

DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

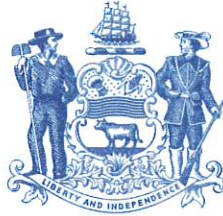
AXA Equitable Life Insurance Company  
Examination Authority # 62944-ANN-16-583

1290 Avenue of the Americas  
New York, NY 10104

As of

December 31, 2016

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2016 on

**AXA Equitable Life Insurance Company**

is a true and correct copy of the document filed with this Department.

Attest By: \_\_\_\_\_



In Witness Whereof, I have hereunto set my hand  
and affixed the official seal of this Department at the  
City of Dover, this 6th day of June, 2018.

\_\_\_\_\_  
Trinidad Navarro  
Insurance Commissioner

Trinidad Navarro  
Commissioner



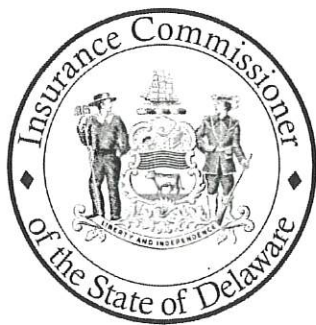
Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
**AXA Equitable Life Insurance Company**  
AS OF  
December 31, 2016

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



In Witness Whereof, I have hereunto set my hand  
and affixed the official seal of this Department at the  
City of Dover, this 6th day of June, 2018.

  
\_\_\_\_\_  
Trinidad Navarro  
Insurance Commissioner

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Honorable Trinidad Navarro  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Certificate of Examination Authority Number 62944-ANN-16-583, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

**AXA Equitable Life Insurance Company**

The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

1290 Avenue of the Americas  
New York, NY 10104

The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

## **EXECUTIVE SUMMARY**

The Company's main administrative offices are located in New York, NY.

The examination was announced as part of a series of examinations on companies in the Annuity marketplace in Delaware. The examination focused on the Company's annuity and life insurance business in the following areas of operation: Company Operations and Management; Complaint Handling, Marketing and Sales, Producer Licensing, Policyholder Services, and Underwriting and Rating. This effort was conducted gauge the company's practices in the suitability, replacement, and surrender transactions.

According to the Schedule T of their 2016 annual statement for the State of Delaware, AXA Equitable Life Insurance Company reported life insurance premium considerations in the amount of \$33,864,135, and annuity premium considerations in the amount of \$36,405,535.

There were no exceptions in the Consumer Complaints, Producer Licensing, and Policyholder Services sections.

The following exceptions were noted:

### **1 Exception – 18 Del. Admin. Code 1204 §5.1**

*Each agent or broker who initiates the application shall, on the request of the prospective purchaser, furnish the Buyers Guide as described by Regulation 29 and shall submit to the insurer to which an application for life insurance or annuity is presented, with or as a part of each application:*

*5.1.2 a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.*

The Company accepted a replacement notice where the producer signature was missing.

### **5 Exceptions – 18 Del. Admin. Code 1204 §5.2**

*Where replacement is involved, the agent or broker shall:*

*5.2.1 Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" (Delaware Insurance Form R, attached as Exhibit A), or other substantially similar form approved by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and a copy left with the applicant.*

The replacement form was dated after the application.

**5 Exceptions - 18 Del. Admin. Code 1204 §7.1.2.2 Duties of Insurers That Use Agents or Brokers**

*Each insurer that uses an agent of broker in a life insurance or annuity sale shall: Where a replacement is involved:*

*Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity Policy is issued, whichever is sooner.*

The Company failed to provide the proof of the written communication to the existing insurer of the replacement.

**1 Exception – 18 Del. C. §1715. Appointments.**

*(a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.*

One individual was listed on the application; however, Department records did not identify the individual as being appointed by the Company on the date the application was signed.

**SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. CODE §318-322 and covered the experience period of January 1, 2014, through September 30, 2016, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Delaware annuity suitability, replacement, and surrender laws and regulations related to the sales and marketing of individual cash value life insurance, individual fixed annuities and individual variable annuities.

The examination was a targeted market conduct examination of the Company's life insurance and annuity business in the following areas of operation: Company Operations and Management; Complaint Handling; Marketing and Sales; Producer Licensing Policyholder Services; and Underwriting and Rating.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on the errors found in individual files, the examiners also focus on general business practices of the Company.

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.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions 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 exceptions identified during the examination and to review written summaries provided on the exceptions found.

## **COMPANY OPERATIONS AND MANAGEMENT**

### Company History

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

On July 22, 1992, the Company demutualized and converted back to a stock life insurance company and became a wholly-owned subsidiary of The Equitable Companies Incorporated (“EQ”). In connection with the demutualization, the Company’s eligible policyholders received cash, policy credits or common stock of EQ. At demutualization on July 22, 1992, AXA, a French holding company for an international group of



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insurance and related financial services companies, became the owner of 49% of EQ's common shares outstanding as well as the owner of convertible preferred stock in exchange for a \$1 billion investment. On December 19, 1994, EQ exchanged all its outstanding redeemable preferred stock and substantially all of its convertible preferred stock for common stock, a new series of convertible preferred stock and convertible debentures. As a result, AXA's ownership percentage of EQ as of December 31, 1995 increased to 60.6%.

On September 3, 1999, EQ changed its name to AXA Financial, Inc. ("AXA Financial").

In 1999, AXA Client Solutions, LLC ("Client Solutions") was formed as a wholly-owned direct subsidiary of AXA Financial. At the same time, AXA Financial contributed to Client Solutions all of the Company's common stock, making Client Solutions the direct parent of the Company.

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

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

Effective September 7, 2004 the Company, formerly known as Equitable Life Assurance Society of the United States, changed its name to AXA Equitable Life Insurance Company. Effective November 7, 2007 AXA Financial Services, LLC changed its name to AXA Equitable Financial Services, LLC.

The Company is licensed to do business in all fifty states, the District of Columbia and Puerto Rico.

According to the Schedule T of their 2016 annual statement for the State of Delaware, AXA Equitable Life Insurance Company reported life insurance premium considerations in the amount of \$33,864,135, and annuity premium considerations in the amount of \$36,405,535.

Internal Audit

The Company provided a list of all internal audits conducted within the last three (3) years. Internal audits include those audits completed by an internal audit function within the company or those conducted via a contracted vendor on behalf of the company. A review of 15 different audit reports covering underwriting and claim operations and functions reveal no irregularities.

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Antifraud and Special Investigations Units (SIU)

Antifraud procedures and annual reports were submitted by the Company for review. Interviews were conducted with chief Anti-Fraud and Special Investigation Unit personnel. The reviews and interview provided the examiner a more in-depth look at how the Company handles investigations.

A comparison was made between what the Company has reported to the National Insurance Crime Bureau (NICB) and what the Delaware DOI has on file.

The Company was asked to submit a listing of closed SIU cases that had been referred to their fraud unit for further review. This list was compared to reported cases received by the DOI from the NICB.

No inconsistencies or exceptions were noted.

**COMPLAINTS HANDLING**

The Company provided a list of thirty-nine (39) consumer complaints received during the experience period of January 1, 2014 through December 31, 2016. Of the thirty-nine (39) complaints, three (3) were forwarded from the Delaware Department of Insurance. All thirty-nine (39) complaint files were requested, received and reviewed. The Company also provided the complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company was compared to the Company's complaint log.

The complaint files and complaint logs were reviewed for compliance with the Delaware statutes and regulations including, but not limited to, 18 Del. Admin. Code §2304 (17) and 18 Del. Admin. Code §2304(26).

No exceptions were noted.

**MARKETING AND SALES**

The Company provided a list of 9,766 pieces of advertising utilized during the exam period. The advertising consisted of: Letters, Direct Mailers, Brochures, Presentations, Radio and Television Scripts, Cards, Illustrations, Product Guides, Product Manuals and the Company's web page. A sample of 51 pieces of advertising was requested, received and reviewed. The 51 advertising materials and the Company's web site, <https://us.axa.com/home.html>, were reviewed to ascertain compliance with 18 Del. C. §2303, Unfair Methods of Competition and Unfair or Deceptive Acts or Practices

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Prohibited and 18 Del. C. §2304, Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined.

No exceptions were noted.

## **PRODUCER LICENSING**

The Company provided a list of 694 wholesale producers and a list of 372 retail producers appointed with the Company in Delaware or authorized to conduct business in Delaware at any time during the examination period of January 1, 2014 through December 31, 2016. A sample of 113 (74 wholesale/39 retail) producers was compared to departmental records of producers to verify compliance with the Delaware licensing and appointment statutes and regulations. No exceptions were noted during the review of the 113 producers, however for examination purposes, producer licensing exceptions have been noted in other sections of the examination. These exceptions are addressed in their respective sections (Section F – Individual Variable Annuity Replacements).

## **POLICYHOLDER SERVICES**

### **A) Individual Cash Value Life Contracts Surrendered**

The Company provided a list of 174 individual cash value life contracts surrendered during the experience period of January 1, 2014 through December 31, 2016. Seventy-nine (79) contract files were requested, received, and reviewed. The files were reviewed to ensure compliance with contract provisions, Delaware surrender laws and regulations, and the proper processing of any cash surrender value payment.

No exceptions were noted.

### **B) Individual Fixed Annuity Contracts Surrendered**

The Company did not have any individual fixed annuity contracts surrendered during the experience period of January 1, 2014 through December 31, 2016.

### **C) Individual Variable Annuity Contracts Surrendered**

The Company provided a list of 1892 individual variable annuity contracts surrendered during the experience period of January 1, 2014 through December 31, 2016. One hundred and five (105) contract files were requested, received, and reviewed. The files were reviewed to ensure compliance with contract provisions, Delaware surrender laws and regulations, and the proper processing of any cash surrender value payment.

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No exceptions were noted.

**UNDERWRITING AND RATING**

**A) Individual Cash Value Life Policies - Issued**

The Company provided a list of 19 individual cash value life insurance policies issued during the examination period of January 1, 2014 through December 31, 2016. All 19 policy files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware underwriting and issuance statutes and regulations.

No exceptions were noted:

**B) Individual Cash Value Life Policies – Replacements**

The Company provided a list of 3 individual cash value life policies issued as replacements during the examination period of January 1, 2014 through December 31, 2016. All 3 policy files were requested, received and reviewed to determine compliance with the Delaware issuance, underwriting, and replacement statutes and regulations.

No exceptions were noted.

**C) Individual Fixed Annuities - New**

The Company did not have any individual fixed annuity contracts issued as new during the experience period of January 1, 2014 through December 31, 2016.

**D) Individual Fixed Annuities - Replacements**

The Company did not have any individual fixed annuity contracts issued as replacements during the experience period of January 1, 2014 through December 31, 2016.

**E) Individual Variable Annuities - New**

The Company identified a universe of 1100 individual variable annuity contracts issued as new during the experience period of January 1, 2014 through December 31, 2016. A random sample of 113 annuity contract files were requested, received, and reviewed. The files were reviewed to determine compliance with the Delaware issuance and replacement statutes and regulations.

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No exceptions were noted.

**F) Individual Variable Annuities - Replacements**

The Company provided a list of 120 annuity contracts issued as replacements during the examination period of January 1, 2014 through December 31, 2016. A random sample of 50 annuity contract files were requested, received and reviewed to determine compliance with the Delaware underwriting, issuance and replacement statutes and regulations.

The following exceptions were noted:

**1 Exception – 18 Del. Admin. Code 1204 §5.1**

*Each agent or broker who initiates the application shall, on the request of the prospective purchaser, furnish the Buyers Guide as described by Regulation 29 and shall submit to the insurer to which an application for life insurance or annuity is presented, with or as a part of each application:*

*5.1.2 a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.*

The Company accepted a replacement notice where the producer signature was missing.

*Recommendation: It is recommended the Company ensure that the producer signature appears on the replacement notice in accordance with 18 Del. Admin. Code 1204 §5.1.2*

**5 Exceptions - 18 Del. Admin. Code 1204 §5.2**

*Where replacement is involved, the agent or broker shall:*

*5.2.1 Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" (Delaware Insurance Form R, attached as Exhibit A), or other substantially similar form approved by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and a copy left with the applicant.*

The producer signed the replacement form after the application was taken.

*Recommendation: It is recommended the Company ensure the producer sign the replacement form at the time of application accordance with 18 Del. Admin. Code 1204 §5.2*

**5 Exceptions - 18 Del. Admin. Code 1204 §7.1.2.2 Duties of Insurers That Use Agents or Brokers**

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*Each insurer that uses an agent of broker in a life insurance or annuity sale shall:  
Where a replacement is involved:*

*Send to each existing insurer a written communication advising of the replacement or proposed replacement of the policy. The communication should include the information obtained pursuant to section 7.1.2.1 above and a Summary or Ledger Statement describing the proposed new policy. This written communication shall be made within 7 working days of the date the application is received in the replacing insurer's home office, or the date the proposed life insurance policy or annuity Policy is issued, whichever is sooner.*

The Company failed to provide the proof of the written communication to the existing insurer of the replacement.

*Recommendation: It is recommended, where a replacement is involved, the Company ensure the proof of written communication to the existing insurer of the replacement in accordance with 18 Del. Admin. Code 1204 §7.1.2.2.*

**1 Exception - 18 Del. C. §1715. Appointments.**

*a) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.*

It was noted that one individual was listed on the application; however, Department records did not identify the individual as being appointed by the Company on the date the application was signed.

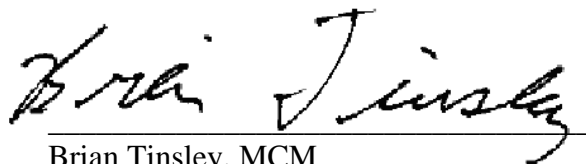
*Recommendation: It is recommended that the Company ensure the producers are appointed pursuant to 18 Del. Admin. Code §1715.*

## **CONCLUSION**

The recommendations made below identify corrective measures the Department finds necessary as a result of the Exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended the Company ensure that the producer signature appears on the replacement notice in accordance with 18 Del. Admin. Code 1204 §5.1 (Underwriting and Rating – Individual Variable Annuities – Replacements)
2. It is recommended the Company ensure the producer sign the replacement form at the time of application accordance with 18 Del. Admin. Code 1204 §5.2 (Underwriting and Rating – Individual Variable Annuities – Replacements)
3. It is recommended, where a replacement is involved, the Company ensure the proof of written communication to the existing insurer of the replacement in accordance with 18 Del. Admin. Code 1204 §7.1.2.2. (Underwriting and Rating – Individual Variable Annuities – Replacements)
4. It is recommended that the Company ensure the producers are appointed pursuant to 18 Del. Admin. Code §1715. (Underwriting and Rating – Individual Variable Annuities – Replacements)

The examination conducted by Shelly Schuman, Joseph Krug, Peter Salvatore and Brian Tinsley is respectfully submitted.



Brian Tinsley, MCM  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance