

# **FINANCIAL SERVICES COMMISSION**

**OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS**

**TARGET MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**AXA EQUITABLE LIFE INSURANCE COMPANY**

**AS OF**

**August 11, 2006**

**NAIC COMPANY CODE: 62944**

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## **PURPOSE AND SCOPE OF EXAMINATION**

Under authorization of the Financial Services Commission, Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of AXA Equitable Life Insurance Company (Company) was performed by Examination Resources, LLC. The scope of this examination was July 1, 2004 through June 30, 2005; however, the complaint review was expanded to March 1, 2006. The examination began August 7, 2006 and ended August 11, 2006.

The purpose of this examination was to verify the Company's compliance with suitability determination requirements in marketing annuities to senior consumers, persons 65 years of age and older, as required by Section 627.4554, Florida Statutes. The examination included the following procedures:

- Verify the documents utilized by the Company or its agents to determine suitability comply with Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.
- Review the Company's system to supervise recommendations to determine its compliance with Section 627.4554(4)(d), Florida Statutes.
- Verify the Company maintains or makes available records of information collected from the senior consumer in compliance with Section 627.4554(6)(a), Florida Statutes.
- Review a sample of 50 files for policies sold to senior consumers during the exam period to verify the Company is complying with the suitability determination process required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company. Procedures and conduct of the examination were in accordance with the Market Regulation Handbook produced by the National Association of Insurance Commissioners.

## **COMPANY OPERATIONS**

AXA Equitable Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on September 16, 1916. The Company provides life insurance and annuities in the State of Florida.

Total Direct Premiums Written in Florida for annuities was as follows:

Year	Total Written Annuity Premium In Florida (Per Schedule T of the Annual Statement)
2004	\$845,666,748
2005	\$979,117,358

The number of annuities sold by the Company during the period of July 1, 2004 through June 30, 2005 is shown in the following table:

	Number of Fixed Annuities	% of Fixed Annuities	Number of Variable Annuities	% of Variable Annuities	Totals
Senior Consumers	320	72%	1,973	29%	2,293
Other Consumers	122	28%	4,899	71%	5,021
Totals	442	100%	6,872	100%	7,314

## **SUITABILITY DETERMINATION PROCESS REVIEW**

### **Supervisory System of Annuity Recommendations**

The Company uses 2 distribution channels, wholesale and retail, through which all policies are marketed. Both fixed and variable annuities are sold in Florida through each channel. Agents, managing general agents, and the Company's affiliate, AXA Advisors, make up the retail distribution channel, and third party broker-dealers make up the wholesale channel.

With regard to the retail channel, the Company provides its agents with a Senior Annuity Suitability Questionnaire (Questionnaire) for use when selling fixed annuities. This Questionnaire is used for obtaining all of the necessary information for determining whether to make a suitability recommendation, as required by Sections 627.4554(4)(a) and (b), Florida Statutes. The Company internally performs the supervisory review of all annuity recommendations made by its agents, by utilizing a web-based Suitability Review System (SRS). This system identifies any applications that do not meet certain predetermined suitability criteria. The SRS is administered jointly by the Company's Annuity Service Center, and its affiliated broker-dealer AXA Advisors, LLC. The field supervisor and his agent, under the direction and guidance of AXA Advisors, LLC, reevaluate any referred applications.

Additionally, the Company has a Customer Relations Office within the Law Department, whose duties include the analysis of complaints, including those that are suitability related, to identify root causes and process improvements that may prevent similar future complaints.

The Company's wholesale channel is comprised of third party broker-dealers. These third parties have contracts with the Company requiring them to be in compliance with all suitability related requirements. Sales agents offer to determine suitability at the time of sale, and their suitability documentation is evaluated by their broker-dealer firm. Only applications with a favorable suitability determination are submitted to the Company. There is no requirement for suitability documentation to be submitted to the Company with the policy application. The Company delegates the responsibility to maintain a system of supervision over the annuity recommendation process to its third parties. For 2005, the Company obtained approximately 50% of signed certifications of the approximately 350 third parties nationwide. The Company could not produce exact certification statistics nor does it have statistics for just the state of Florida.

The Company's supervisory system appears to comply with the requirements of Section 627.4554(4)(d), Florida Statutes. No violations were noted.

### Policy Review

A sample of 50 files for policies sold to senior consumers during the scope period was reviewed to determine that the Company was complying with the suitability determination requirements of Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes. However, due to the number of noted exceptions, the sample size was increased to 100 files. The findings are as follows:

- 35 files for policies sold to senior consumers did not include evidence that the agent had made reasonable efforts to obtain suitability related information from the senior consumer at the time of the sale as required by Sections 627.4554(4)(a) and (b), and 627.4554(8), Florida Statutes.

**Corrective Action:** The Company should ensure its records provide evidence that a reasonable effort was made to obtain suitability related information from the senior consumer at the time of the sale.

### COMPLAINT ANALYSIS

There were 3 complaints requested for review. The Department of Financial Services, Division of Consumer Services (DFS) received 1 complaint and 2 complaints were filed directly with the Company. All complaints filed with DFS were included in the Company's complaint register. No violations were noted.

### REPORT SUMMARIZATION

A review was conducted of the Company's supervisory system over annuity suitability recommendations, in addition to a sample of 103 files. Thirty-five (35) errors were found. The following represents general findings, however, specific details are found in each section of the report.

#### Sample Files Reviewed – 103 Files

- Policies – 100 files
- Suitability Related Complaints – 3 files

#### Findings

- Supervisory System of Annuity Recommendations – 0 errors – page 2 of the report
- Policy Review – 35 errors – page 3 of the report
  - Failure to provide evidence that a reasonable effort was made to obtain the suitability related information from the senior consumer at the time of the sale.
- Complaint Review – 0 errors – page 3 of the report

## **EXAMINATION FINAL REPORT**

The Office hereby issues this report as the Final Report, which is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.