## Filing at a Glance

Company: MONY Life Insurance Company of America

| | | |
|---|---|---|
| Product Name: Long Term Care Sales Materials | SERFF Tr Num: ELAS-127110788 | State: Arkansas |
| TOI: LTC03I Individual Long Term Care | SERFF Status: Closed-Filed-Closed | State Tr Num: 49002 |
| Sub-TOI: LTC03I.003 Other | Co Tr Num: | State Status: Filed-Closed |
| Filing Type: Advertisement | | Reviewer(s): Harris Shearer, Stephanie Fowler |
| | Authors: Audrey Arnold, Samra Mekbeb, Sabrena Lallmohamed, Jillian Rios | Disposition Date: 07/07/2011 |
| | Date Submitted: 06/07/2011 | Disposition Status: Filed-Closed |
| Implementation Date Requested: On Approval | | Implementation Date: |
| State Filing Description: | | |

## General Information

Project Name: Long Term Care Planning Perspectives and Client Brochure
Project Number: GE-60824 (4/11) and GE-60825 (4/11)
Requested Filing Mode: Informational
Explanation for Combination/Other:
Submission Type: New Submission
Overall Rate Impact:

Deemer Date:
Submitted By: Jillian Rios
Filing Description:
Ms. Julie Benafield Bowman
Insurance Commissioner
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201-1904

Status of Filing in Domicile: Not Filed

Date Approved in Domicile:
Domicile Status Comments:
Market Type: Individual
Individual Market Type:
Filing Status Changed: 07/07/2011
State Status Changed: 07/07/2011
Created By: Audrey Arnold
Corresponding Filing Tracking Number:

Re: MONY Life Insurance Company of America (MLOA)
FEIN No.: 86-0222062 FEIN No.: 968-78077
Accelerated Death Benefit for Long-Term Care Services Sales Client Brochure
Accelerated Death Benefit Long-Term Care Services Planning Perspectives
Form Nos. GE-60825 (4/11) and GE-60824 (4/11)
SERFF Tracking No. ELAS-127110788

Dear Commissioner Bowman:

In accordance with your requirements, we are submitting the above-referenced Accelerated Death Benefit for Long-Term Care Services sales material, for your information. We recently submitted Form Nos. GE-60825 (4/11) and GE-60824 (4/11), for use with life insurance products issued under the name of AXA Equitable Life Insurance Company, SERFF Tracking No. ELAS-127110787. The enclosed forms are the exact same form as the previously submitted forms.

Form Nos. GE-60824 (4/11) and GE-60825 (4/11), will be used by our registered representatives with our clients and prospects to introduce them to the Accelerated Death Benefit for Long-Term Care Services Rider, Form No. R06-90, which was approved by the Department, on July 26, 2006, (SERFF Tracking No. 6RPQMJ845/00, State Tracking Number 33243). Form Nos. GE-60824 (4/11) and GE-60825 (4/11) replaces previously submitted Form Nos. GE-48425 (4/09) and GE-48426 (4/09), that were filed by the Department on October 6, 2010, (SERFF Tracking No. ELAS-126831754, State Tracking Number 46964).

The applicable life insurance product brochure will accompany the submitted Accelerated Death Benefit for Long-Term Care Services sales materials. In addition, in the case of variable life insurance policy, the submitted client brochure and Planning Perspectives will either be preceded or accompanied by the applicable current variable life insurance prospectus and the applicable prospectus supplements, which contain more complete information about the policy, including risks, charges, expenses and investment objectives.

The filing fee of $100.00 will be submitted through EFT.

If additional information is needed, please do not hesitate to contact me at (212) 314-2921.

Sincerely,

Estella A. Devian
Vice President

# Company and Contact

**Filing Contact Information**


Estella A. Devian, Vice President
1290 Avenue of the Americas, 14th Floor
New York, NY 10104

estella.devian@axa-financial.com
212-314-2921 [Phone]
212-707-7493 [FAX]


**Filing Company Information**

| | | |
|---|---|---|
| MONY Life Insurance Company of America | CoCode: 78077 | State of Domicile: Arizona |
| 1290 Avenue of the Americas, 14th Floor | Group Code: 968 | Company Type: Insurance Company |
| New York, NY 10104 | Group Name: | State ID Number: |
| (212) 314-2921 ext. [Phone] | FEIN Number: 86-0222062 | |

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# Filing Fees

| | |
|---|---|
| Fee Required? | Yes |
| Fee Amount: | $100.00 |
| Retaliatory? | No |
| Fee Explanation: | |
| Per Company: | No |

| COMPANY | AMOUNT | DATE PROCESSED | TRANSACTION # |
|---|---|---|---|
| MONY Life Insurance Company of America | $100.00 | 06/07/2011 | 48417993 |

# Correspondence Summary

### Dispositions

| Status | Created By | Created On | Date Submitted |
|---|---|---|---|
| Filed-Closed | Stephanie Fowler | 07/07/2011 | 07/07/2011 |

## Amendments

| Schedule | Schedule Item Name | Created By | Created On | Date Submitted |
|---|---|---|---|---|
| Supporting Document | Revised Cover Letter 06.10.11 | Jillian Rios | 06/10/2011 | 06/10/2011 |

### Filing Notes

| Subject | Note Type | Created By | Created On | Date Submitted |
|---|---|---|---|---|
| Cover Letter | Note To Filer | Stephanie Fowler | 06/10/2011 | 06/10/2011 |
| Important | Note To Reviewer | Jillian Rios | 06/09/2011 | 06/09/2011 |

# Disposition

Disposition Date: 07/07/2011

Implementation Date:

Status: Filed-Closed

Comment:

Rate data does NOT apply to filing.

| | | | |
|---|---|---|---|
| *SERFF Tracking Number:* | *ELAS-127110788* | *State:* | *Arkansas* |
| *Filing Company:* | *MONY Life Insurance Company of America* | *State Tracking Number:* | *49002* |
| *Company Tracking Number:* | | | |
| *TOI:* | *LTC03I Individual Long Term Care* | *Sub-TOI:* | *LTC03I.003 Other* |
| *Product Name:* | *Long Term Care Sales Materials* | | |
| *Project Name/Number:* | *Long Term Care Planning Perspectives and Client Brochure/GE-60824 (4/11) and GE-60825 (4/11)* | | |

| Schedule | Schedule Item | Schedule Item Status | Public Access |
|---|---|---|---|
| **Supporting Document** | Revised Cover Letter 06.10.11 | Filed | Yes |
| **Form** | Long-Term Care Client Brochure | Filed | Yes |
| **Form** | Long-Term Care Planning Perspectives | Filed | Yes |

**Amendment Letter**

Submitted Date: 06/10/2011

**Comments:**

As requested, please find revised cover letter attached.

**Changed Items:**

**Supporting Document Schedule Item Changes:**

**User Added -Name: Revised Cover Letter 06.10.11**

Comment: Attached.

AR MLOA Letter revised 06.10.11.pdf

## Note To Filer

**Created By:**

Stephanie Fowler on 06/10/2011 09:41 AM

**Last Edited By:**

Stephanie Fowler

**Submitted On:**

07/07/2011 04:03 PM

**Subject:**

Cover Letter

**Comments:**

Thank you for your explaination of this situation, however, we will need an corrected cover letter to proceed with our review.

## Note To Reviewer

**Created By:**
Jillian Rios on 06/09/2011 01:15 PM
**Last Edited By:**
Stephanie Fowler
**Submitted On:**
07/07/2011 04:03 PM
**Subject:**
Important
**Comments:**
Dear Reviewer,

Please note a mistake has been made on my part regarding this filing. I inadvertently signed with an incorrect officer signature in our cover letter. The appropriate signature should be that of John Finneran, Assistant Vice President, who is currently the acting officer. He has authorized this filing. I hope that this is sufficient enough to proceed with further review of this filing. If not, I will be happy to attach and resubmit a revised cover letter. If you have any questions, you can contact John Finneran at 212-314-2922 or john.finneran@axa-equitable.com.

I apologize for the inconvenience this has caused.

Thank you,
Jillian Rios

# Form Schedule

**Lead Form Number: GE-60825 (4/11)**

| Schedule Item Status | Form Number | Form Type | Form Name | Action | Action Specific Data | Readability | Attachment |
|---|---|---|---|---|---|---|---|
| Filed 07/07/2011 | GE-60825 (4/11) | Advertising | Long-Term Care Client Brochure | Initial | | 73.500 | LTCS Client Brochure Cat 138311 GE 60825 05-25-2011.PDF |
| Filed 07/07/2011 | GE-60824 (4/11) | Advertising | Long-Term Care Planning Perspectives | Initial | | 56.560 | LTCS Planning Perspective Cat 138138 GE 60824 05-25-2011.PDF |

AXA Equitable Life Insurance Company and MONY Life Insurance Company of America

# Long-Term Care Services℠ Rider

## thinking about your future? / **plan for your long-term care needs**

Variable Life Insurance: · Is Not a Deposit of Any Bank · Is Not FDIC Insured · Is Not Insured by Any Federal Government Agency · Is Not Guaranteed by Any Bank or Savings Association · May Go Down in Value

GE-60825 (4/11)

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The Long-Term Care Services℠ Rider[1] can be added at issue to certain permanent life insurance policies. The death benefit of the policy can, in certain circumstances, be accelerated to pay for qualified long-term care services, thereby helping you pay for some of your long-term care needs. This rider is available for an additional cost. Receipt of the accelerated benefits may be taxable; therefore, you should seek assistance from a tax advisor.

## the real need for long-term care

You may have read the magazine articles or seen the news programs that discuss the health care issues that are facing future retirees. In fact, as baby boomers head into retirement, our country will be confronted with the reality that by the year 2020, an estimated 12 million elderly Americans will require some form of long-term care.[2] Many will be cared for by family and friends. But millions of others will rely on professional care either at home or in long-term care facilities. The question that you may be asking yourself is, "Am I financially prepared for the ongoing expenses associated with this care?"

1 In some states, we are required to refer to this rider as a "Long-Term Care Insurance Rider." In Massachusetts, this rider is called the "Accelerated Death Benefit for Chronic Illness Rider."

2 National Clearinghouse for Long-Term Care Information, www.longtermcare.gov. Updated March 2011.

## The High Cost of Care

Depending on where you live and the type of assistance you require, long-term care costs can easily climb over $75,000 per year.[3] In some states, that cost can be much higher. At these rates, family nest eggs and a lifetime of retirement savings can be depleted quickly. Yet, many Americans still do not own Long-Term Care insurance (LTCi). A common misconception among people without LTCi is that Medicare will cover these costs. The truth is, Medicare does not cover custodial long-term care — meaning care to perform necessary daily activities of living (as defined in the Internal Revenue Code Section 7702), such as eating, bathing and dressing. Medicaid, however, may cover the costs associated with custodial long-term care, but recipients must meet strict income eligibility criteria and are restricted to Medicaid-approved services and facilities.

Long-term care benefits are generally triggered if the Insured needs substantial assistance to perform at least two of the activities of daily living, which include: eating, bathing, dressing, toileting continence and transferring, or if the Insured has a significant cognitive impairment.

Aside from the unpleasant thought of becoming unable to independently carry out the activities of daily living, or becoming substantially cognitively impaired, the foremost obstacle preventing many from buying LTCi is cost: LTCi can be expensive. Buying a policy at an earlier age may decrease the cost of premiums substantially. But, purchasing a policy 30 or 40 years in advance of when it may be needed — if it is ever needed — often makes potential policy holders uncomfortable, lest there be better or different options in place by the time they are ready to collect their benefits.

**3** National Clearinghouse for Long-Term Care Information, www.longtermcare.gov. Updated March 2011.

# the Long-Term Care Services℠ Rider

**There is another way to help protect yourself and your family should you have a need for life insurance and eventually require long-term care. Rather than purchasing a separate LTCi policy, you might consider purchasing the Long-Term Care Services℠ Rider in conjunction with a new permanent life insurance policy.**

While life insurance ensures that your loved ones will receive immediate funds in the event of your death, the Long-Term Care Services℠ Rider allows you to utilize some or all of the Long-Term Care Specified Amount to pay for qualified long-term care services. The Long-Term Care Services℠ Rider is not a stand-alone LTCi policy, but it can provide funds for long-term care services should the need arise. Though the Long-Term Care Services℠ Rider may not cover all costs associated with your care, it may certainly help defray the financial burden. Therefore, other than your life insurance policy, assets you have earmarked for retirement and bequests may be protected and can be used as you intended, rather than possibly being depleted to provide for your care.

The actual amount you can receive is the Long-Term Care Specified Amount, which is equal to the policy's initial Face Amount. Certain policy transactions, such as a reduction in the policy's Face Amount, can reduce the Long-Term Care Specified Amount. To be eligible for benefits under this rider the Insured must be chronically ill and receiving qualified long-term care services pursuant to a Plan of Care. The Elimination Period must be satisfied and we must receive notice of claim and proof of loss satisfactory to us. Services must be rendered by a facility or agency as defined in the rider. Preexisting condition exclusions also apply. Please request the Outline of Coverage and Policy Rider Form for more information. Some restrictions may apply.

> "70 percent of people over age 65 will require some long-term care services at some point in their lives.[4]"

**4** National Clearinghouse for Long-Term Care Information, www.longtermcare.gov, March 2011.

## Choosing Your Coverage

When you apply for the permanent life insurance policy and elect the Long-Term Care Services℠ Rider, you will designate the Face Amount of life insurance needed, along with the long-term care maximum monthly benefit amount percentage: either 1%, 2% or, in some cases, 3% of the policy Face Amount (see chart below). If you begin collecting long-term care benefits, the amount of each payment will be treated as a lien against, and therefore will reduce, the policy death benefit, account value and cash value. As with the decision to purchase any type of insurance product, check with your financial professional to see if a permanent life insurance policy with the Long-Term Care Services℠ Rider may be able to work for you.

| Minimum and Maximum Issue Ages for the Benefit Amount Percentages: | | Maximum Face Amount at Issue: |
|---|---|---|
| 1% | Issue ages 20–70 | $5,000,000 |
| 2% | Issue ages 20–70 | $2,500,000 |
| 3% | Issue ages 20–55 | $1,666,666 |

## If You Don't Use It, You **Don't** Lose It

To fund your monthly benefit payment, the Long-Term Care Services℠ Rider accelerates the death benefit (not to exceed the Long-Term Care Specified Amount) of your life insurance policy at the level you have chosen, up to a maximum of 200% of the Health Insurance Portability and Accountability Act (HIPAA) limit (100% in New York). However, unlike stand-alone LTCi policies that you may pay into and never use, if you have the Life Insurance/Long-Term Care Services℠ Rider combination and never need long-term care, the full death benefit of your life insurance policy passes to your beneficiaries when you die. In other words, if you do not use your long-term care protection, although you have paid the rider charge for the option to accelerate the death benefit, you haven't spent decades paying premiums for a policy that never pays any benefit at all. Additionally, if you begin collecting monthly benefits under the Long-Term Care Services℠ Rider but do not receive the full death benefit of your policy, the remaining death benefit will be paid to your beneficiaries at your death.

The HIPAA limit for 2011 is $300 per day. This daily benefit limit is adjusted annually for inflation. For purposes of calculating the Maximum Monthly Benefit payment, we limit the payment to 200% of the HIPAA limit (100% in New York) and assume a 30-day month. For 2011, this produces a benefit payment limit of $18,000 per month. There is an overall Maximum Monthly Benefit of $50,000.

### Long-Term Care Services℠ Rider

A life insurance policy with the Long-Term Care Services℠ Rider provides a single strategy to meet your financial protection needs.

- If needed, you can accelerate all or part of the Long-Term Care Specified Amount, which can be used to help pay long-term care expenses.
- Any part of the death benefit not accelerated for long-term care expenses will be paid to beneficiaries at your death.

## Protect What's Important

If you were asked what's important to you, most likely you would name loved ones. That's why you intend to protect them by owning life insurance. But, consider their response if asked the same question: they would most likely name you.

Life insurance will help provide for the people who matter the most to you when you're gone. But think about what could happen if you are still living, yet unable to independently care for yourself — the emotional impact would be great, but the same might be said for the financial impact. No one wants to become a financial burden to his or her family. Help secure your family's financial future and yours with a combination of Life Insurance and the Long-Term Care Services℠ Rider. Protect what's important: the quality of their lives and yours.

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**Limitations and Exclusions:**

(a) Preexisting conditions. This rider does not cover conditions for which the insured person received medical advice or treatment from a provider of health care services (or a condition for which treatment was recommended to the insured person by a health care provider) within six months preceding the effective date of this rider. No benefits will be provided under the rider during the first six months for long-term care services received by the Insured due to a preexisting condition. Days of Service received by, or recommended to, the Insured for a preexisting condition during the first six months that the rider is in force will not be counted toward the satisfaction of the Elimination Period.

(b) Exclusions, Exceptions and Limitations. This rider does not cover services provided by a facility or an agency that does not meet the rider definition of such facility or agency. The rider does not cover care or treatment:

- From a facility that primarily treats drug addicts or alcoholics;
- For an attempted suicide or intentionally self-inflicted injuries;
- From a facility that primarily provides domiciliary, residency or retirement care;
- As a result of alcoholism or drug abuse (unless drug abuse was a result of the administration of drugs as part of treatment by a Physician);
- From a facility owned or operated by a member of your or the insured person's Immediate Family;
- Due to war (declared or undeclared) or any act of war, or service in any of the armed forces or auxiliary units;
- Provided by a member of the Insured's Immediate Family;
- Due to committing or attempting to commit or participating in a felony, riot or insurrection;
- From anyone who is under suspension from Medicare or Medicaid;
- For a mental, psychoneurotic or personality disorder without evidence of organic disease (Alzheimer's Disease and senile dementia are not excluded from coverage);
- If benefits are sought only because a third party requires that this rider be exercised (as, for example, to obtain or maintain a government assistance benefit);
- Received outside the United States unless the initial and any annual renewal certifications are completed by a Physician licensed in the United States. For purpose of this exclusion, United States shall mean the 50 states, District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

This rider may not cover all the expenses associated with the Insured's long-term care needs.

**The purpose of this method of marketing is solicitation of insurance and contact will be made by an insurance agent, producer, insurance company or insurance agency.**

*Actual terms and conditions of the Long-Term Care Services℠ Rider are contained in Rider form #R06-90 and state variations. This rider has exclusions and limitations and may not be available in all jurisdictions or may vary in your jurisdiction. This rider is not available in Florida, Minnesota and Washington State.*

**The applicable life insurance product brochure must accompany this *Long-Term Care Services℠ Rider Planning Perspectives.* In addition, in the case of a variable life insurance policy, this brochure must be preceded or accompanied by the applicable current variable life insurance prospectus and applicable prospectus supplements, which contain more complete information about the policy, including risks, charges, expenses and investment objectives. You should review the prospectus and consider the information carefully before purchasing a policy.**

Life insurance products are issued by AXA Equitable Life Insurance Company (AXA Equitable), New York, NY, or affiliate MONY Life Insurance Company of America (MONY America), an Arizona Stock Corporation, main administrative offices in New York, NY. MONY America is not licensed to do business in New York. Life insurance products are co-distributed by AXA Advisors, LLC and AXA Distributors, LLC. All companies are affiliated and directly or indirectly owned by AXA Equitable Financial Services, LLC, and do not provide tax or legal advice. You should consult with your tax and legal advisors regarding your particular circumstances. All companies are located at 1290 Avenue of the Americas, New York, NY 10104.

For costs and complete details of coverage, call your life- and health-insurance-licensed financial professional.

Long-Term Care Services℠ is a service mark of AXA Equitable Life Insurance Company.

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GE-60825 (4/11)
Cat. #138311 (4/11)

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AXA Equitable Life Insurance Company
MONY Life Insurance Company of America

planning perspectives

# Long-Term Care Services℠ Rider

## understanding the taxation of my benefits

## Taxation of Long-Term Care Services℠ Rider Benefits Payments

**Certain life insurance policies that we offer may be issued with a Long-Term Care Services℠ Rider.[1] This rider is designed to provide an acceleration of a portion of the life insurance policy's death benefit as a monthly benefit for chronically ill insured persons who are receiving qualified long-term care services pursuant to a plan of care.**

Receipt of the accelerated benefits may be taxable; therefore, you should seek assistance from a tax advisor.

This *Planning Perspectives* is designed to provide a general outline of certain federal tax considerations concerning this rider and is broken down into two categories:

- Taxation of Long-Term Care Services℠ Rider Benefit Payments
- Taxation of Long-Term Care Services℠ Rider Charges

## What Are the Tax Consequences When Benefits Are Paid under the Long-Term Care Services℠ Rider?

The Long-Term Care Services℠ Rider benefit amounts received under your life insurance policy are intended to be treated as accelerated death benefits for federal income tax purposes under Section 101(g) of the Internal Revenue Code (the Code). The Code provides special tax treatments for such payments on the life of a chronically ill insured person receiving qualified long-term care services within the meaning of Section 7702B of the Code. For income tax purposes, payment of benefits will be reported to you by us on Form 1099-LTC. You must then file Form 8853 to determine the amounts to be included or excluded from income for the applicable taxable year.

1 In some states, we are required to refer to this rider as a "Long-Term Care Insurance Rider." In Massachusetts, this rider is called the "Accelerated Death Benefit for Chronic Illness Rider."

Life Insurance Products: · Are Not a Deposit of Any Bank · Are Not FDIC Insured · Are Not Insured by Any Federal Government Agency · Are Not Guaranteed by Any Bank or Savings Association · Variable Life Insurance May Go Down in Value

GE-60824 (4/11)

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# Income Exclusions

Generally, income exclusion for all benefit payments from all sources with respect to an insured person will be limited to the higher of:

- The Health Insurance Portability and Accountability Act (HIPAA) per diem limit (for 2011, this limit is $300 a day); or
- The actual costs incurred for qualified long-term care services by the taxpayer (policyowner) on behalf of the insured person.

If there is more than one policy on the Insured, receipt of benefit payments must be aggregated to determine taxability. To the extent aggregate benefits for an Insured received by all owners from all sources exceed the tax law limits, the excess benefit amount will be taxable as ordinary income to the recipient.

Income exclusion under this rule applies even if your life insurance policy is considered to be a Modified Endowment Contract (MEC) under the tax law.

# Policy Ownership Considerations

The ownership structure of the life insurance policy with a Long-Term Care Services℠ Rider can affect how the benefits are taxed under various tax provisions (i.e., income tax, gift tax, estate tax). Therefore, careful consideration should be given to all situations where the owner and Insured are not the same person. In addition, it's important to give careful consideration to business-related scenarios. A separate qualified long-term care insurance policy owned by the Insured may be a better vehicle for providing long-term care benefits.

## The Policyowner Is the Insured

Long-Term Care Services℠ Rider benefit payments, made to the policyowner who is the Insured, to cover qualified long-term care services, are intended to qualify for exclusion from income subject to the dollar limits described above, with respect to a particular insured person (see Tax Rules for Multiple Policies).

## The Policyowner Is an Individual Other Than the Insured

For income tax purposes, the benefit payments made to an individual policyowner who is other than the Insured are treated the same as if the policyowner is the Insured. However, there are also other tax considerations.

**For example:** If taxpayer son owns a policy and the insured person is his father, there may be gift tax considerations if the son provides the funds to his father when the benefits are paid. However, special gift tax rules may provide gift tax exemptive relief when the taxpayer directly pays the provider of medical care on behalf of an insured person.

## The Policyowner Is a Trust

In an estate planning scenario, an insured taxpayer may set up an irrevocable life insurance trust (ILIT) as the owner of a life insurance policy to avoid including the life insurance death benefit proceeds in the Insured's taxable estate. In this situation, the trust, as the owner of the policy, will be entitled to any applicable benefits under the Long-Term Care Services℠ Rider. If the Insured qualifies for monthly benefits under the Long-Term Care Services℠ Rider, the trust policyowner, with the advice of his or her tax and legal advisors, will need to plan to ensure that there are no unintended consequences, such as the unavailability of funds to the Insured or the availability of funds at the cost of defeating the estate planning for which the trust was created.

Generally, the retention of any incident of ownership in a life insurance policy by an Insured or the retention of a life interest in property contributed to a trust will each cause the policy's death benefit proceeds to be included in the Insured's estate.

If the Insured has other long-term care coverage outside the ILIT, a benefit received by the ILIT might create taxable income for the ILIT if aggregate exclusion limits are exceeded.

## The Policyowner Is a Trade or Business

If an employer provides for benefits informally funded through an employer-owned life insurance policy that includes the Long-Term Care Services℠ Rider, there are additional compensation and benefit tax issues, as well as certain employee notice and consent requirements, to be considered. Furthermore, the income exclusion rules for accelerated death benefits will generally not apply.

If the owner and the insured person are not the same, the exclusion for accelerated death benefits for chronic illness will not apply if the owner (taxpayer) has an insurable interest with respect to the life of the insured person, by reason of the insured person being an officer, employee or director of the taxpayer, or by reason of the insured person being financially interested in any trade or business carried on by the taxpayer.

# Tax Rules for Multiple Policies

The federal income tax rules apply the limitation on the exclusion of benefits on an aggregate basis for all payments received from all sources with respect to an insured person, whether owned by the same person or not. This includes benefits from both long-term care insurance and accelerated death benefits for chronic illness. Each payer of benefits is required to report such payments for federal income tax purposes on Form 1099-LTC. For your own particular situation, if you receive benefits under your policy, you must calculate the portion of benefits, if any, that must be included in income (refer to IRS Form 8853 and Instructions for Form 8853).

To help illustrate this concept further, let's take a look at an example of multiple policies owned by a daughter and mother.

- A daughter receives $45,000 in benefits in a taxable year on a policy she owns on the life of the Insured, her mother. Her mother receives $70,000 in benefits under a separate policy that she owns on herself. The total benefits on the life of the mother, as the Insured, would be $115,000.
- Now assume the maximum excludable amount for such year happens to be $108,000, based on the per diem limit being higher than qualifying costs incurred for services, all of which were incurred by the mother.
  - In this case, the mother could exclude all $70,000, since the amount received was under the $108,000 limit, and her daughter would exclude $38,000, since there would still be $38,000 remaining of the $108,000 limit after the mother's $70,000 exclusion. The remaining $7,000 received by her daughter would not be excludable, since aggregate benefits ($115,000) exceeded the applicable federal income limitation ($108,000) for such year.

Under IRS Instructions to Form 8853, the per diem limitation on benefits is first allocated to the Insured to the extent of the total payments the Insured received. For joint returns, the allocation is first made to the Insured and spouse for payments they both received. Any remaining applicable per diem limit is allocated pro rata among other policyholders based on the payments they received in the taxable year.

The current applicable per diem limit and costs incurred, and any necessary allocation for multiple policies, will therefore have to be determined annually to calculate excludable amounts for all recipients of benefits.

## Important Disclosures

The illustration for your life insurance policy will contain certain federal tax considerations for the basic life insurance policy and will also provide information on any riders illustrated. In the case of a variable life insurance policy, you can also refer to the prospectus for such policy for tax information about the basic life insurance policy and various riders under the policy.

This *Planning Perspectives* does not discuss tax considerations for a separate stand-alone policy that provides only long-term care benefits. You should carefully review the basic operation of the Long-Term Care Services℠ Rider and the possible advantages or disadvantages of the rider compared to a stand-alone long-term care policy with or without a separate life insurance policy.

This information is based on our general understanding of current federal income tax rules. Be advised that this document is not intended as legal or tax advice. In addition, U.S. Treasury Regulations require us to inform you that "any tax information provided in this document is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer. The tax information was written to support the promotion or marketing of the transaction(s) or matter(s) addressed, and you should seek advice, based on your particular circumstances, from an independent tax advisor."

State and local income tax rules may provide for different tax treatment of benefits or the deductibility of charges for benefits. You should consult your tax advisor as to your specific situation.

# Other Important Circumstances to Consider

## Adjustment to Tax Limits on Your Policy

Any adjustments made to the policy death benefit, Face Amount and other values as a result of the Long-Term Care Services℠ Rider benefits paid will also generally cause adjustments to the tax limits that apply to your policy. For example, for guideline premium tested policies, the guideline premiums will be adjusted. In addition, the seven-pay period and seven-pay premium for testing Modified Endowment Contract (MEC) status will also be impacted.

## Transfer for Value

If there has been a transfer for value of the life insurance policy (e.g., selling a policy to a third party) that causes the life insurance death benefit to lose its basic eligibility for excludability for income tax purposes, any acceleration of a portion of the death benefit will also lose eligibility for income tax exclusion.

## Split-Dollar Agreement

For policies intended to be used in a split-dollar agreement, many additional tax issues may arise for which there is little federal income tax guidance. These issues may include, but are not necessarily limited to, the taxation of any economic benefit arising out of the Long-Term Care Services℠ Rider, an employer's right to a policy's cash value versus the pro rata reduction of cash values through the acceleration of a portion of the policy's death benefit, and the application of the rules for business-related policies.

# Taxation of Long-Term Care Services℠ Rider Benefits Payments

## What Are the Tax Consequences When the Charges for the Long-Term Care Services℠ Rider Are Deducted from the Life Insurance Policy Account?

Long-Term Care Services℠ Rider monthly charges are considered distributions for income tax purposes, and may be taxable to the owner as ordinary income, reported on Form 1099R.

- If the base life insurance policy is not classified as a Modified Endowment Contract (MEC), monthly rider charges will generally be deemed a nontaxable return of premium that will reduce the tax basis in your policy. The amount of the monthly charge will generally be taxable only as ordinary income after the tax basis in your policy has been reduced to zero.
- For policies classified as MECs, monthly rider charges will generally be taxable to the extent of any gain in your policy (policy account value exceeds cumulative premiums). As with any taxable distribution from a MEC, an additional 10% tax penalty on the taxable amount will also generally apply if you are under age 59½ at the time of the distribution.

Charges for the Long-Term Care Services℠ Rider are generally not considered deductible for income tax purposes. The Long-Term Care Services℠ Rider is not intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code.

**Limitations and Exclusions:**

(a) Preexisting conditions. This rider does not cover conditions for which the insured person received medical advice or treatment from a provider of health care services (or a condition for which treatment was recommended to the insured person by a health care provider) within six months preceding the effective date of this rider. No benefits will be provided under the rider during the first six months for long-term care services received by the Insured due to a preexisting condition. Days of Service received by, or recommended to, the Insured for a preexisting condition during the first six months that the rider is in force will not be counted toward the satisfaction of the Elimination Period.

(b) Exclusions, Exceptions and Limitations. This rider does not cover services provided by a facility or an agency that does not meet the rider definition of such facility or agency. The rider does not cover care or treatment:

- From a facility that primarily treats drug addicts or alcoholics;
- For an attempted suicide or intentionally self-inflicted injuries;
- From a facility that primarily provides domiciliary, residency or retirement care;
- As a result of alcoholism or drug abuse (unless drug abuse was a result of the administration of drugs as part of treatment by a Physician);
- From a facility owned or operated by a member of your or the insured person's Immediate Family;
- Due to war (declared or undeclared) or any act of war, or service in any of the armed forces or auxiliary units;
- Provided by a member of the Insured's Immediate Family;
- Due to committing or attempting to commit or participating in a felony, riot or insurrection;
- From anyone who is under suspension from Medicare or Medicaid;
- For a mental, psychoneurotic or personality disorder without evidence of organic disease (Alzheimer's Disease and senile dementia are not excluded from coverage);
- If benefits are sought only because a third party requires that this rider be exercised (as, for example, to obtain or maintain a government assistance benefit);
- Received outside the United States unless the initial and any annual renewal certifications are completed by a Physician licensed in the United States. For purpose of this exclusion, United States shall mean the 50 states, District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

This rider may not cover all the expenses associated with the Insured's long-term care needs.

**The purpose of this method of marketing is solicitation of insurance and contact will be made by an insurance agent, producer, insurance company or insurance agency.**

*Actual terms and conditions of the Long-Term Care Services℠ Rider are contained in Rider form #R06-90 and state variations. This rider has exclusions and limitations and may not be available in all jurisdictions or may vary in your jurisdiction. This rider is not available in Florida, Minnesota and Washington State.*

**The applicable life insurance product brochure must accompany this *Long-Term Care Services℠ Rider Planning Perspectives.* In addition, in the case of a variable life insurance policy, this brochure must be preceded or accompanied by the applicable current variable life insurance prospectus and applicable prospectus supplements, which contain more complete information about the policy, including risks, charges, expenses and investment objectives. You should review the prospectus and consider the information carefully before purchasing a policy.**

Life insurance products are issued by AXA Equitable Life Insurance Company (AXA Equitable), New York, NY, or affiliate MONY Life Insurance Company of America (MONY America), an Arizona Stock Corporation, main administrative offices in New York, NY. MONY America is not licensed to do business in New York. Life insurance products are co-distributed by AXA Advisors, LLC and AXA Distributors, LLC. All companies are affiliated and directly or indirectly owned by AXA Equitable Financial Services, LLC, and do not provide tax or legal advice. You should consult with your tax and legal advisors regarding your particular circumstances. All companies are located at 1290 Avenue of the Americas, New York, NY 10104.

For costs and complete details of coverage, call your life- and health-insurance-licensed financial professional.

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GE-60824 (4/11)

Cat. #138138 (4/11)

# Supporting Document Schedules

| | | Item Status: | Status Date: |
|---|---|---|---|
| **Satisfied - Item:** | Revised Cover Letter 06.10.11 | Filed | 07/07/2011 |

**Comments:**

Attached.

**Attachment:**

AR MLOA Letter revised 06.10.11.pdf

**MONY Life Insurance Company of America**
1290 Avenue of the Americas
New York, NY 10104
Telephone (212) 314-2922
john.finneran@axa-equitable.com

**John Finneran**
**Assistant Vice President**

June 10, 2011

Ms. Julie Benafield Bowman
Insurance Commissioner
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201-1904

***Re: MONY Life Insurance Company of America (MLOA)***
***FEIN No.: 86-0222062 FEIN No.: 968-78077***
***Accelerated Death Benefit for Long-Term Care Services Sales Client Brochure***
***Accelerated Death Benefit Long-Term Care Services Planning Perspectives***
***Form Nos. GE-60825 (4/11) and GE-60824 (4/11)***
***SERFF Tracking No. ELAS-127110788***

Dear Commissioner Bowman:

In accordance with your requirements, we are submitting the above-referenced Accelerated Death Benefit for Long-Term Care Services sales material, for your information. We recently submitted Form Nos. GE-60825 (4/11) and GE-60824 (4/11), for use with life insurance products issued under the name of AXA Equitable Life Insurance Company, SERFF Tracking No. ELAS-127110787. The enclosed forms are the exact same form as the previously submitted forms.

Form Nos. GE-60824 (4/11) and GE-60825 (4/11), will be used by our registered representatives with our clients and prospects to introduce them to the Accelerated Death Benefit for Long-Term Care Services Rider, Form No. R06-90, which was approved by the Department, on July 26, 2006, (SERFF Tracking No. 6RPQMJ845/00, State Tracking Number 33243). Form Nos. GE-60824 (4/11) and GE-60825 (4/11) replaces previously submitted Form Nos. GE-48425 (4/09) and GE-48426 (4/09), that were filed by the Department on October 6, 2010, (SERFF Tracking No. ELAS-126831754, State Tracking Number 46964).

The applicable life insurance product brochure will accompany the submitted Accelerated Death Benefit for Long-Term Care Services sales materials. In addition, in the case of variable life insurance policy, the submitted client brochure and Planning Perspectives will either be preceded or accompanied by the applicable current variable life insurance prospectus and the applicable prospectus supplements, which contain more complete information about the policy, including risks, charges, expenses and investment objectives.

If additional information is needed, please do not hesitate to contact me at (212) 314-2922.

Sincerely,

John Finneran
Assistant Vice President