

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF

MONY LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2001

DATE OF REPORT:

OCTOBER 14, 2002

EXAMINER:

VINCENT TARGIA

REPORT ON ASSOCIATION EXAMINATION

OF

MONY LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2001

BY THE INSURANCE DEPARTMENTS OF

NEW YORK

MISSISSIPPI

NEVADA

REPORT DATED:

OCTOBER 14, 2002

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

October 14, 2002

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21802, dated November 27, 2001 and annexed hereto, an examination has been made into the condition and affairs of MONY Life Insurance Company, hereinafter referred to as "the Company" or "MONY," at its home office located at 1740 Broadway, New York, New York 10019.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

October 14, 2002

Honorable Gregory V. Serio
Superintendent of Insurance
State of New York
Albany, New York 12257

Honorable Merwin Stewart
Commissioner of Insurance
State of Utah
Secretary of Western Zone
Salt Lake City, Utah

Honorable Alfred W. Gross
Commissioner of Insurance
State of Virginia
Secretary, Southeastern Zone
Richmond, Virginia

Dear Sirs:

In accordance with instructions and pursuant to the provisions of statute, we have made an examination into the affairs and condition of MONY Life Insurance Company, hereinafter referred to as "the Company" or "MONY," at its home office located at 1740 Broadway, New York, New York 10019.

The examination was conducted by the State of New York Insurance Department, hereinafter referred to as the "Department," with participation from the states of Nevada representing the Western Zone and Mississippi representing the Southeastern Zone of the National Association of Insurance Commissioners ("NAIC").

The report on examination is herewith respectfully submitted.

1. EXECUTIVE SUMMARY

On December 30, 1997, the Company completed the sale of \$115 million of 15-year surplus notes, which were later repurchased and replaced in 2000. (See item 3A of this report)

On November 16, 1998, the Company converted from a mutual life insurance company to a domestic stock life insurance company and became a wholly owned subsidiary of The MONY Group Inc., a Delaware corporation organized for the purpose of becoming the parent holding company of MONY. (See item 3A of this report)

The examiner's review of a sample of transactions did not reveal any differences that materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2001 filed annual statement. (See item 5 of this report)

The Company violated Section 91.4(a)(2) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the actual bases of allocation to annual statement lines of business and to companies in its holding company system. (See item 4 of this report)

The Company violated Section 219.5(a) of Department Regulation No. 34-A by not maintaining a complete advertising file. (See item 6A of this report)

The Company violated various Sections of Department Regulation No. 60 concerning the replacement of life insurance policies. An internal review of replacements by the Company revealed that the Disclosure Statement, required by Regulation No. 60, was not provided in a timely manner in a number of instances. The Department and the Company have agreed on remediation plans for policyholders and contractholders in these instances. (See item 6A of this report)

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on matured policies. (See item 6C of this report)

The Company violated Section 4232(a)(2) and Section 4232(b)(4) of the New York Insurance Law by crediting additional amounts on annuity contracts and life insurance products without written criteria approved by the board of directors or a committee thereof. (See item 6C of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1996. This examination covers the period from January 1, 1997 through December 31, 2001. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2001 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2001 to determine whether the Company's 2001 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to violations contained in the prior report on examination. The results of the examiner's review are contained in item 10 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a mutual insurance company under a special act of the New York State Legislature on April 12, 1842, and commenced business on February 1, 1843, under the name Mutual Life Insurance Company of New York. On April 1, 1952, the Company began to issue personal accident and health insurance. In 1953, the Company entered the group insurance business by offering a plan known as “module insurance,” which provided for various combinations of life insurance, accident and health insurance and retirement income in a single package to small employee groups. In 1989, the Company exited the group employer life and accident and health insurance business. In 1990, the Company stopped writing group association life and accident and health insurance business.

On December 31, 1993, the Company entered into an agreement with AEGON USA, Inc. under which the Company agreed to transfer substantially all of its group pension business and operations, including its full service group pension contracts, to AEGON USA, Inc.’s wholly owned subsidiary, AUSA Life Insurance Company, Inc.

On December 30, 1997, the Company completed the sale of \$115 million, 9.5%, 15-year surplus notes. The notes generated net cash proceeds of \$115 million and increased the Company’s surplus by a corresponding amount.

On November 16, 1998, pursuant to an order issued by the New York Superintendent of Insurance approving a Plan of Reorganization (“The Plan”) under Section 7312 of the New York Insurance Law, as amended, the Company converted from a mutual life insurance company to a domestic stock life insurance company and became a wholly owned subsidiary of The MONY Group Inc. (“The MONY Group”), a Delaware corporation organized for the purpose of becoming the parent holding company of MONY. Also on November 16, 1998, The MONY Group consummated an initial public offering of approximately 12.9 million shares of its common stock at \$23.50 per share.

Under The Plan, The MONY Group, in exchange for its policyholder membership interests in the Mutual Life Insurance Company of New York, issued approximately 34.4 million shares of common stock, accrued or paid \$20.6 million in cash, and credited \$13.3 million in

policy credits to its policyholders. Unassigned surplus of \$610.7 million was transferred to paid in surplus in conjunction with the issuance of common stock to policyholders.

Effective November 16, 1998, the Company changed its name to MONY Life Insurance Company.

On March 8, 2000, The MONY Group issued \$300 million of senior notes (the “Senior Notes”). The Senior Notes mature on March 15, 2010 and bear interest at 8.35% per annum. The principal amount of the Senior Notes is payable at maturity and interest is payable semi-annually. The net proceeds from the issuance of the Senior Notes, after deducting underwriting commissions and other expenses, was approximately \$296.6 million. The net proceeds were primarily used by The MONY Group to finance the repurchase of the Company’s \$115 million surplus notes issued in 1997, and \$116.5 million of its \$125 million 11.25% coupon surplus notes, which were issued on August 15, 1994 and outstanding at December 31, 1999. On the same date, The MONY Group, purchased two 8.65% surplus notes for \$115 million and \$100 million from the Company to replace the 9.5% notes and the 11.25% notes and contributed capital to the Company in the amount of \$65 million.

The \$115 million and \$100 million inter-company surplus notes mature on December 12, 2012 and August 15, 2024, respectively and both pay interest to The MONY Group semiannually on March 15th and September 15th. Each accrual and payment of interest on the inter-company surplus notes may be made only with the prior approval of the Superintendent under the provisions of Section 1307 of the New York Insurance Law.

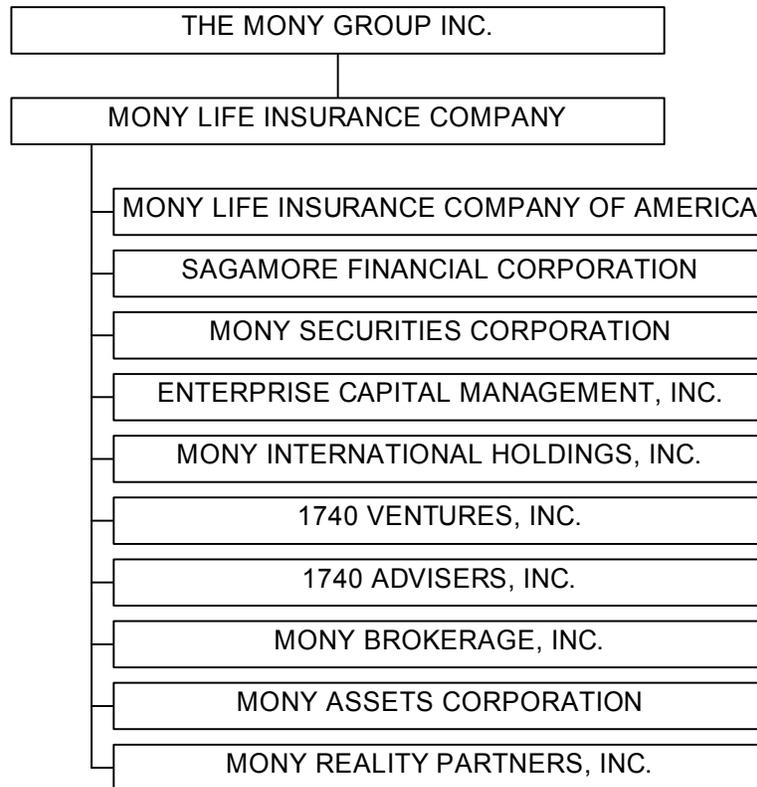
In the third quarter of 2000, the Company repurchased another \$6.5 million of the 11.25% notes, leaving \$2 million of the 11.25% notes outstanding at December 31, 2000.

The Company paid dividends to The MONY Group of \$115 million in 2001 and \$100 million in 2000.

B. Holding Company

The Company is a wholly owned subsidiary of The MONY Group, a Delaware corporation, organized for the purpose of being the ultimate parent of the Company.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2001 follows:



MONY has one direct wholly owned life insurance subsidiary and nine direct wholly owned non-life insurance subsidiaries. The financial information for each subsidiary listed below was extracted from various sources, including audited and unaudited financial statements.

In December of 1981, MONY acquired Consumers National Life Insurance Company, an Arizona domiciled stock insurance company, for \$8,500,000 and changed its name to MONY Life Insurance Company of America (“MLOA”). MLOA is licensed in the District of Columbia, Puerto Rico and the Virgin Islands and all states except New York. MLOA writes non-participating individual and group interest sensitive insurance products and individual term life insurance. As of December 31, 2001, MLOA had assets of \$5,237,592,839 and stockholder’s equity of \$189,431,448.

Sagamore Financial Corp. (“Sagamore”), is the parent company of U.S. Financial Life Insurance Company (“USFL”). Sagamore was acquired by MONY on December 31, 1998 and

operates as a holding company. Sagamore's principal operating subsidiary, USFL, is an Ohio domiciled insurer, underwriting specialty risk term and universal life insurance products. As of December 31, 2001 Sagamore had assets of \$311,196,530 and stockholder's equity of \$66,608,041.

MONY Securities Corporation is a National Association of Securities Dealers ("NASD") licensed security broker-dealer for a wide range of equity based products, including: 1) mutual funds; 2) limited partnership interests in real estate; 3) oil and gas equipment leasing; 4) tax exempt unit investment trusts; and 5) discount brokerage services. MONY Securities Corporation's products are distributed through NASD registered representatives of the Company's field force. As of December 31, 2001, MONY Securities Corporation had assets of \$12,879,236 and stockholders equity of \$7,150,930.

Enterprise Capital Management, Inc. ("ECM") is the registered investment advisor of: 1) The Enterprise Group of Funds, Inc., a family of retail mutual funds sponsored by the Company; and 2) Enterprise Accumulation Trust, five funds available through MONY's and MLOA's variable life and variable annuity Separate Accounts products. As of December 31, 1996, ECM had assets of \$88,057,884 and stockholders equity of \$58,267,791.

MONY International Holdings, Inc. ("MIH") was formed to organize and control the Company's international marketing operations consisting of life insurance, annuities, mutual funds, and banking and trust businesses. MIH owns four wholly owned subsidiaries, MONY Life Insurance Company of the Americas, Ltd., MONY Bank and Trust Company of the Americas, Ltd., MONY International Life Insurance Co. Seguros de Vida S.A., and MONY Consultoria Corretagem de Seguros Ltda. As of December 31, 2001, MIH had assets of \$(4,063,453) and a stockholders deficit of \$(4,334,738).

1740 Ventures, Inc. ("Ventures") was formed for the purpose of participating in real estate joint ventures and is currently an inactive subsidiary of MONY. As of December 31, 2001, Ventures had assets of \$1,000 and stockholder equity of \$1,000.

1740 Advisers, Inc. ("Advisers") is registered as an investment adviser under the Investment Advisers Act of 1940, and is registered in five states; California, Florida, Nevada, New York and Tennessee. As of December 31, 2001, Advisers had assets of \$4,559,020 and stockholder equity of \$3,327,251.

MONY Brokerage, Inc. ("MBI") is a full service insurance brokerage firm that provides the Company's field force with access to life, annuity, small group health, and specialty products written by other insurance companies. MBI is licensed as an insurance broker in Delaware. As of December 31, 2001, MBI had assets of \$1,245,250 and stockholder equity of \$188,776.

MONY Assets Corp. ("MAC"), formerly MONY Credit Corporation, a holding company, has as its principal operating subsidiary, MONY Benefits Management Corp. ("MBMC"), formerly known as MONY Funding, Inc. MBMC borrows funds guaranteed by MONY and reinvests the proceeds at a profit utilizing matched maturities. As of December 31, 2001, MAC had assets of \$43,309,357 and stockholder's equity of \$41,157,692.

MONY Realty Partners, Inc. ("MRP"), was incorporated under the laws of the state of Delaware for the purpose of acting as a general partner offering real estate syndication and other types of real estate investments and the servicing of mortgage loans and providing partnership accounting services. As of December 31, 2001, MRP had assets of \$20,778,801 and stockholder's equity of \$20,280,614.

The Company had 17 service agreements in effect as December 31, 2001. Twelve of the service agreements provide that the Company furnish personnel services, facilities, supplies and equipment as shall reasonably be necessary to conduct the business of its subsidiaries. Four of the service agreements provide for advice in regard to the investment and management of the invested assets owned by the Company. One service agreement provides for the investment and management of a subsidiary's assets.

The Company has a federal tax allocation agreement in effect with its ultimate parent, The MONY Group.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 18 directors. Directors are elected for a period of three years at the annual meeting of the stockholders held in June of each year. As of December 31, 2001, the board of directors consisted of 13 members. Meetings of the board are held monthly, unless the board directs otherwise.

The 13 board members and their principal business affiliation, as of December 31, 2001, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Tom Barrett* Akron, Ohio	Former Chairman and Chief Executive Officer The Goodyear Tire & Rubber Company	1990
David Call* Ithaca, NY	Ronald P. Lynch Dean Emeritus Cornell University College of Agriculture and Life Sciences	1993
G. Robert Durham* St. Louis, MO	Retired Chairman and Chief Executive Officer Walter Industries, Inc.	1988
James Farley Delray Beach, FL	Retired Chairman and Chief Executive Officer MONY Life Insurance Company	1988
Samuel Foti Greenwich, CT	President and Chief Operating Officer MONY Life Insurance Company	1993
Robert Holland, Jr.* White Plains, NY	Business Consultant	1990
James Johnson* Irving, TX	Chairman of the Board CellStar Corporation Chairman Emeritus GTE Corporation	1986
Frederick Kanner* Summit, NJ	Partner Dewey Ballantine LLP	2000
Robert Kiley* London, England	Commissioner of Transport Transport for London	1995
Kenneth Levine River Vale, NJ	Executive Vice President and Chief Investment Officer MONY Life Insurance Company	1994
Jane Pfeiffer* Vero Beach, FL	Management Consultant	1988
Michael Roth Stanford, CT	Chairman and Chief Executive Officer MONY Life Insurance Company	1991

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Thomas Theobald* Chicago, IL	Managing Director William Blair Capital Partners, L.L.C.	1990

* Not affiliated with the Company or any other company in the holding company system

David M. Thomas was elected to the board in March 2002. The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2001:

<u>Name</u>	<u>Title</u>
Michael Roth	Chairman and Chief Executive Officer
Samuel Foti	President and Chief Operating Officer
Richard Daddario	Executive Vice President and Chief Financial Officer
Kenneth Levine	Executive Vice President and Chief Investment Officer
Richard Connors	Senior Vice President
Phillip Eisenberg	Senior Vice President and Chief Actuary
Bart Schwartz	Senior Vice President and General Counsel
Victor Ugolyn	Senior Vice President
Charles Leone	Vice President and Chief Corporate Compliance Officer
Lee Smith	Corporate Secretary and Vice President of Government Relations

William Haviland, Director of Corporate Compliance, has been designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

In January 2002, Michael Slipowitz replaced Phillip Eisenberg as Senior Vice President and Chief Actuary and Frederick C. Tedeschi replaced Charles Leone as Vice President and Chief Corporate Compliance Officer.

In addition, Steven George Orluck was elected Executive Vice President, Ernest P. Rogers was elected Senior Vice President and Chief Information Officer, and Kimberly G. Windrow and Evelyn L. Peos were elected Senior Vice Presidents.

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all 50 states, the District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands and Canada. In 2001, 18.4% of life premiums, 9.2% of accident and health premiums, 91.2% of annuity considerations and all deposit type funds were received from New York. Policies are written on both a participating and nonparticipating basis.

The Company's core businesses are individual life, individual annuities, variable life and annuities, and mutual funds and investment securities sold through its subsidiaries. The Company's key markets are higher income individuals, particularly family builders, pre-retirees, and small business owners. The Company and its subsidiaries distribute their products primarily through MONY's career agency field force.

As of December 31, 1997, MONY ceased writing and reinsured all of its in force disability income policies with a Zurich Group subsidiary, Centre Life Reinsurance Limited.

E. Reinsurance

As of December 31, 2001, the Company had reinsurance treaties in effect with 24 companies, of which 20 were authorized or accredited. The Company's individual life and individual and group accident and health insurance are ceded on a coinsurance, modified-coinsurance, and/or yearly renewable term basis. Reinsurance is provided on an automatic and/or facultative basis.

The maximum retention limit for individual life contracts is \$4 million for ordinary life plans and \$6 million for last survivor policies. The total face amount of life insurance ceded, as of December 31, 2001, was \$4,822,225,744, which represents 8.4% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies totaling \$356,148,819 was supported by letters of credit and trust agreements.

The total face amount of life insurance assumed, as of December 31, 2001, was \$9,295,244,808, which is mainly attributable (84.3%) to Servicemen's Group Life Insurance ("SGLI").

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth during the period under review:

	December 31, <u>1996</u>	December 31, <u>2001</u>	Increase (Decrease)
Admitted assets	\$ <u>11,519,773,416</u>	\$ <u>11,536,216,499</u>	\$ <u>16,443,083</u>
Liabilities	\$ <u>10,816,274,376</u>	\$ <u>10,618,853,665</u>	\$(<u>197,420,711</u>)
Common capital stock	\$ 0	\$ 2,500,000	\$ 2,500,000
Surplus notes	72,317,500	216,090,548	143,773,048
Gross paid in and contributed surplus	0	895,128,783	895,128,783
Reserve for aviation insurance	25,000,000	25,000,000	0
Group contingency life reserve	1,400,000	900,000	(500,000)
Contingency reserve for Separate Account	750,000	0	(750,000)
Unassigned funds (surplus)	<u>604,031,540</u>	<u>(222,256,497)</u>	<u>(826,288,037)</u>
Total capital and surplus	\$ <u>703,499,040</u>	\$ <u>917,362,834</u>	\$ <u>213,863,794</u>
Total liabilities, capital and surplus	\$ <u>11,519,773,416</u>	\$ <u>11,536,216,499</u>	\$ <u>16,443,083</u>

The change in the amount of surplus notes, gross paid in and contributed surplus and unassigned funds for the period under examination is a result of the Company's Plan of Reorganization. (See item 3A of this report)

The Company's invested assets as of December 31, 2001, exclusive of Separate Accounts, were mainly comprised of bonds (57.9%), mortgage loans (18.6%) and policy loans (12.3%).

The Company's percentage of invested assets in real estate decreased from 10.7% in 1997 to 1.1% in 2001. This was offset by increases in the percentages of invested assets in bonds (49.6% in 1997, 57.9% in 2001) and mortgage loans (15.2% in 1997, 18.6% in 2001) during the same period. This was a result of the Company's real estate divestiture program designed to reposition its balance sheet and support future growth. The majority (91.9%) of the

Company's bond portfolio, as of December 31, 2001, was comprised of investment grade obligations.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Ordinary:					
Life insurance	\$111,746,584	\$115,058,007	\$226,034,897	\$324,475,096	\$103,027,505
Individual annuities	1,465,681	3,826,679	(2,085,913)	(7,359,845)	(5,227,043)
Supplementary contracts	<u>1,964,268</u>	<u>1,359,277</u>	<u>6,046,963</u>	<u>7,739,183</u>	<u>(547,402)</u>
Total ordinary	<u>\$115,176,533</u>	<u>\$120,243,963</u>	<u>\$229,995,947</u>	<u>\$324,854,434</u>	<u>\$ 97,253,060</u>
Group:					
Life	\$1,607,733	\$855,988	\$ 5,214,439	\$ 7,967,159	\$ 2,087,329
Annuities	<u>(19,412,539)</u>	<u>(16,773,115)</u>	<u>1,967,773</u>	<u>120,123</u>	<u>(2,291,004)</u>
Total group	<u>\$(17,804,806)</u>	<u>\$(15,917,127)</u>	<u>\$ 7,182,212</u>	<u>\$ 8,087,282</u>	<u>\$ (203,675)</u>
Accident and health:					
Group	\$ 3,010,369	\$ (10,754)	\$ 2,886,476	\$ 8,277,770	\$ 3,693,220
Other	<u>(17,851,374)</u>	<u>(10,107,717)</u>	<u>14,072,508</u>	<u>4,688,276</u>	<u>1,531,408</u>
Total accident and health	<u>\$(14,841,005)</u>	<u>\$(10,118,471)</u>	<u>\$ 16,958,984</u>	<u>\$ 12,966,046</u>	<u>\$ 5,224,628</u>
All other lines	<u>\$ 689,681</u>	<u>\$ 563,777</u>	<u>\$ 1,438,941</u>	<u>\$ 897,491</u>	<u>\$ 176,852</u>
Total	<u>\$ 83,220,403</u>	<u>\$ 94,772,142</u>	<u>\$255,576,084</u>	<u>\$346,805,253</u>	<u>\$102,450,865</u>

The overall fluctuation in the Company's net gain (loss) from operations during the years 1999, 2000 and 2001 is due to the fluctuation in income from joint venture capital limited partnerships. There was a significant increase in joint venture capital limited partnership income during 1999 and 2000. Conversely, there was a large decrease in income from investments in venture capital limited partnerships during 2001.

The losses reported for individual annuities from 1999 through 2001 are attributable to decreases in net investment income and increases in surrenders and withdrawals.

The losses in the group annuity line during 1997 and 1998 were attributable to the line having a large deficit that impacted net investment income for the line. The deficit was funded by interline borrowing at long term interest rates, producing the ongoing losses in the line. In 1998, the Company wrote off this debt, pursuant to correspondence with the Department, thus realizing modest gains during 1999 and 2000. The large loss in 2001 was the result of an increased allocation of federal income taxes.

The losses in the accident and health line during 1997 and 1998 were also attributable to the line having accumulated a large deficit. The line did not have sufficient assets to support its liabilities, which produced ongoing losses for the line. In 1998, the Company wrote off the deficit, pursuant to correspondence with the Department. The significant gain from operations in 1999 was primarily due to the recording of \$13.8 million in allowances on reinsurance ceded from the amortization of gains from a reinsurance contract.

Section 91.4(a)(2) of Department Regulation No. 33 states, in part:

“Each life insurer shall maintain records with sufficient detail to show fully:

- (i) the system actually used for allocation of income and expenses;
- (ii) the actual bases of allocation;
- (iii) the actual monetary distribution of the respective items of income, salaries, wages, expenses, and taxes to . . .
 - (c) annual statement lines of business,
 - (d) companies . . .

(3) such records shall be classified and indexed in such form as to permit ready identification between the item allocated and the basis upon which it was allocated, and shall be maintained in such a manner as to be readily accessible for examination. These records shall bear a date and shall identify the person responsible for the preparation thereof . . .

(5) Allocations of income and expenses between companies shall be treated in the same manner as if made for major annual statement lines of business.”

The review of the Company’s documentation for allocating expenses to annual statement lines of business and to companies in its holding company system revealed that the Company did

not maintain the underlying statistical source documentation to show fully the actual basis for the allocation.

The Company violated Section 91.4(a)(2) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the actual bases of allocation to annual statement lines of business and to companies in its holding company system.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2001, as contained in the Company's 2001 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences that materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2001 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS AS OF DECEMBER 31, 2001

Admitted Assets

Bonds	\$ 5,415,003,149
Stocks:	
Preferred stocks	30,600,000
Common stocks	386,157,463
Mortgage loans - First liens	1,740,051,331
Real estate:	
Properties held for the production of income	66,941,966
Properties held for sale	38,622,383
Policy loans	1,152,566,628
Cash and short term investments	128,608,677
Other invested assets	387,899,257
Receivable for securities	6,091,542
Reinsurance ceded:	
Amounts recoverable from reinsurers	2,039,863
Commissions and expense allowances due	26,869,545
Experience rating and other refunds due	290,375
Other amounts receivable under reinsurance contracts	1,339,637
Electronic data processing equipment and software	5,459,203
Guaranty funds receivable or on deposit	3,700,000
Life insurance premiums and annuity considerations	
deferred and uncollected on in force business	136,936,714
Accident and health premiums due and unpaid	804,503
Investment income due and accrued	167,746,912
Receivable from parent, subsidiaries and affiliates	77,006,485
Officers and Trustees' life insurance – cash value	169,917,175
From Separate Accounts statement	<u>1,591,563,691</u>
 Total admitted assets	 <u>\$11,536,216,499</u>

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$ 7,400,579,144
Aggregate reserve for accident and health policies	16,685,750
Liability for deposit-type contracts	495,121,209
Policy and contract claims:	
Life	54,500,431
Accident and health	1,632,168
Policyholders' dividends and coupons due and unpaid	2,923,220
Provision for policyholders' dividends and coupons payable in following calendar year - estimated amounts: Dividends apportioned for payment	195,033,101
Premiums and annuity considerations for life and accident and health policies and contracts received in advance	12,230,053
Policy and contract liabilities:	
Surrender values on canceled policies	127,574
Interest maintenance reserve	13,623,130
Commissions to agents due or accrued	3,340,919
Commissions and expense allowances payable on reinsurance assumed	215,870
General expenses due or accrued	89,433,113
Transfers to Separate Accounts due or accrued	(19,132,835)
Taxes, licenses and fees due or accrued	12,775,026
Federal and foreign income taxes	129,686,867
Unearned investment income	4,821,226
Amounts withheld or retained by company as agent or trustee	55,437,696
Remittances and items not allocated	21,079,373
Net adjustment in assets and liabilities due to foreign exchange rates	553,932
Liability for benefits for employees and agents	184,505,605
Miscellaneous liabilities:	
Asset valuation reserve	176,973,096
Reinsurance in unauthorized companies	1,297,482
Payable to parent, subsidiaries and affiliates	22,939,301
Drafts outstanding	(246,095)
Funds held under coinsurance	75,366,579
Payable for securities	19,117,074
Reserve for loss settlements	44,405,727
Reserve for contingencies	10,718,459
Reinsurance pool liabilities	2,242,577
Outstanding drafts pending escheatment	1,818,259
Deferred income items	155,920
Miscellaneous	177,649
From Separate Accounts statement	<u>1,588,715,065</u>
 Total liabilities	 <u>\$10,618,853,665</u>
 Common capital stock	 \$ 2,500,000
Surplus notes	216,090,548
Gross paid in and contributed surplus	895,128,783
Reserve for aviation insurance	25,000,000
Group contingency life reserve	900,000
Unassigned funds (surplus)	<u>(222,256,497)</u>
 Total capital, surplus and other funds	 <u>\$ 917,362,834</u>
 Total liabilities, capital, surplus and other funds	 <u>\$11,536,216,499</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Premiums and considerations	\$ 789,888,363	\$ 706,196,610	\$ 700,349,789	\$ 680,179,422	\$ 787,135,124
Investment income	644,351,648	638,145,325	734,668,271	859,017,876	624,334,620
Net gain from operations from Separate Accounts	373,572	343,068	303,789	309,071	138,878
Commissions and reserve adjustments on reinsurance ceded	(259,481,009)	(80,146,711)	(12,906,836)	63,185,368	24,737,647
Miscellaneous income	<u>451,128,513</u>	<u>488,991,686</u>	<u>436,239,390</u>	<u>677,849,837</u>	<u>(18,001,569)</u>
Total income	<u>\$1,626,261,087</u>	<u>\$1,753,529,978</u>	<u>\$1,858,654,403</u>	<u>\$2,280,541,574</u>	<u>\$1,418,344,700</u>
Benefit payments	\$1,265,675,570	\$1,122,631,951	\$1,288,511,555	\$1,423,206,277	\$ 855,427,606
Increase in reserves	(93,728,066)	62,058,746	37,765,258	89,525,571	27,185,334
Commissions	48,845,592	40,921,943	41,975,821	33,692,326	28,425,475
General expenses and taxes	264,628,860	241,805,289	210,624,753	221,259,267	219,251,455
Increase in loading on deferred and uncollected premiums	(3,637,340)	(4,682,053)	(1,794,858)	354,843	169,654
Net transfers to (from) Separate Accounts	(176,218,396)	(40,208,389)	(179,428,594)	(215,034,871)	(21,792,463)
Miscellaneous deductions	<u>921,357</u>	<u>20,316,467</u>	<u>(1,596,465)</u>	<u>169,084,838</u>	<u>4,224,562</u>
Total deductions	<u>\$1,306,487,577</u>	<u>\$1,442,843,954</u>	<u>\$1,396,057,470</u>	<u>\$1,722,088,251</u>	<u>\$1,112,891,623</u>
Net gain (loss)	\$ 319,773,510	\$ 310,686,024	\$ 462,596,932	\$ 558,453,324	\$ 305,453,076
Dividends	199,128,109	204,913,880	207,057,848	241,924,072	203,666,211
Federal and foreign income taxes incurred	<u>37,425,000</u>	<u>11,000,000</u>	<u>(37,000)</u>	<u>(30,276,000)</u>	<u>(664,000)</u>
Net gain (loss) from operations before net realized capital gains	\$ 83,220,401	\$ 94,772,144	\$ 255,576,084	\$ 346,805,252	\$ 102,450,865
Net realized capital gains (losses)	<u>(4,416,643)</u>	<u>(96,140,401)</u>	<u>(104,580,530)</u>	<u>(111,358,801)</u>	<u>(69,047,016)</u>
Net income	<u>\$ 78,803,758</u>	<u>\$ (1,368,257)</u>	<u>\$ 150,995,554</u>	<u>\$ 235,446,451</u>	<u>\$ 33,403,850</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Capital and surplus, December 31, prior year	\$ <u>703,499,040</u>	\$ <u>835,437,844</u>	\$ <u>1,015,757,752</u>	\$ <u>1,067,065,091</u>	\$ <u>1,154,831,655</u>
Net income	\$ 78,803,759	\$ (1,368,259)	\$ 150,995,554	\$ 235,446,451	\$ 33,403,850
Change in net unrealized capital gains (losses)	43,988,212	48,470,421	51,162,228	(38,866,332)	(196,592,517)
Change in non-admitted assets and related items	(15,005,392)	(44,723,442)	(17,294,770)	(19,960,451)	(18,593,294)
Change in liability for reinsurance in unauthorized companies	(481,701)	(286,283)	319,492	(228,632)	277,686
Change in reserve valuation basis	0	0	0	0	10,943,094
Change in asset valuation reserve	(32,447,460)	5,449,305	(6,114,958)	70,918,962	85,064,047
Surplus (contributed to) withdrawn from Separate Accounts during period	0	0	6,500,000	0	0
Other changes in surplus in Separate Accounts statement	755,955	1,096,882	(10,085,963)	0	0
Change in surplus notes	115,000,000	0	0	28,830,902	(57,854)
Cumulative effect of changes in accounting principles	0	0	0	0	(36,855,891)
Capital changes: Paid in	0	2,000,000	500,000	0	0
Surplus adjustments: Paid in	0	830,628,784	(500,000)	65,000,000	0
Change in surplus as a result of reinsurance	16,902,731	(6,753,587)	(43,144,934)	(39,372,518)	0
Dividends to stockholders	0	0	0	(100,000,000)	(115,000,000)
Change in liability for non-qualified retirement benefits	(1,327,300)	(2,146,791)	(11,951,647)	(4,123,041)	0
Provision for contingencies	(1,100,000)	(902,338)	1,643,173	0	0
Provision for corporate restructuring	(19,500,000)	(27,156,042)	(29,763,719)	0	0
Increase in investment reserve	(50,000,000)	0	0	0	0
Surplus note underwriting costs	(3,650,000)	0	0	0	0
Demutualization transfers	0	(623,988,744)	0	0	0
Loss on sale of subsidiary	0	0	(40,961,700)	0	0
Premiums in excess of carrying value on redemption of surplus note	0	0	0	(109,887,120)	(57,941)
Cash policy credit surrenders	<u>0</u>	<u>0</u>	<u>4,582</u>	<u>8,343</u>	<u>0</u>
Net change in capital and surplus	\$ <u>131,938,804</u>	\$ <u>180,319,905</u>	\$ <u>51,307,339</u>	\$ <u>87,766,564</u>	\$ <u>(237,468,820)</u>
Capital and surplus, December 31, current year	\$ <u>835,437,844</u>	\$ <u>1,015,757,752</u>	\$ <u>1,067,065,091</u>	\$ <u>1,154,831,655</u>	\$ <u>917,362,834</u>

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

1. Advertising

Section 219.5(a) of Department Regulation No. 34-A states, in part:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons”

A review of a sample of 799 advertisements revealed that in 84 of the cases (10.51%), the Company failed to maintain a final specimen copy of the advertisement in its advertising file.

The Company violated Section 219.5(a) of Department Regulation No. 34-A by not maintaining a complete advertising file.

2. Replacements

a) Section 51.5(c) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur . . .

(2) . . . In the event the insurer whose coverage is being replaced fails to provide the information in the prescribed time, the agent replacing the life insurance policy or annuity contract may use, and the insurer replacing the life insurance policy or annuity contract shall review and may accept, good faith approximations based on the information available”

Section 51.6(c) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer whose life insurance policy or annuity contract is to be replaced shall . . .

(2) Within twenty days of receipt of a request from a licensee of the Department, for information necessary for completion of the ‘Disclosure Statement’ with respect to the life insurance policy or annuity contract proposed to be replaced, together with proper authorization from the applicant, furnish the required information simultaneously to the agent of record of the existing life insurance policy or annuity contract being replaced and the agent and insurer replacing the life insurance policy or annuity contract. This information shall include the insurer’s customer service telephone number, the current status of the existing life insurance policy or annuity contract and the currently illustrated dividends/interest and other non-guaranteed costs and benefits.”

A review of a sample of 58 replacement policies revealed that in ten of the cases (17.2%), the agent failed to include the required information from the company whose insurance was being replaced in the completed Disclosure Statement.

The agent failed to wait the mandatory time period for receipt of the information necessary to complete the Disclosure Statement from the existing insurer prior to taking the application.

The Company violated Section 51.5(c)(2) of Department Regulation No. 60 by accepting applications from agents who failed to wait the mandatory time period for receipt of the information necessary to complete the Disclosure Statement prior to taking the application.

b) Section 51.5(c) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur . . .

(3) Present to the applicant, not later than at the time the applicant signs the application, the ‘IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts’ and a completed ‘Disclosure Statement’ signed by the agent in the form prescribed by the Superintendent of Insurance and leave copies of such forms with the applicant for his or her records . . .”

A review of a sample of 58 replacement policies revealed that in 12 of the cases (20.7%), the agent failed to present to the applicant one or both of the required replacement forms at the time the applicant signed the application.

The Company violated Section 51.5(c)(3) of Department Regulation No. 60 by not presenting to the applicant one or both of the required replacement forms not later than at the time the applicant signed the application.

c) Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed ‘Disclosure Statement’”

A review of a sample of 58 replacement policies revealed that in 21 of the cases (36.2%), the Company could not verify that it provided to the insurer whose coverage was being replaced a copy of any proposal, including the sales material used in the sale and the completed Disclosure Statement, within ten days of receipt of the application.

The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by not furnishing to the insurer whose coverage was being replaced a copy of any proposal, including the sales material used in the sale and the completed Disclosure Statement within ten days of receipt of the application.

d) Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(5) Submit quarterly reports within thirty days of the end of each quarter, beginning at the end of the first full calendar quarter after the effective date of this Part, to the Superintendent of Insurance, indicating which insurers, if any, have failed to provide the information as required in Section 51.6(c)(2) herein”

A review of the Company’s replacement procedures revealed that the Company failed to institute a process to collect and report the required information to the Superintendent.

The Company violated Section 51.6(b)(5) of Department Regulation No. 60 by failing to submit the quarterly reports indicating insurers that failed to provide replacement information as required by the Regulation.

e) Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(6) . . . maintain copies of . . . the notification of replacement to the insurer whose life insurance policy or annuity contract is to be replaced indexed by agent, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later . . .”

A review of a sample of 58 replacement policies revealed that in seven of the cases (12.1%), the Company failed to maintain copies of the notification of replacement to the insurer whose life insurance was being replaced.

The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain copies of the notification of replacement to the insurer whose life insurance is being replaced.

f) Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this Part or are not accurate, within ten days from the date of receipt of the application either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefor. . . .”

A review of a sample of 58 replacement policies revealed that in ten cases (17.2%), the Company failed to reject the application in instances where the outstanding replacement requirements were not received by the Company within ten days of the date of receipt of the application.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 for failing to reject the application when required forms were not received within ten days of the date of receipt of the application.

As a result of the above findings, the Company performed an internal review of life and annuity external replacement sales made from January 1999 through July 2003. The review

focused on cases where the applicant did not receive the Disclosure Statement on or prior to the application date as required by Department Regulation No. 60.

The Company's review revealed that the Disclosure Statement, required by Regulation No. 60, was not provided in a timely manner in a number of instances. The Department and the Company have agreed on remediation plans for policyholders and contractholders in these instances. The Company began implementing the remediation plans in May of 2004.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

1. Section 3214(c) of the New York Insurance Law states, in part:

“If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured or annuitant in connection with a death claim on such a policy of life insurance or contract of annuity and from the date of maturity of an endowment contract to the date of payment and shall be added to and be a part of the total sum paid.”

a) A review of a sample of 76 matured policies revealed that the Company failed to pay interest in all cases.

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on matured policies.

The examiner recommends that the Company review all matured endowment contracts paid during the examination period (1997 – 2001) and pay interest as required by Section 3214(c) of the New York Insurance Law.

b) The Company's claim payment system is designed so that a default delayed interest settlement option rate on all death claim proceeds is established at a rate of 2.75%. The Company's claim examiner must then determine the appropriate interest rate to be paid by reviewing the policy issue state and the various state insurance laws concerning interest settlement option rates.

A review of a sample of 140 death claims on policies issued in New York revealed that in eight cases, the Company's electronic claim file indicated that interest was paid on the claim at 2.75%. Of those eight cases, it was determined that the interest rate paid on the death claim was adjusted to reflect the correct interest settlement option rate by the Company's claim examiner in five instances. However, in three cases (37.5%) the Company paid interest on the death claim at the interest rate of 2.75%. The interest on the claims should have been paid at the interest settlement option rate of 4.9% from January 1, 1997 to December 31, 1997 and 4.6% from January 1, 1998 to December 31, 2001. When brought to their attention, the Company adjusted the claim and paid the correct interest rate.

As a result of the above, the examiner performed an additional analysis of the Company's electronic file of death claims to identify any potential claims that were paid using an interest rate that was less than the interest settlement option rate. The examiner identified 945 claims on policies issued in New York that were paid during the examination period where the interest rate on the electronic claim file showed an interest rate that was less than the interest settlement option rate. Similarly, the examiner identified 320 claims that were paid during the examination period where the issue state field was "blank" and the resident state field of the insured was New York and the interest rate on the electronic claim file showed an interest rate that was less than the interest settlement option rate.

The examiner recommends that the Company review all death claims, for the period under examination, where the policy was issued in New York State (identified by a New York issue state), and all claims where there was a "blank" issue state field with a New York resident field, to determine whether the Company paid interest appropriately, and where required, in accordance with Section 3214(c) of the New York Insurance Law.

The examiner also recommends that the Company pay the correct amount of interest in all instances where the Company paid an incorrect interest amount.

2. Annuity contracts subject to Section 4223 of the New York Insurance Law that provide for the crediting of additional amounts are also subject to Section 4232(a)(2) of the New York Insurance Law.

Section 4232(a)(2) of the New York Insurance Law states:

“No such additional amounts shall be guaranteed or credited except upon: (i) reasonable assumptions as to investment income, mortality, and expenses; (ii) a basis equitable to all contract holders of a given class; and (iii) written criteria approved by the board of directors of the company or a committee thereof.”

The Company has been crediting additional amounts on Flexible Premium Variable Annuity contracts and Single Premium Deferred Annuity contracts without written criteria approved by the board of directors or a committee thereof.

The Company violated Section 4232(a)(2) of the New York Insurance Law by crediting additional amounts on annuity contracts without written criteria approved by the board of directors or a committee thereof.

3. Individual life insurance policies may provide for the crediting of additional amounts subject to Section 4232(b)(4) of the New York Insurance Law.

Section 4232(b)(4) of the New York Insurance Law states:

“Any such additional amounts shall be credited on a basis equitable to all policyholders of a given class and shall be based on written criteria approved by the board of directors of the company or a committee thereof.”

The Company has been crediting additional amounts on certain life insurance products without written criteria approved by the board of directors or a committee thereof.

The Company violated Section 4232(b)(4) of the New York Insurance Law by crediting additional amounts on life insurance products without written criteria approved by the board of directors or a committee thereof.

7. RETAINED ASSET ACCOUNT

A review of death benefit proceeds paid during the examination period revealed that the Company uses a retained asset account to settle claims in excess of \$5,000. For these claims an interest bearing MONYmarket account is established in the name of the beneficiary. The Company receives data processing services from BISYS, Inc. (“the administrator”) for the administration of the interest bearing (MONYmarket) accounts. The administrator provides the policy administration system software that calculates the interest credited to account holders. In addition, the administrator establishes the account, prints checkbooks and produces and mails monthly statements to all MONYmarket account holders. The Company, as the custodian of the MONYmarket funds, earns interest and has use of the funds until the beneficiary withdraws the funds (either partially or fully) from their MONYmarket account.

A. Section 3214(c) of the New York Insurance Law states:

“If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured or annuitant in connection with a death claim on such a policy of life insurance or annuity and from the date of maturity of an endowment contract to the date of payment and shall be added to and be a part of the total sum paid.”

The review of the aforementioned process indicated that the Company pays interest at the settlement option rate from the date of death to the day the Company sends the documentation to the administrator to process and open the MONYmarket account. The administrator takes approximately three business days to process and open the MONYmarket account and send the checkbook to the Company for mailing to the beneficiary. The Company stops paying interest at the settlement option rate on the day the claim documentation is sent to the administrator to establish the MONYmarket account. Instead interest is earned at the declared MONYmarket rate. The MONYmarket rate fluctuates depending upon the general economy and overall financial market conditions. However, it was noted that MONYmarket interest rates were substantially lower (2.0%) than the interest settlement option rates (4.9% from January 1, 1997

to December 31, 1997 and 4.6% from January 1, 1998 to December 31, 2001) in effect during the examination period.

The examiner recommends that the Company pay interest on death claims at the interest settlement option rate from the date of death to the date of payment.

B. The Company indicated that there are approximately 6,890 MONYmarket account holders as of December 31, 2001. A review of the Company's retained asset (MONYmarket) account holder activity as of December 31, 2001 indicated that approximately 1,380 MONYmarket accounts have been dormant (no account holder initiated activity) for 3-5 years and approximately 827 MONYmarket accounts have been dormant over 5 years.

The examiner recommends that the Company investigate all MONYmarket accounts that have been dormant a minimum of three years in order to determine if any account(s) should be reported as unclaimed funds and eventually remitted to the appropriate state(s).

C. The review of death claims revealed that beneficiaries have the following four payment options, as stated on the "Request For Payment Of Benefits" form:

"1. Immediate Payment Option

- Proceeds are immediately made available by means of an interest-bearing checking account. The account is opened and a supply of checks is sent which allows the beneficiary to immediately access all or part of the funds by writing checks for \$250 or more. The funds in the account earn interest on the day the proceeds are paid.

2. Interest Option

- An interest bearing contract.

3. Installment Payments

- Pays insurance proceeds plus interest in annual or more frequent installments for a period selected by the beneficiary in an amount they select.

4. Life Income Option

- Pays a guaranteed income for life."

There is no indication contained on the Company's "Request For Payment Of Benefits" form that a settlement check for the full death benefit is an option. If no payment option is

selected the beneficiary is automatically given the Immediate Payment Option as outlined above. The beneficiary must request a settlement check for the full death benefit amount to be issued.

The examiner recommends that the Company include as part of its “Request For Payment Of Benefits” form, or through some other method of disclosure, the option of a settlement check for the full death benefit amount.

8. PRIVACY

The examiner reviewed various elements of the Company's privacy and safeguarding activities affecting customers and consumers to determine compliance with applicable statutes and regulations, the operating rules of the Company, and internal control standards deemed adequate by the Department. The review included an evaluation of the Company's documented privacy and safeguarding policies and procedures (including information previously submitted to the Department); internal, external and compliance audit workpapers; and management and internal control reports. The examination included a review of the following:

- privacy notices;
- opt out and opt in notices, if applicable;
- disclosure of non-public personal information (financial and health);
- redisclosure and reuse of non-public personal information (financial and health) received and disclosed; and
- the written information security program for the protection of customer information.

The examiner also conducted limited tests and other procedures, as deemed appropriate, in the review of privacy and safeguarding activities.

A review of the Company's privacy policies and procedures indicated that the Company had no procedures in place to include privacy language in its third party administrator agreements. In July 2001, the Company's privacy officers were instructed to survey each third party administrator who had access to customer information and determine whether privacy language was needed. As of the date of this report the procedure had not been effectively implemented.

The examiner recommends that the Company include appropriate privacy language when it amends or renews its existing third party administrator agreements and in all new third party administrator agreements.

9. AGENCY

Section 4228(e)(2) of the New York Insurance Law states, in part:

“(A) A company may compensate an agent or broker pursuant to a plan of agent compensation that consists wholly or partly of elements other than commission-based compensation and fund-based compensation.

(B) When a company implements such a plan, it must be able to demonstrate, after the plan has been in operation for two years, that an agent or broker being compensated under the plan and meeting its requirements for continuation in the plan will receive no more compensation under the plan . . . than could have been earned under a plan consisting entirely of commissions and expense allowance, each limited as described in subsection (d) of this section. . . .”

Section 4228(f)(1)(D) of the New York Insurance Law states:

“For plans described under subparagraphs (A), (B), (C) and (D) of paragraph two of subsection (e) of this section, if the plan is still to be used six months after the end of the two year period described in subparagraph (B) of paragraph two of subsection (e) of this section, the company must, within six months after the end of the two year period, make a filing with the superintendent and obtain his approval for the continued use of the plan.”

In 1999, the Company submitted a request for approval of an agent’s stock option plan. The plan was approved by the Department as a one time grant of stock options. A review of agent’s compensation paid for the period under review revealed that the Company continued to grant stock options to its agents in 2000, 2001 and 2002. The Company has not filed a request for continued use of this plan.

The Company violated Section 4228(f)(1)(D) of the New York Insurance Law for continued payment of stock options to its agent’s without the approval of the Superintendent.

Section 4228(f)(1) of the New York Insurance Law, states in part:

“Filing requirements for agent and broker compensation plans are as follows:
(B) Filings are required on or before the effective date of any changes to compensation arrangements . . . A company may implement such compensation arrangements immediately upon filing same. If the superintendent notifies the company within ninety days of the receipt of the filing, that in his opinion the compensation arrangement described in such filing is not permitted under the law, and if the company within sixty days of the superintendent’s notice, is not able to satisfy the superintendent’s concern, with or without modifying the plan, the superintendent may order the company to cease using the plan. The company may request a formal hearing, but the plan that is the subject of the hearing may not be used unless and until permitted as a result of the hearing.”

The Company paid compensation under agent compensation plans that were not filed with the Department. The Company paid as much as 140% of a policy’s first year premium. The plans of compensation under which the payments were made, would not have been approved by the Department even if they had been filed.

The Company violated Section 4228(f)(1)(B) of the New York Insurance Law by paying compensation under plans that were not filed with the Department.

10. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Company violated Section 2103(f)(2)(A) of the New York Insurance Law by not submitting to the Superintendent for approval the name of two instructors who taught part of their 40-hour licensing course in 1996.</p> <p>A review indicated that the Company submitted the names of all instructors who taught part of their 40-hour licensing course during the period under examination.</p>
B	<p>The Company violated Section 215.17 of Department Regulation No. 34 and Section 219.5 of Department Regulation No. 34-A by not maintaining in the advertising file a notation indicating the manner and extent of distribution of its advertisements for the period under examination.</p> <p>A review indicated that the Company maintains in its advertising file a notation indicating the manner and extent of distribution for its advertisements.</p>
C	<p>The Company violated Section 215.5(c)(5) of Department Regulation Number 34 by not including in its advertisements for disability income policies the required benefit ratio.</p> <p>A review indicated that the Company exited the disability income policy business and reinsured its entire disability income block of business on December 21, 1997.</p>
D	<p>The Company violated Section 3227 of the New York Insurance Law by not paying interest on surrendered policies.</p> <p>A review indicated that the Company pays interest on surrendered policies as required by Section 3227 of the New York Insurance Law.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 3214(c) of the New York Insurance Law by not paying interest, from the date of death to the date of payment, on death claim proceeds delivered by Company agents.</p> <p>A review indicated that the Company instituted procedures to pay interest from the date of death to the date of payment plus an additional five days of interest to cover the additional time involved for the delivery of the proceeds check by agents.</p>
F	<p>The Company violated Section 216.11 of Department Regulation No. 64 by not always date stamping all relevant documentation in all claim files so as to allow the examiner to reconstruct the Company's activities.</p> <p>A review indicated that the Company date stamps all relevant documentation in claim files allowing the examiner to reconstruct the Company's activities.</p>

11. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comment contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 91.4(a)(2) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the actual bases of allocation to annual statement lines of business and to companies in its holding company system.	14 – 15
B	The Company violated Section 219.5(a) of Department Regulation No. 34-A by not maintaining a complete advertising file.	20
C	The Company violated Section 51.5(c)(2) of Department Regulation No. 60 by accepting applications from agents who failed to wait the mandatory time period for receipt of the information necessary to complete the Disclosure Statement prior to taking the application.	20 – 21
D	The Company violated Section 51.5(c)(3) of Department Regulation No. 60 by not presenting to the applicant one or both of the required replacement forms not later than at the time the applicant signed the application.	21 – 22
E	The Company violated Section 51.6(b)(4) of Department Regulation No. 60 by not furnishing, to the insurer whose coverage was being replaced, a copy of any proposal, including the sales material used in the sale and the completed Disclosure Statement within ten days of receipt of the application.	22
F	The Company violated Section 51.6(b)(5) of Department Regulation No. 60 by failing to submit the quarterly reports indicating insurers that failed to provide replacement information as required by the Regulation.	22
G	The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain copies of the notification of replacement to the insurer whose life insurance is being replaced.	23
H	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 for failing to reject the application when required forms were not received within ten days of the date of receipt of the application.	23

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
I	The examiner comments that the Company performed an internal review of replacements which revealed that the Disclosure Statement, required by Regulation No. 60, was not provided in a timely manner in a number of instances. The Department and the Company have agreed on remediation plans for policyholders and contractholders in these instances.	23 – 24
J	The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on matured policies.	24
K	The examiner recommends that the Company review all matured endowment contracts paid during the examination period (1997 – 2001) and pay interest as required by Section 3214(c) of the New York Insurance law.	24
L	The examiner recommends that the Company review all death claims, for the period under examination, where the policy was issued in New York state (identified by a New York issue state), and all claims where there was a “blank” issue state field with a New York resident field, to determine whether the Company paid interest appropriately, and where required, in accordance with Section 3214(c) of the New York Insurance Law.	25
M	The examiner recommends that the Company pay the correct amount of interest in all instances where the Company paid an incorrect interest amount.	25 – 26
N	The Company violated Section 4232(a)(2) of the New York Insurance Law by crediting additional amounts on annuity contracts without written criteria approved by the board of directors or a committee thereof.	26
O	The Company violated Section 4232(b)(4) of the New York Insurance Law by crediting additional amounts on life insurance products without written criteria approved by the board of directors or a committee thereof.	26
P	The examiner recommends that the Company pay interest on death claims at the interest settlement option rate from the date of death to the date of payment.	27 – 28

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
Q	The examiner recommends that the Company investigate all MONYmarket accounts that have been dormant a minimum of three years in order to determine if any account(s) should be reported as unclaimed funds and eventually remitted to the appropriate state(s).	28
R	The examiner recommends that the Company include as part of its “Request For Payment Of Benefits” form, or through some other method of disclosure, the option of a settlement check for the full death benefit amount.	28 – 29
S	The examiner recommends that the Company include appropriate privacy language when it amends or renews its existing third party administrator agreements and in all new third party administrator agreements.	30
T	The Company violated Section 4228(f)(1)(D) of the New York Insurance Law for continued payment of stock options to its agent’s without the approval of the Superintendent.	31
U	The Company violated Section 4228(f)(1)(B) of the New York Insurance Law by paying compensation under plans that were not filed with the Department.	32

Respectfully submitted,

_____/s/_____
Vincent Targia
Associate Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Vincent Targia, being duly sworn, deposes and says that the foregoing report, subscribed by him,
is true to the best of his knowledge and belief.

_____/s/_____
Vincent Targia

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 21802

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

VINCENT TARGIA

as a proper person to examine into the affairs of the

MONY LIFE INSURANCE COMPANY

and to make a report to me in writing of the condition of the said

COMPANY

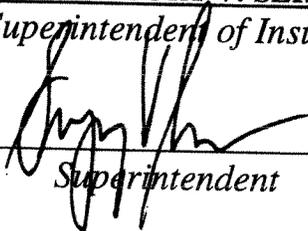
with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 27th day of November, 2001



GREGORY V. SERIO
Superintendent of Insurance


Superintendent