DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

American Equity Investment Life Insurance Company

NAIC # 92738
Examination Authority #92738-15-750

6000 Westown Parkway
West Des Moines, Iowa 50266-5921

As of

March 31, 2015
I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of March 31, 2015 on American Equity Investment 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.

Trinidad Navarro
Insurance Commissioner
REPORT ON EXAMINATION

OF THE

American Equity Investment Life Insurance Company

AS OF

March 31, 2015

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.

Trinidad Navarro
Insurance Commissioner
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February 1, 2016

Honorable Karen Weldin Stewart CIR-ML
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 92738-15-750 and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

American Equity Investment Life Insurance Company

This re-examination was performed as of March 31, 2015. American Equity Investment Life Insurance Company, hereinafter referred to as the "Company" or as "American Equity," was incorporated under the laws of Iowa. The examination consisted of an off-site phase and 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

American Equity Investment Life Insurance Company (the "Company") incorporated in Iowa on December 28, 1995 and commenced business there on December 29, 1995. The Company’s main administrative offices are located in West Des Moines, IA.

This examination focused on the Company’s annuity business in the following areas of operation: Marketing and Sales, Underwriting, and Policyowner Services. This effort was conducted to ensure compliance with Del. Admin. Code 1204 Replacement of Life Insurance.

The following exceptions were noted in the areas of operation reviewed:

MARKETING AND SALES

10 Exceptions – 18 Del. C. §2712 Filing and Approval of Forms
- For failure to file a Financial Information Report, and other Forms in accordance with Delaware Department of Insurance instructions.

3 Exceptions – 18 Del. C. §2304 Unfair methods of competition and unfair or deceptive acts or practices defined
- For failure to ensure that information provided to consumers is not false, misleading or deceptive by using misleading return information in advertisements.

2 Exceptions – 18 Del. Admin. Code. 1204 §7.1.2.2 Replacement of Life Insurance
- For failure to provide written communication advising of the replacement to the existing insurer as required.

6 Exceptions – 18 Del. Admin. Code. 1204 §5.1.2 Replacement of Life Insurance
- For failure to present a signed statement at the time of application as to whether the agent or broker knows replacement is or may be involved in the transaction.

1 Exception – 18 Del. Admin. Code. 1204 §5.2.1 Replacement of Life Insurance
- For failure to present a “Notice Regarding Replacement” to the applicant not later than at the time of taking the application.
SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §318-322 and covered the experience period of April 30, 2012 through March 31, 2015 unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Delaware insurance laws and regulations related to the annuity market place.

METHODOLOGY

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

The Company identified the universe of files for each segment of the review. Based on the universe sizes identified, all files were 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.

COMPANY HISTORY AND PROFILE

American Equity Investment Life Insurance Company was formed to develop, market, issue and administer annuities and life insurance. The Company was incorporated on December 28, 1995, under the provisions of the Iowa Insurance Code as a stock life insurance company and commenced business on December 29, 1995.

The Company is a wholly-owned subsidiary of American Equity Investment Life Holding Company. They are a full service underwriter of fixed annuity and life insurance products with their business consisting primarily of the sale of fixed index and fixed rate annuities. As of December 31, 2010, the Company was licensed to sell their products in 49 states and the District of Columbia.
MARKETING AND SALES

POLICY FORMS

The Company was requested to provide a list of all annuity contracts issued during the experience period. The Company identified a universe of 260 Annuities issued during the experience period. The data call included a request for form numbers, and of the 260 annuities issued, 10 annuities consisted of contracts with the RG-FIA-09B form number. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with 18 Del. C. §2712, Filing and approval of forms.

The following exceptions were noted:

10 Exceptions – 18 Del. C. §2712. Filing, approval of forms

(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner.

The Company noted in prior communication with the Department of Insurance that based upon a phone call and Securities and Exchange Commission filings that they were exempt from the quarterly Financial Information Report (FIR), a detailed accounting of annuity premium information. The Company continues to object to this finding.

In a letter dated June 5th, 2009, from the Delaware Department of Insurance, the Company was notified that the above-captioned Form (RG-FIA-09) is “approved with the provision that American Equity timely (quarterly) submit a Financial Information Report (FIR). The FIR should include the form number and premiums broken down by form and indexing period, participation rate, cap rate and index spread.” The Delaware Department of Insurance provided the Company with specifics of what data the FIR report should include and indicated the report would be used to monitor and compare the data for new sales and subsequent issues. The Department provided the Company with the calendar quarters when the report was to be sent.

During the course of the examination, the Company did not provide the quarterly FIRs. The Company indicated in a response to a summary of findings that they did not think the reports were required since the product is no longer sold. They provided retrospective reports for the time period products were sold attached to their summary response. The Company argued that there was a phone conversation with the Delaware Department on April 18, 2007 and since, the requested information is already included in quarterly reports filed with the Securities and Exchange Commission and is available to the public. The Company indicated that it was their understanding that the Financial Information
Reports were not required to be filed with the Delaware Department of Insurance.

It appears the Company’s conversation with the Delaware Department was prior to the approval of the RG-FIA-09 form and prior to the request of the Company submitting the quarterly Financial Information Reports as stipulated in the letter dated June 5th, 2009 by the Delaware Department of Insurance. Therefore, the information presented in the 2007 discussion does not support the removal of the reportable items disclosed in the 2009 letter by the Delaware Department of Insurance.

**Recommendation:** It is recommended that the Company comply with all provisions for form filing and approval, as required by Del. C. §2712.

**ADVERTISEMENTS**

The Company provided a list of all Advertising and Marketing Material utilized during the experience period. The Company provided a list of 25 pieces of Company Produced Marketing Materials and 14 pieces of Producer Generated Marketing Materials used during the experience period. The advertising and marketing materials included advertisements, ad slicks, brochures, disclosures, emails informational sheets, videos, postcards, flyers, posters and power point presentations. All of the advertisements were reviewed for compliance with 18 Del. C. §2304. The following exceptions were noted:

3 Exceptions – 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of insurance policies. -- No person shall make, issue, circulate or cause to be made, issued or circulated any estimate, circular, statement, sales presentation, omission or comparison which:

a. Misrepresents the benefits, advantages, conditions or terms of any insurance policy; ...

(2) False information and advertising generally. -- No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.

The index annuity’s return as expressed on the charts within the advertising pieces is for a product that is not available and the comparison may not accurately represent the return
for available annuities. As a result, the chart is misrepresenting the return and misleading to the consumer.

**Recommendation:** The Company shall immediately cease using misleading advertisements in compliance with 18 Del. C. §2304.

**ISSUED ANNUITIES**

The Company identified a universe of 260 annuities issued during the experience period. A sample of 79 annuities was selected for review. The following exceptions were noted:

**2 Exceptions – 18 Del. Admin. Code. 1204 §7.1.2.2 Replacement of Life Insurance**

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

7.1.2 Where a replacement is involved:

7.1.2.2 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 contract is issued, whichever is sooner.

The written notice of replacement was not provided to the existing insurer in the noted files.

**Recommendation:** It is recommended that the Company reviews its procedures to ensure that a written communication advising of the replacement is provided to the existing insurer in compliance with 18 Del. Admin. Code 1204 §7.1.2.2.

**6 Exceptions - 18 Del. Admin. Code 1204 §5.1 Replacement of Life Insurance**

*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 agent’s replacement question was not answered on the application in the noted files.

**Recommendation:** It is recommended that the Company reviews its procedures to ensure that applications are complete in compliance with 18 Del. Admin. Code 1204 §5.1.2.

**1 Exception - 18 Del. Admin. Code 1204 §5.1 Replacement of Life Insurance**
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:

5.2.1 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 applicant was not presented with the notice of replacement at the time of taking the application in the noted file.

**Recommendation:** It is recommended that the Company reviews its procedures to ensure that the applicant is presented with the Notice of Replacement in compliance with 18 Del. Admin. Code 1204 §5.2.1.

**POLICYOWNER SERVICES**

**SURRENDERS**

The Company identified a universe of 135 Annuity contracts surrendered during the experience period. All 135 contract files were reviewed. The surrendered annuities fell into one of four categories: surrenders upon the death of the annuitant, free look period surrenders, internal conversions, and full surrenders. There were no exceptions noted:
CONCLUSION

The recommendations 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 that the Company reviews its procedures to ensure that all forms are filed and approved prior to use in compliance with Del. C. §2712. (Marketing and Sales - Policy Forms)

2. It is recommended that the Company ensures that its procedures enable it to identify and update all marketing and sales documentation to provide clear and accurate information that is current with investment comparisons that are not misleading to the insurance consumer and in compliance with 18 Del. C. §2304. (Marketing and Sales - Advertisements)

3. It is recommended that the Company reviews its procedures to ensure that a copy of the replacement notice is provided to the existing insurer in compliance with 18 Del. Admin. Code 1204 §7.1.2.2. (Marketing and Sales - Issued Annuities)

4. It is recommended that the Company reviews its procedures to ensure that applications are complete in compliance with 18 Del. Admin. Code 1204 §5.1.2. (Marketing and Sales - Issued Annuities)

5. It is recommended that the Company reviews its procedures to ensure that the applicant is presented with the Notice of Replacement in compliance with 18 Del. Admin. Code 1204 §5.2.1. (Marketing and Sales – Issued Annuities)

The examination conducted by Shelly Schuman, Derek Stepp and James Hartsfield is respectfully submitted.

Derek R. Stepp, CIE, MCM
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance