identified in the underwriting files during the examination were compared to Insurance Department licensing records to verify compliance with Section 605, Section 606 and Section 623 of the Insurance Department Act.

The Company provided the following 3 lists: Agent Licensing Retail, Agent Licensing Wholesale and Corporate, Agency Licensing. An additional list of agents was compiled from agents identified as producers on applications reviewed in the policy issued sections of the exam. The number of agents listed for each category and selected for review is outlined in the following table.

Title	# of Agents	Random # Selected
Agent Licensing Retail	1,647	50
Agent Licensing Wholesale	4,126	100
Corporate, Agency Licensing	146	25
Agents Listed on Applications	261	261
Total	6,180	436

The total of 436 selected agents/brokers was compared to departmental records to verify appointments, terminations and licensing. The following violations were noted:

1 Violation – Insurance Department Act, Section 606 (40 P.S. §236)

All entities shall report to the Insurance Department all appointments and terminations of appointments in the format and time frame required by the Insurance Department’s regulations. The Company has failed to report all agent appointments and terminations to the Insurance Department.

12 Violations – Insurance Department Act, Section 605(c)(d), (40 P.S. §235)

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department’s regulations.
- (c) Insurance entities authorized to do business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent.

The Company failed to certify and submit appointment fees to the Insurance Department for the following 6 agents listed as active by the Company.

Agent Name
Chadwell, James
Walls, William
Breiter, Joel F.
Churchill, Lee D.
Markley, Stephen C
Rowe, Phillip D.

The company failed to certify and submit appointment fees to the Insurance Department for the following 6 agents listed on applications reviewed in the underwriting sections of the exam.

Agent Name	Number of Applications
Smith, David A	7
Burns, Scott E.	1
Economidis, Stavroula	1
Rose, Charles H.	1
Dash, Harvey	2
Guzek, Thomas J.	1

2 Violations – Insurance Department Act, Section 623 (40 P.S. §253)

Any entity or the appointed agent of any entity accepting applications or orders for insurance or securing any insurance business through anyone acting without a license commits a misdemeanor of the third degree. The following individuals were listed as agents for the Company, however Department records do not identify them as holding a Pennsylvania insurance license.

Name
Breiter, Joel F.
Sullivan, Paul T.

1 Violation – Title 31, PA Code, Section 37.61

Appointments and terminations by entity.

- (4) Termination activity by an entity shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

The following agent was listed as terminated by the Company but not reported as terminated to the Department.

Agent Name	Company Termination Date
Blenheim, Richard	10/04/2001

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for 1998, 1999, 2000, and 2001. The Company identified 97 written consumer complaints received during the experience period and provided complaints logs for 1998, 1999, 2000, and 2001. A random sampling of 25 complaint files was requested, received and reviewed. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log. 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). Section 5 (a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The 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 Title 31, PA Code, Section 146.5(b) and 146.5(c), Unfair claims Settlement Practices. No violations were noted.

The following table is a synopsis of the 25 complaints reviewed.

Number - 25	Complaint Reason	Percentage – 100%
10	Service/Administrative Problems	40%
10	Agent Misrepresentation/Suitability	40%
3	Surrender Charges	12%
2	Claim Denial/Processing	8%

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 20 general segments.

- A. Underwriting Guidelines
- B. Group Annuity Contracts Issued
- C. Group Annuity Certificate Holders Enrolled
- D. Group Annuity Contracts Terminated
- E. Whole Life and Universal Life Policies Issued
- F. Variable Life Policies Issued
- G. Term Life Policies Issued
- H. Life Policies Declined
- I. Life Policies Terminated
- J. Life Policies Not-Taken
- K. Life Policies Issued as Replacements
- L. Term Conversions
- M. Single Premium Deferred Annuities Issued
- N. Single Premium Deferred Annuities Terminated
- O. Equivest and Accumulator Annuities Issued
- P. Equivest and Accumulator Annuities Issued as Replacements
- Q. Equivest and Accumulator Annuities Terminated
- R. Equivest and Accumulator Annuities Not-Taken
- S. Major Medical Policies Issued or Terminated
- T. Disability Income Policies Issued or Terminated

Each segment was reviewed for compliance with underwriting practices and included forms identification and agent identification. Issues relating to forms or agent/broker 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 established written underwriting guidelines in use during the experience period. Underwriting guidelines were reviewed to ensure guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place which could possibly be considered discriminatory in nature, or specifically prohibited by statute or regulation.

The following 2 manuals and guides were provided and reviewed:

1. CD-Rom – Equitable Life Assurance Society of the United States
2. CD-Rom – Swiss Re Life & Health, North America, Life Guide 7.0

No violations were noted.

B. Group Annuity Contracts Issued

The Company was requested to provide a list of all group annuities issued during the experience period. The Company identified a universe of 59 Group Annuity contracts. A random sample of 25 group annuity files was requested, received and reviewed. Of the 25 contract files reviewed, 12 were issued to employer groups located in Pennsylvania. The other 13 contracts were issued to employer groups in adjoining states. No violations were noted.

C. Group Annuity Certificate Holders Enrolled

The Company was requested to provide a list of all group annuity certificate holders enrolled during the experience period. The Company identified a universe of 1661 annuitants enrolled. A random sample of 50 group certificate holder files was requested, received and reviewed. No violations were noted.

D. Group Annuity Contracts Terminated

The Company was requested to provide a list of all group annuity contracts terminated during the experience period. The Company identified a universe of 57 group annuities terminated. A random sample of 20 terminated files was requested, received and reviewed. Of the 20 group contracts terminated, 15 were terminated upon request of the group to transfer money to another group plan, 4 were terminated upon request of the group to disburse money to individual participants, and 1 was terminated by the Company for not receiving any funding during the first year. No violations were noted.

E. Whole Life and Universal Life Policies Issued

The Company was requested to provide a list of all Life policies issued during the experience period. The Company provided a list of 1,780 life policies issued. Of the 1,780 life policies issued, 91 were identified as whole life policies and 38 were universal life policies. A random sampling of 25 whole life issued files and 25 universal life issued files was requested, received and reviewed. Life issued 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 81.6 (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 application noted.

9 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. The 9 files noted did not contain a copy of the required disclosure statement.

2 Violations - Insurance Company Law, Section 406A (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. The 2 files noted contained alterations which were not initialed by the applicant.

3 Violations– Insurance Company Law, Section 408A(c)(4)(i) (40 P.S. §625-8)

A statement to be signed and dated by the applicant or policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are non-guaranteed.” The applicant certification statement was not dated in 1 file and not checked or initialed in 2 files.

8 Violations-Insurance Company Law, Section 408A(c)(4)(ii) (40 P.S. §625-8)

A statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.” The producer certification statement was not dated in 4 files and not checked or initialed in 4 files.

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

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 file noted.

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

If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy.

The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled "Revised Illustration." The statement required by subsection (c)(4) shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insurer as soon as practical after the policy is delivered. The revised illustration provided at the time of policy delivery was not labeled as a "Revised Illustration" in the 4 files noted.

9 Violations – Insurance Company Law, Section 408A(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. The 9 files noted were missing the agent certification and the applicant's acknowledgment in regards to the illustration used at the time of application.

F. Variable Life Policies Issued

The Company was requested to provide a list of all life policies issued during the experience period. The Company provided a list of 1,780 life policies issued. Of the 1,780 life policies issued, 829 were identified as variable life policies. A sample of 159 policy files consisting of 8 different plan types was selected and received. Of the 159 policy files requested and received, 5 policies were not Pennsylvania contracts. The 154 Pennsylvania contracts 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 81.4 (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 3 files.

10 Violations - 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 question on replacement was not completed in 10 applications.

30 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 agent's question on replacement was not included or completed in 30 applications.

2 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. The replacement letter to the replaced company was not documented in 2 files.

3 Violations - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The 3 files noted did not contain a copy of the required notice of replacement.

12 Violations – Title 31, Pennsylvania Code, Section 82.62

The application for a variable life insurance policy shall contain:

- (1) A prominent statement that the death benefit may be variable or fixed under specified conditions.
- (2) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account, subject to a specified minimum guarantees.
- (3) Questions designed to elicit information which enable the insurer to determine the suitability of variable life insurance for the applicant.

The suitability questions were not answered in 12 applications.

7 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 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. The 7 files noted did not contain policy delivery receipts or delivery receipts were not dated.

5 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. The 5 files noted contained alterations which were not initialed by the applicant.

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

Individual variable life 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. The file noted did not contain the required 20 day "free look" statement.

G. Term Life Policies Issued

The Company was requested to provide a list of all life policies issued during the experience period. The Company identified a universe of 1,780 life policies issued during the experience period. Of the 1,780 life policies issued, 822 were identified as term life policies. A sample of 85 policy files consisting of 4 different plan types was selected and received. Of the 85 policy files requested and received, 7 policies were issued by Equitable of Colorado. The remaining 78 contracts were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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 agent question on replacement was not completed in 2 applications.

55 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. The 55 files noted did not contain a copy of the required disclosure statement.

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. The 3 files noted did not contain the date of policy delivery.

5 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. The 5 files noted contained alterations which were not initialed by the applicant.

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

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same 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 forty-five (45) days of its delivery. The attachment of the 45 day “free look” endorsement could not be verified in 5 files.

6 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. The attachment of the 20 day “free look” endorsement could not be verified in 6 files.

H. Life Policies Declined

The Company was requested to provide a list of all individuals declined coverage during the experience period. The Company identified 77 individuals. A random sample of 25 files was requested, received and reviewed. The files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice. No violations were noted.

I. Life Policies Terminated

The Company was requested to provide a list of all life policies terminated during the experience period. The Company identified a universe of 4,571 life policies terminated. Of the 4,571 policies terminated, 1,275 policies were terminated due to death and 3,296 were terminated due to a variety of reasons. A random sample of 50 files was requested from the universe of 3,296 policies terminated for various reasons. The 50 files were received and reviewed to ensure that terminations were not the result of any discriminatory practice. The files terminated due to death are addressed in a claim section of the Report . No violations were noted.

The following is a synopsis of the reasons for policy termination.

Number	Termination Reason	Percentage
26	Cash Surrender	52%
9	Premium Lapse	18%
9	Expiration of Extended Term Coverage	18%
2	Term Policy Lapse	4%
2	Term Policy Surrender	4%
1	Term Policy Replacement	2%
1	Policy Maturity	2%

J. Life Policies Not-Taken

The Company was requested to provide a list of all life policies not-taken during the experience period. The Company identified a universe of 43 life policies not taken. A not-taken policy is a contract that was issued by the Company, but the insured decides to decline the contract. A random sample of 25 files was requested, received and reviewed. The files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

K. Life Policies Issued as Replacements

The Company was requested to provide a list of all life policies issued as replacements. The Company identified a universe of 81 life policies issued as internal replacements and 372 policies issued as external replacements. Random samples of 40 internal replacement files and 50 external replacement files was requested. Of the 40 internal replacement files requested and received, 38 files were reviewed and two were not Pennsylvania contracts. All 50 external replacement files were received and reviewed. The files were reviewed to determine compliance to issuance, underwriting and replacement statutes and regulations. The following violations were noted:

11 Violations - 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 11 files.

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. The agent question on replacement was not completed in the application noted.

5 Violations - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The 5 files noted did not contain a copy of the required notice of replacement.

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. The 2 files noted did not contain a policy delivery receipt or the date of policy delivery.

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

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same 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 forty-five (45) days of its delivery.

The attachment of the 45 day "free look" endorsement could not be verified in 12 files.

L. Term Conversions

The Company identified a total universe of 66 term conversion policies issued during the experience period. A random sampling of 20 conversion policies was requested, received and reviewed. The 20 term policies converted resulted in the issuance of 16 variable life policies and 4 universal life policies. The files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

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

When the producer delivers the individual policy or annuity to the policyholder 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. In the file noted the date of policy delivery could not be verified.

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

Any person other than the applicant without the applicant's written consent shall make no alteration of any written application for a life insurance policy or annuity. The file noted contained alterations not initialed by the applicant.

M. Single Premium Deferred Annuities Issued

The Company identified a total universe of 2 single premium deferred annuity contracts issued during the experience period. Both annuity contracts were requested, received and reviewed. Annuity contracts were reviewed to determine compliance to issuance, and replacement statutes and regulations. No violations were noted

N. Single Premium Deferred Annuities Terminated

The Company was requested to provide a list of all Single Pay Deferred Annuities terminated during the experience period. The Company identified a universe of 87 Single Pay Deferred Annuities terminated. A random sample of 20 files was requested, received and reviewed. The files were reviewed to ensure that terminations were not the result of any discriminatory underwriting practice. The files terminated due to death were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

O. Equivest and Accumulator Annuities Issued

The Company was requested to provide a list of all annuities issued during the experience period. The Company identified a universe of 3,776 Equivest Annuities and a universe of 1,469 Accumulator Annuities. The Equivest Annuity and the Accumulator Annuity are two series of annuities marketed on an individual basis. Random samples of 75 Equivest Annuity files and 50 Accumulator Annuity files were requested, received and reviewed. The annuity files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted.

3 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. Of the 3 files noted, 2 were missing contracts and 1 was missing a page of the application.

6 Violations - 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 6 applications noted.

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

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. A copy of the required notice of replacement was not contained in the file noted.

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

When the producer delivers the individual policy or annuity to the policyholder 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. The files noted did not contain verification of the date of contract delivery.

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

Any person other than the applicant without the applicant's written consent shall make no alteration of any written application for a life insurance policy or annuity. The files noted contained alterations which were not initialed by the annuitant.

2 Violations – Insurance Company Law, Section 410E(b)(2) (40 P.S. §510d)

Individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer

group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least forty-five (45) days of its delivery. The attachment of the 45 day “free look” endorsement could not be verified in 2 files.

1 Violation – Insurance Company Law, Section 410E(b)(3) (40 P.S. §510d)

Individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least twenty (20) days of its delivery. The attachment of the 20 day “free look” endorsement could not be verified in the file noted.

P. Equivest and Accumulator Annuities Issued as Replacements

The Company identified a total universe of 201 Equivest Annuities and 277 Accumulator Annuities issued as internal/external replacements, during the experience period. Random samples of 50 Equivest replacement files and 30 Accumulator replacement files were requested. Of the 50 Equivest files requested, 48 files were received and reviewed. All 30 Accumulator files were received and reviewed. The annuity files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. 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. The 2 files noted were missing.

5 Violations- 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 files noted.

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

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The files noted did not contain a copy of the required notice of replacement.

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

When the producer delivers the individual policy or annuity to the policyholder 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. The files noted did not contain verification of the date of contract delivery.

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

Any person other than the applicant without the applicant’s written consent shall make no alteration of any written application for a life insurance policy or annuity. The files noted contained alterations which were not initialed by the annuitant.

2 Violations – Insurance Company Law, Section 410E(b)(2) (40 P.S. §510d)

Individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least forty-five (45) days of its delivery. The attachment of the 45 day “free look” endorsement could not be verified in the file noted.

9 Violations – Insurance Company Law, Section 410E(b)(3) (40 P.S. §510d)

Individual variable annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract or policy shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in

substance that the contract holder shall be permitted to return the contract within at least twenty (20) days of its delivery. The attachment of the 20 day “free look” endorsement could not be verified in the file noted.

Q. Equivest and Accumulator Annuities Terminated

The Company was requested to provide a list of all annuities terminated during the experience period. The Company identified a universe of 3,197 Equivest Annuities and 325 Accumulator Annuities terminated. Random samples of 25 Equivest files and 25 Accumulator files were requested, received, and reviewed. The files were reviewed to ensure that terminations were not the result of any discriminatory practice. The files terminated due to death were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

R. Equivest and Accumulator Annuities Not-Taken

The company was requested to provide a list of annuities not-taken during the experience period. The Company identified a universe of 103 Equivest Annuities and 9 Accumulator Annuities not-taken. A random sample of 25 Equivest annuity files and all 9 Accumulator annuity files was requested, received and reviewed. A not-taken annuity is a contract that was issued by the Company, but the annuitant decides to decline the contract. Annuity not-taken files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

S. Major Medical Policies Issued or Terminated

The Company was requested to provide a list of all policies issued or terminated during the experience period. The Company identified a universe of 37 Major Medical policies terminated and stated no Major Medical policies were issued. All 37 terminated files were requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper disbursement of premium refunds. No violations were noted.

The following is a synopsis of the 37 terminated files.

Number	Termination Reason	Percentage
27	Premium Lapse	73%
8	Insured Request	22%
2	Death	5%

T. Disability Income Policies Issued or Terminated

The Company was requested to provide a list of policies terminated during the experience period. The Company identified a universe of 414 terminated disability income policies. A random sample of 25 files was selected for review. Of the 25 files selected, 24 were received and 1 file was listed in error by the company as terminated. The files were reviewed to ensure that terminations were not the result of any discriminatory underwriting practice. No violations were noted.

The following is a synopsis of the 24 terminated files.

Number	Termination Reason	Percent
12	Lapse for Non-Payment	50%
7	Insured Request	29%
4	Term of Policy	17%
1	Death	4%

IX. Internal Audits and Compliance Procedures

The Company was requested to provide copies of their internal audit and compliance procedures. The audits and procedures were reviewed to ensure compliance with Insurance Company Law, Section 405-A (40 P.S. §625-5). Section 405-A provides for the establishment and maintenance of internal audit and compliance procedures, which provides for the evaluation of compliance with all statutes and regulations dealing with sales methods, advertising, and filing and approval requirements for life insurance and annuities. The procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.

No violations were noted.

X. CLAIMS

The claims review consisted of a review of the Company's claim manuals and a review of the claim files. 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 three claim manuals which contained procedures for the processing of disability premium waiver, death claim information and death claim processing procedures. The claim 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.

The Claim file review consisted of five areas:

- A. Life Claims
- B. Group Annuity Claims
- C. Individual Annuity Claims
- D. Major Medical Claims
- E. Disability Income Claims

All claim files sampled 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. The life claims were additionally reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b).

A. Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 1,275 life insurance claims. A random sample of 100 claim files 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. The following violations were noted:

5 Violations – Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The 5 files noted were incomplete or missing pertinent data.

6 Violations - 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. The 6 files noted were absent any evidence this requirement was complied with.

9 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. The 9 files noted were absent any evidence this requirement was complied with.

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 first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The file noted was absent any evidence this requirement was complied with.

B. Group Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 16 group annuity claims. The 16 annuity claim files were requested, received and reviewed. The files were reviewed for compliance with Unfair Insurance Practices Act, No. 205 and Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

C. Individual Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 227 annuity claims. A random sample of 50 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

3 Violations - 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. The 3 files noted were absent any evidence this requirement was complied with.

5 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. The 5 files noted were absent any evidence this requirement was complied with.

D. Major Medical Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 1,037 Major Medical Claims. A random sample of 100 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

2 Violations – Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The 2 files noted were incomplete or missing pertinent data.

6 Violations - 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. The 6 files noted were absent any evidence this requirement was complied with.

E. Disability Income Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 102 disability income claims and 8 disability income claims administered by UNUM Life Insurance Company. A random sample of 25 disability income claim files and all 8 UNUM administered claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

12 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. The 12 files noted were absent any evidence this requirement was complied with.

XI. RECOMMENDATIONS

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

1. The Company must review and revise Licensing procedures to ensure compliance with Insurance Department Act, Sections 605, Section 606 and Section 623 (40 P.S. §§235,236&253).
2. The Company must review internal control procedures to ensure compliance with claims settlement practice requirements of Title 31, Pennsylvania Code, Chapter 146.
3. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
4. The Company must review internal control procedures to ensure compliance with replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
5. The Company must review internal control procedures to ensure compliance with variable life insurance suitability requirements of Title 31, Pennsylvania Code, Chapter 82.
6. The Company must review internal control procedures to ensure compliance with forms filing and approval requirements of Insurance Company Law, Section 354 (40 P.S. §477b).
7. The Company must implement internal control procedures to ensure compliance with policy delivery receipt requirements of Insurance Company Law, Section 404-A (40 P.S. §625.4).

8. The Company must review internal control procedures to ensure compliance with application alteration requirements of Insurance Company Law, Section 406-A (40 P.S. §625.6).
9. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Insurance Company Law, Section 408-A (40 P.S. §625.8).
10. The Company must review internal control procedures to ensure compliance with the “Free Look” provisions of Insurance Company Law, Section 410 (40 P.S. §510).
11. 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(a), (40 P.S. §323.3) of the Insurance Department Act.
12. The Company must ensure all applications contain the fraud notice required by Title 18, Pa. C.S., Section 4117(k).

XII. COMPANY RESPONSE



EQUITABLE

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LAW DEPARTMENT

April 2, 2004

VIA AIRBORNE EXPRESS MAIL

Mr. Chester A. Derk, Jr. AIE, HIA
Market Conduct Division Chief
Insurance Department
Commonwealth of Pennsylvania
1321 Strawberry Square
Harrisburg, PA 17120

Re: Response of The Equitable Life Assurance Society of the United States (NAIC #62944) to the Report on Examination – July 1, 2001 to June 30, 2002 – of the Commonwealth of Pennsylvania Department of Insurance (Examination Warrant Number: 02-M12-019)

Dear Mr. Derk:

On behalf of The Equitable Life Assurance Society of the United States (“Equitable Life” or the “Company”), I am responding to the above-referenced Report on Examination (the “Report”) covering the period of July 1, 2001 to June 30, 2002, a copy of which was enclosed with your letter to the Company dated March 5, 2004.

Equitable Life thanks the Department for the opportunity to address the issues raised in the Report, and thanks the Examiners for the courtesy and cooperation they extended to us during the course of the Examination.

The Company takes seriously its responsibilities to policyholders, insureds, contract holders, and the Department. During the course of the Examination, the Department raised particular issues with Equitable Life in connection with certain Company procedures. Where required, the Company took immediate corrective action and has advised the Department of such action. In other instances, Equitable Life advised the Department that the Company will take necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

#175301

We believe that the Report does not identify any systemic problems or deficiencies concerning the broad range of Equitable Life procedures subject to review during the Examination. We also note that the Company has significantly refined many of its procedures and controls, often with the assistance of new technology, in the areas of claims processing and payment, application review and processing, policy delivery, and file maintenance, among others. These enhancements, which are continuing, demonstrate Equitable Life's commitment to providing our customers with the highest quality products and services in the industry, and to ensuring full compliance with all regulatory requirements.

We also remain vigilant to ensure that the sale of every Equitable Life product is conducted with appropriate safeguards which serve and protect the interests of our customers. These safeguards, in particular those relating to replacement transactions, file documentation, and agent licensing, are written directly into our internal policy manuals/bulletins for agents and general agents. They remain the cornerstone of our relationships with our customers.

Enclosed are the Company's responses to each section of the Report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul R. Banach". The signature is written in dark ink and is positioned below the word "Sincerely,".

**RESPONSE OF THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES TO THE REPORT ON EXAMINATION – JULY 1, 2001 TO JUNE 30, 2002 – OF THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF INSURANCE
(EXAMINATION WARRANT NUMBER: 02-M12-019)**

April 2, 2004

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I. INTRODUCTION

The Company does not have comments on this section.

II. SCOPE OF EXAMINATION

The Company does not have comments on this section.

III. COMPANY HISTORY AND LICENSING

The Company does not have comments on this section.

IV. ADVERTISING

Department's Comment:

The following advertising piece improperly lists a product name as "Universal Life Special Offer."

Item	Form Number	Status Date	Material
82	21807	08/22/2001	Illustration

Company's Response:

The Company respectfully disagrees with the Department's Comment. Equitable Life has established procedures designed to ensure that the advertising used by the Company meets the requirements of Section 51.29. With respect to this illustration, the Company used the term "Special Offer" as an identifier in its quote system, and that language appears only on in-force illustrations used for owners of certain Universal Life contracts that contain the specific "UL Special Program" Endorsement S.86-189 approved by the Department on February 17, 1987. In addition, this Universal Life policy has not been available for new sales since 1994. Accordingly, because the term "Special Offer" appeared only on in-force illustrations used for owners participating in the UL Special Program, no violation of Section 51.29 occurred. Nevertheless, Equitable Life removed the term "Special Offer" from future in-force sales illustrations provided with this product.

V. FORMS

Department's Comment:

Form ED-TL 4/01 identified in an underwriting section of the exam was not filed for approval; did not contain a signed statement regarding replacement by the applicant and it did not include the required fraud statement.

Company's Response:

The Company respectfully disagrees with the Department's Comment. The nine violations cited by the Department refer to the same form found in three files. Equitable Life has established procedures designed to ensure that: (1) all applications and forms are submitted to and formally approved by the Insurance Commissioner as required by Chapter 2, Section 354 (40 P.S. § 477b); (2) the Company obtains as part of a completed application a signed statement from the applicant regarding replacement as required by Section 81.5(b); and (3) the completed application includes the applicable fraud statement as required by Section 4117(k).

Form ED-TL 4/01, which the Company discontinued using in January 2002, prior to the Examination, was a preliminary request for information and was not an application for insurance form. The form was not attached to the policy when issued. The purpose of this preliminary request for information form was to obtain certain client information and the client's authorization to release certain information to the Company in order to determine whether a contract was available for him/her. Once Equitable Life determined that a product was available for the client, the Company would then issue a contract with delivery subject to the receipt from the client of a signed application for insurance form.

An approved application form is required to be signed before the policy is delivered. To that end, application Form No. 180-301N was used with the three contracts cited herein.

The Company now understands that the Department requires approval of any preliminary request for information form.

Please refer to the Company's Response to Section XI Recommendations, Pages 47-33 and 47-44.

VI. AGENT/BROKER LICENSING

The Company has established procedures designed to ensure compliance with Insurance Department Act, Sections 605, 606, 623, respectively. Equitable will take necessary steps to reinforce its procedures and internal and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

Please refer to the Company's Response to Section XI Recommendations, Page 47-29.

VII. CONSUMER COMPLAINTS

The Company does not have comments on this section.

VIII. UNDERWRITING

A. Underwriting Guidelines

The Company does not have comments on this section.

B. Group Annuity Contracts Issued

The Company does not have comments on this section.

C. Group Annuity Certificate Holders Enrolled

The Company does not have comments on this section.

D. Group Annuity Contracts Terminated

The Company does not have comments on this section.

E. Whole Life and Universal Life Policies Issued

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 83, Insurance Company Law Section 406A and Section 408A, respectively. Equitable will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-32, 47-38 and 47-39.

The Company has a specific response to the following Comment.

Department's Comment:

"The agent question on replacement was not completed in the application noted." (Page 17).

Company's Response:

The Company respectfully disagrees with the Department's Comment. Section 81.6(a)(1) requires, in pertinent part, that:

“An insurer that uses an agent or broker in a life insurance or annuity sale shall: (1) 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....” (Emphasis added)

Section 81.6(a)(1) does not require “a specific response to the replacement question.” Rather, the statute merely provides that Equitable Life require, as part of the “completed application,” a “statement” signed by the agent evincing whether the agent knows a replacement is or may be involved in the transaction. Two files identified during the Examination where an internal replacement occurred contain a Replacement Acknowledgement Form and a Notice Regarding Replacement of Life Insurance both signed by the agent and submitted with the application which expressly state that he/she knows a replacement is or may be involved in the transaction. In addition, as previously identified during the Examination, while the specific replacement question in the Agent's Report was not answered in those files, the Agent's Report nevertheless contains a certification completed by the agent that all questions in the application were asked and recorded completely and accurately, which necessarily includes Question 11(d) relating to replacement. This certification is a statement signed by the agent as part of the completed application which clearly identifies whether the agent knows a replacement is or may be involved in the transaction, and thus satisfies the requirements of Section 81.6(a)(1). Similarly, because the agent expressly agrees when signing the application that the statements and answers in the application are true and complete to the best of the agent's knowledge – including Question 11(d) – this agreement also satisfies the requirements of Section 81.6(a)(1). Finally, the applicant expressly indicates on the illustration whether the transaction involves a replacement, and the agent signs the illustration directly below the applicant's signature. This ensures that the agent knows whether the transaction involves a replacement, thereby satisfying the requirements of Section 81.6(a)(1).

F. Variable Life Policies Issued

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 81 and Chapter 82, Insurance Company Law Section 404-A, Section 406-A, and Section 410D, respectively. Equitable will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-33, 47-35, 47-37, 47-38 and 47-40.

The Company has specific responses to the following Comments.

Department's Comment:

"The replacement form was dated after the application date in 3 files." (Page 20)

Company's Response:

Equitable Life has established procedures to ensure that replacement forms are dated at the time of application and in compliance with Title 31, Pennsylvania Code, Section 81.4 (b)(1). However, Equitable Life reiterates its position that the Company's current procedures and business practices satisfy the purpose and intent of Section 81.4(b)(1). The Pennsylvania replacement regulation does not address the Company's responsibility to subsequently obtain the Notice Regarding Replacement of Life Insurance when the form is not submitted with the application. (Equitable Life notes that Section 81.4(b)(1), unlike many similar regulations in other jurisdictions, does not require the Company to obtain, at a later time, those replacement-related documents not submitted by the agents with the application.)

In order to ensure that an applicant is presented with a Notice Regarding Replacement of Life Insurance in those limited situations, the Company's procedures require continuing to underwrite the policy but not to issue the policy until such required document is obtained from

the agent. Otherwise, the Company will reject the application if the notice is never received because the application is incomplete without the notice.

Equitable Life believes that the purpose and intent of the replacement notification requirement is twofold: 1) protect the applicant by ensuring that proper replacement notice is given prior to issuance of the product; and 2) ensure that the existing carrier is promptly notified of the proposed replacement so as to allow for an opportunity to conserve the business at issue, if appropriate.

Accordingly, regarding Number 2 above, in connection with all admitted replacements, the Company's established underwriting procedure is to mail to the existing carrier the required letter notification of replacement within three working days of receiving any application at our Service Center which indicates that the proposed transaction may involve a replacement, even if the Notice Regarding Replacement of Life Insurance is not then available. The letter notification sent by the Company advises the existing carrier that any replacement-related documents (*i.e.*, replacement notice, policy comparison, conforming illustration, and/or cost disclosure forms) not available at the time that the letter notification was generated will be forwarded once received at the appropriate Equitable Life Service Center. These procedures ensure that Equitable Life promptly notifies the existing carrier of the possible replacement situation so that it may begin any conservation efforts.

As to protecting the applicant, Equitable Life's established procedures require all replacement-related documents to be signed when the application is taken and to be forwarded along with the application for further processing. However, there may be certain instances where those documents, such as the Notice Regarding Replacement of Life Insurance, are not submitted by the agent with the application. Equitable Life then requires the agent to promptly secure all necessary replacement-related document(s), and the Company will not issue the proposed insurance policy until such documents are submitted and reviewed. We believe that these

procedures protect the applicant by ensuring that proper replacement notice is given prior to issuance of the product.

Accordingly, Equitable Life's procedures protect the interest of both the applicant and the existing carrier, and fully meet the purpose and intent of the replacement regulation cited by the Department.

Department's Comment:

"The agent's question on replacement was not included or completed in 30 applications." (Page 20)

Company's Response:

The Company respectfully disagrees with the Department's Comment. Please refer to the Company's Response to Section VIII.E (Underwriting – Whole Life and Universal Life Issued), which appears on Page 47-14.

Department's Comment:

"The suitability questions were not answered in the 12 applications." (Page 21)

Company's Response:

The Company notes that eleven of the twelve contracts identified were contracts owned by the same corporation. The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Section 82.62. Equitable has taken necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

In December, 2003, the Company republished procedures related to contracts that are owned by corporations and requirements of a master application that shows all common corporate information to be included with those contracts. The suitability portion of the applications falls

within that common information. The master application includes all the information pertinent to the owner-corporation, while the individual applications include the information related to the insured individuals. The program is designed to standardize underwriting and administration on cases involving a large number of lives with the same corporation.

Department's Comment:

"The file noted did not contain the required 20 day "free look" statement." (Page 22)

Company's Response:

Equitable Life has established procedures designed to ensure that its individual variable life insurance policies contain the 20-day "free look" statement as required by Section 410D(b)(3). With respect to the file related to the Department's Comment, an isolated clerical error occurred which is not indicative of a systemic problem within the Company. The policy in question was issued as a joint life insurance contract in which one of the applicants stated that the transaction did not involve a replacement, while the other applicant stated that it did. When the application was processed onto Equitable Life's systems, the clerk entered "no" for both applicants with respect to the replacement issue. Had the applicants returned the contract within the free look period, the records would have been reviewed and the error corrected.

G. Term Life Policies Issued

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 81 and Chapter 83, Insurance Company Law Section 404-A, Section 406-A, and Section 410D, respectively. Equitable will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-32, 47-33, 47-37, 47-38 and 47-40.

The Company has specific responses to the following Comments.

Department's Comment:

"The agent question on replacement was not completed in 2 applications." (Page 23)

Company's Response:

The Company respectfully disagrees with the Department's Comment. Please refer to the Company's Response to Section VIII.E (Underwriting – Whole Life and Universal Life Issued), which appears on Page 47-14.

Department's Comment:

"The 55 files noted did not contain a copy of the required disclosure statement." (Page 23)

Company's Response:

The Company now understands the Department's interpretation of the particular disclosure requirements of Sections 83.3, 83.4a, and 83.4b. However, Equitable Life notes that the Company provided in each of the relevant files 'Life Insurance Quotes,' which contain all of the disclosure information required by Section 83.3 and the agent certification required by Section 83.4a. In any event, the Company modified its procedures to mandate the use of the specific written disclosure statement required by Section 83.3, Appendix A.

Department's Comment:

"The attachment of the 45 day "free look" endorsement could not be verified in 5 files." (Page 24)

Company's Response:

The Company has established procedures designed to ensure compliance with Insurance Company Law 410D (40 P.S. §510). Equitable Life notes that the contracts issued by the Company contain the required "Free Look" provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. Please refer to the Company's Response to Section XI Recommendations, Page 47-40.

H. Life Policies Declined

The Company does not have comments on this section.

I. Life Policies Terminated

The Company does not have comments on this section.

J. Life Policies Not-Taken

The Company does not have comments on this section.

K. Life Policies Issued as Replacements

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 81, Insurance Company Law Section 404-A and Section 410D, respectively. Equitable will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-33, 47-37 and 47-40.

The Company has specific responses to the following Comments.

Department's Comment:

"The replacement form was dated after the application date in 11 files." (Page 27)

Company's Response:

Please refer to the Company's Response to Section VIII.F (Underwriting – Variable Life Issued), which appears on Pages 47- 15, 47-16 and 47-17.

Department's Comment:

“The agent question on replacement was not completed in the application noted.” (Page 27)

Company's Response:

The Company respectfully disagrees with the Department's Comment. Please refer to the Company's Response to Section VIII.E (Underwriting – Whole Life and Universal Life Issued), which appears on Page 47-14.

Department Comment:

“The attachment of the 45 day “free look” endorsement could not be verified in 12 files.”
(Page 29)

Company's Response:

The Company has established procedures designed to ensure compliance with Insurance Company Law 410 (40 P.S.§510). Equitable Life notes that the contracts issued by the Company contain the required “Free Look” provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. Please refer to the Company's Response to Section XI Recommendations, Page 47-40.

L. Term Conversions

The Company does not have comments on this section.

M. Single Premium Deferred Annuities Issued

The Company does not have comments on this section.

N. Single Premium Deferred Annuities Terminated

The Company does not have comments on this section.

O. Equivest and Accumulator Annuities Issued

The Company has established procedures designed to ensure compliance with Insurance Department Act, Section 903, Title 31, Pennsylvania Code, Chapter 81, Insurance Company Law Section 404-A, Section 406-A, and Section 410E, respectively. Equitable has taken necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-33, 47-37, 47-38, 47-40 and 47-41.

The Company has specific responses to the following Comments.

Department's Comment:

"The files noted did not contain verification of the date of contract delivery" (Page 32)

Company's Response:

This Comment refers to certain annuity contract files that did not contain copies of delivery receipts. The Department brought this to the Company's attention and the Company took immediate action during the course of the Examination by implementing new procedures and supervisory and internal controls to ensure compliance with Insurance Company Law, Section 404-A.

Department's Comment:

"The attachment of the 45 day "free look" endorsement could not be verified in 2 files" (Page 33)

Company's Response:

The Company has established procedures designed to ensure compliance with Insurance Company Law 410 (40 P.S. §510). Equitable Life notes that the contracts issued by the Company contain the required "Free Look" provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. Please refer to the Company's Response to Section XI Recommendations, Page 47-40.

Department's Comment:

"The attachment of the 20 day "free look" endorsement could not be verified in the file noted."
(Page 33)

Company's Response:

The Company has established procedures designed to ensure compliance with Insurance Company Law 410 (40 P.S. §510). Equitable Life notes that the contracts issued by the Company contain the required "Free Look" provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. Please refer to the Company's Response to Section XI Recommendations, Page 47-40.

P. Equivest and Accumulator Annuities Issued as Replacements

The Company has established procedures designed to ensure compliance with Insurance Department Act, Section 903, Title 31, Pennsylvania Code, Chapter 81 and Chapter 83, Insurance Company Law Section 404-A, Section 406-A, and Section 410E, respectively. Equitable has taken necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-32, 47-33, 47-37, 47-38, 47-40 and 47-41

The Company has specific responses to the following Comments.

Department's Comment:

“The replacement form was dated after the application date in the files noted.” (Page 34)

Company's Response:

The Company respectfully disagrees with the Department's Comment. Please refer to the Company's Response to Section VIII.F (Underwriting – Variable Life Issued), which appears on Pages 47-15, 47-16 and 47-17.

Department's Comment:

“The files noted did not contain verification of the date of contract delivery” (Page 35)

Company's Response:

This Comment refers to certain annuity contract files that did not contain copies of delivery receipts.

Please refer to the Company's Response in Section VIII.O (Underwriting - Equivest and Accumulator Annuities issued) which appears on Page 47-22.

Department's Comment:

“The attachment of the 45 day “free look” endorsement could not be verified in the files noted.” (Page 35)

Company's Response:

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law 410E (40 P.S. §510). Equitable Life notes that the contracts issued by the Company contain the required “Free Look” provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. Please refer to the Company's Response to Section XI Recommendations, Page 47-40.

Q. Equivest and Accumulator Annuities Terminated

The Company does not have comments on this section.

R. Equivest and Accumulator Annuities Not-Taken

The Company does not have comments on this section.

S. Major Medical Policies Issued or Terminated

The Company does not have comments on this section.

T. Disability Income Policies Issued or Terminated

The Company does not have comments on this section.

IX. Internal Audits and Compliance Procedures

The Company does not have comments on this section.

X. CLAIMS

The Company does not have comments on this section.

A. Life Claims

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. Equitable will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Please refer to the Company's Response to Section XI Recommendations, Pages 47-30 and 47-31.

The Company has a specific response to the following Comment.

Department's Comment:

Title 31, Pennsylvania Code, Section 146.6

"The 9 files noted were absent any evidence this requirement was complied with." (Page 41)

Company's Response:

The Company respectfully disagrees with the Department's Comment. Equitable Life has established procedures designed to ensure that the Company provides timely notice to claimants regarding the claims investigation process as required by Section 146.6. Equitable Life conducted a prompt investigation of these claims once the Company received information necessary to initiate an investigation. Specifically, Equitable Life could not begin an investigation into these claims until it received a Certified Death Certificate and Claimant Statement. These documents are necessary for the Company to conduct an investigation and process any claim. Once Equitable Life received the information necessary to prove the death of the insured and the identity of the beneficiaries, the Company was able to initiate and conduct all claims investigations in a timely manner pursuant to the statutory requirements. Indeed, Equitable Life issued payments for death benefits to the respective beneficiaries within only a few days thereafter. In none of the cases cited by the Department did Equitable Life's

investigation, once it had commenced, take longer than 30 days, thereby triggering the status letter requirements of Section 146.6.

B. Group Annuity Claims

The Company does not have comments on this section.

C. Individual Annuity Claims

The Company does not have comments on this section.

D. Major Medical Claims

The Company does not have comments on this section.

E. Disability Income Claims

The Company does not have comments on this section.

XI. RECOMMENDATIONS

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

- 1. The Company must review and revise Licensing procedures to ensure compliance with Insurance Department Act, Sections 605, Section 606 and Section 623 (40 P.S. §§ 235, 236 & 253).**

The Company has established procedures designed to ensure compliance with Insurance Department Act, Sections 605, 606, 623, respectively. As described below, Equitable is taking necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

The Company is committed to improving its agent licensing and registration procedures and to eliminating processing errors. To that end, Equitable Life has initiated a re-engineering project in its Human Resources Field Force Operations Unit to review agent licensing and registration workflow processes. Where workflow improvements are identified, the Company will change its procedures accordingly and will incorporate these improvements into an enhanced processing system to ensure compliance with applicable regulatory requirements. The Company plans to implement a phased approach by first implementing improved manual controls followed by identifying and implementing a new automated system solution. Equitable anticipates that this re-engineering project will be completed by the end of 2004.

2. The Company must review internal control procedures to ensure compliance with claims settlement practice requirements of Title 31, Pennsylvania Code, Chapter 146.

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 146. As described below, Equitable Life has taken necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

With respect to Major Medical claims, the Company converted to a new administration system effective March 2003 with the goal of improving the accuracy and efficiency of claims processing. Equitable Life major medical claims are now processed through an imaging system called Workflow. When any document (including a claim) is received for processing, the document is scanned as an image, and any claim is assigned a unique tracking number. The claim number is made up of 10 characters: the first two characters represent the Year; the next three characters represent the Julian Date; and the remaining characters are used only for internal claim processing identification. This new automated process should resolve the issues identified during the Examination, as a claim cannot be processed without a valid claim number that contains the date the claim is received.

Since converting to the new administration system, the Company has the ability to better manage the claims inventory. As a result of the improved management tools made possible by the conversion, appropriate notices are being generated as needed and claims' response time is better controlled. A daily report is generated for all states with mandated response times. This report is reviewed to ensure that appropriate notices are created in order to meet mandatory requirements.

The new administration system and the accompanying enhanced management tools should allow better reporting and improved compliance. The new internal control procedures will ensure compliance with Title 31, Pennsylvania Code, Chapter 146.

With respect to the other claims areas, the Company will take necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

3. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 83. As described below, Equitable Life has taken necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

During the course of the Examination, the Company modified its procedures to mandate the use of the specific written disclosure statement required by Section 83.3, Appendix A for its term products.

4. The Company must review internal control procedures to ensure compliance with replacement requirements of Title 31, Pennsylvania Code, Chapter 81.

The Company has established procedures and internal controls designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 81. Equitable Life believes that these procedures and controls protect the interest of both the applicant and the existing carrier, and fully meet the purpose and intent of the Pennsylvania replacement regulation. That regulation does not address the Company's responsibility to subsequently obtain the Notice Regarding Replacement of Life Insurance when the agent does not submit it with the application. Unlike many similar regulations in other jurisdictions, Section 81.4(b)(1) does not require the Company to obtain, at a later time, those replacement-related documents not submitted by the agents with the application.

Equitable Life will take necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. Specifically, Company personnel will be reminded of the requirement under Section 81.4(b)(1) regarding the requirement to present at the time of application the replacement form, properly complete it and submit it at the time of application. In addition, Equitable Life personnel will be reminded of the requirements under Section 81.5(b) requiring a separate agent statement and 81.6(a) (1) requiring to complete the applications properly by answering all the questions in the application including the replacement question.

Furthermore, appropriate personnel will be reminded of the requirements to maintain copies of the Notice Regarding Replacement form in the files as required under Section 81.6(c). New Business analysts will be reminded that copies of the Notice Regarding Replacement of Life Insurance must be mailed to the existing insurer when received with the application within 3 working days, and within 3 working days of receipt if received separately as an underwriting

requirement. New Business analysts also will be reminded that a copy of the Notice and accompanying letter to the existing insurer must be imaged for permanent retention in the application file as evidence of the receipt and mailing of the Notice pursuant to the regulation. The Company will again verify that all required replacement-related documentation (*i.e.*, replacement notice, policy comparison, conforming illustration, and/or cost disclosure forms) are forwarded with the original or follow-up letters to the existing insurer within three working days of receipt. Cases failing this verification process will be documented and referred to the New Business management team for corrective action. Adherence to the verification process will be reviewed during the compliance oversight examinations. The Company will instruct its New Business analysts and management team to identify and investigate trends of cases where sales associates are not consistently following state replacement regulations and requirements, and to document and refer all findings to the Regional Compliance Office for corrective action, where appropriate.

5. The Company must review internal control procedures to ensure compliance with variable life insurance suitability requirements of Title 31, Pennsylvania Code, Chapter 82.

The Company has established procedures and internal controls designed to ensure compliance with Title 31, Pennsylvania Code, Chapter 82. As described below, Equitable Life has taken necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and agents and to ensure compliance with applicable statutory requirements.

In December, 2003, the Company republished procedures related to contracts that are owned by corporations and requirements of a master application that shows all common corporate information to be included with those contracts. The suitability portion of the application falls within that common information. The master application includes all the information pertinent to the owner-corporation, while the individual applications include the information related to the insured individuals. The program is designed to standardize underwriting and administration on cases involving a large number of lives with the same corporation.

- 6. The Company must review internal control procedures to ensure compliance with forms filing and approval requirements of Insurance Company Law, Section 354 (40 P.S. §477b).**

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law, Section 354. The violation cited by the Department related to a form (Form No. ED-TL 4/01) that the Company neither considered nor used as an application form, but rather as a preliminary information form. That form was not attached to the policy when issued. Instead, an approved application form is required to be signed before the policy is delivered. Nevertheless, the Company discontinued using Form No. ED-TL 4/10 in January 2002, prior to the Examination.

In the future, the Company will seek Department approval of any preliminary request for information form prior to its use.

7. The Company must implement internal control procedures to ensure compliance with policy delivery receipt requirements of Insurance Company Law, Section 404-A (40 P.S. §625.4).

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law, Section 404-A (40 P.S. §625.4). With respect to the annuity files identified on Pages 32 and 34 of this Report, the Company took immediate action during the course of the Examination by implementing new procedures and supervisory and internal controls to ensure compliance with Insurance Company Law, Section 404-A.

With respect to the life insurance files identified in this Report, Equitable Life will take necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

- 8. The Company must review internal control procedures to ensure compliance with application alteration requirements of Insurance Company Law, Section 406-A (40 P.S. §625.6).**

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law, Section 406-A (40 P.S. § 625.6). Equitable Life will take necessary steps to reinforce its procedures and internal and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

- 9. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Insurance Company Law, Section 408-A (40 P.S. §625.8).**

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law, Section 408-A (40 P.S. §625.8). Equitable Life will take necessary steps to reinforce its procedures and internal and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

10. The Company must review internal control procedures to ensure compliance with the “Free Look” provisions of Insurance Company Law, Section 410 (40 P.S. §510).

The Company has established procedures and internal controls designed to ensure compliance with Insurance Company Law, Section 410 (40 P.S. §510). As described below, Equitable Life has taken necessary steps to reinforce its procedures and supervisory and internal controls with appropriate Company personnel and to ensure that the applicable policy assembly form is maintained in the file.

Equitable Life notes that the contracts issued by the Company contain the required “Free Look” provision; however, the files reviewed during the Examination did not contain evidence that this provision was included. The Company’s established procedures require that each file contain a contract assembly form, which documents all the contract forms that are issued in connection with that particular contract. The contract assembly forms were not found in the files reviewed during the Examination. Equitable Life implemented a new program during the Examination that will capture the Issue Edit Summary and Policy Assembly Instructions, which specifically identify the particular policy forms included in the policy at the time of delivery.

11. 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(a), (40 P.S. §323.3) of the Insurance Department Act.

The Company has established procedures and internal controls designed to ensure compliance with Section 903(a), (40 P.S. § 323.3) of the Insurance Department Act. Equitable Life will take necessary steps to reinforce its procedures and internal and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements. The Company notes that it produced 1819 files of the 1824 files requested by the Department during the Examination.

12. The Company must ensure all applications contain the fraud notice required by Title 18, Pa. C.S., Section 4117(k).

The Company's applications contain the fraud notice required by Title 18, Pennsylvania Code Section 4117(k). The Department cited as a violation of this section a form the Company did not consider to be an application form, but rather a preliminary information form (Form No. ED-TL 4/01). This form was not attached to the policy when issued. Instead, an approved application form containing the necessary fraud statement is required to be signed before the policy is delivered. Nevertheless, the Company discontinued using Form No. ED-TL 4/10 in January 2002, prior to the Examination.

Company's Response:

The Company has established procedures designed to ensure compliance with Title 31, Pennsylvania Code, Section 82.62. The Company notes that eleven of the twelve contracts identified were contracts owned by the same corporation. With respect to the suitability question in this corporate application, it is the Company's procedures to only secure this type of information once on a "master application" for all generic corporate owner information. Taking these eleven contracts into consideration, the Examiner's review found only one contract that did not have the suitability question answered out of a sample of 143 policies reviewed.

Equitable has taken necessary steps to reinforce its procedures and supervisory controls with appropriate Company personnel and to ensure compliance with applicable statutory requirements.

Please refer to the Company's Response to Section XI Recommendations, Pages 47-35.