Vanni Treves & Charles Thompson,
Chairman & Chief Executive,
The Equitable Life Assurance Society,
Warwick Court,
Paternoster Square,
London EC4M 7DX.

The Croft,
10, Chapel Lane,
Old Dalby,
Leics LE14 3LA.
Oct 25th 2007.

REGISTERED MAIL (Re-send Oct 31st).

Dear Sirs,

Re: The proposed transfer of Equitable Life with-profits annuitants to the Prudential Assurance Company.

For the record allow me please to make some observations on this offer. My ulterior motive in so doing is to maintain appropriate lines of evidence into and across the deal, such that later liabilities and transparently appropriate compensation (if any or ever in an unreformed UK regulatory environment) can be determined. The unsatisfactory performance of the FOS and FSA is, however, a complicating factor, such that it has proved necessary to address it separately. So please find enclosed a late and hitherto unpublished fourth paper that was submitted to the EQUI secretariat, MEPs Mairead McGuinness and Diane Wallis, the Parliamentary Ombudsman's Office, the FOS; action group members and Clarke Willmott among others. It is dated March 31st 2007 and entitled: "The UK Government and Financial Ombudsman Service: their Equitable Life stance in current context".

I have regretfully to state that this paper also recapitulates the evidence for three separate *scienter* and liability trails relating to the Society's original fraudulent transition in the 1980s, the roles of the senior management team and Old Board, and the New Board in the run up to the Compromise or beyond. Inevitably it also deals with the willful aspects of complete regulatory failure, including:

- misrepresentations of interpolicy/intergenerational transfers, inequitable guarantees (GAR and GIR), and inequitable dispersal of free reserves,
- *de facto* regulatory-approved insolvency of the Society in July 2001.
- the true cost of the GAR, GIR and overbonusing/insolvency for both the Compromise Scheme and compensation,

One must presume that these matters pertain both to the excluded liabilities under the deal which will remain attached to the rump of the Society and New Board, but which could also attach to the Prudential if they accepted any of them, especially if knowingly. So let me first state my concern for the Society's rump of remaining policyholders and the Prudential- do they properly understand their liabilities?

Equitable end-gamers know from long experience that they cannot rely on the FSA to look after any policyholders' interests as any sort of locum trustee in these or other matters. Once again the FSA is not going to advise until after policyholders have voted and the deal Court Hearing is over. It is to say the least incongruous, given the reasonable presumption that they have had not inconsiderable involvement behind the scenes already. So who apart from the Society itself is acting as trustee for any of the policyholder subgroups? The deal prospectus implicitly invites policyholders to think of the Independent Expert as some sort of Good Shepherd, but that impression vanishes on more detailed consideration. Take for example his irresponsibly dismissive closing statement on the deal making later compensation more difficult.

Your Help Desk advises me that the Society is the grantee for my FSAVC WP policy, and so once again I cannot vote. Given my free choice of The Equitable for my FSAVC I fail to see why the Society should ever have been the grantee. How many other policyholders are not going to be able to vote, and who are their subgroup trustees? *I must presume that Mr. Treves in his conflicting roles of Chairman, grantee, proposer and trustee will have cast my vote in favour of the deal, so let me enter a strong objection to this.* Yet again on past experience one must doubt that the FSA or Court will pay any attention to such "trivia". Not, of course, that independent trustees will have been queuing up to represent policyholder subgroups- they are waking up to their liabilities these days, and we have behind us the ignominious behaviour of Law Debenture Pensions Trust plc. on behalf of the with-profits annuitants in the Compromise. So please consider Law Debenture blackballed this time round. The situation is rendered the more urgent because the transfer is being brokered by the same team that gave us the Compromise and the highly dubious Ms. E compensation formula, namely The Equitable, BWD, Lovells and presumably the FSA. *Forgive me for saying so, but this team is not generally considered to have clean hands.* The whole trustee thing is a minefield, but still it must be crossed.

Disenfranchisement, no independent trustees, conflicts of interest, obscurities in compensation and difficulties in obtaining redress make linked matters such as duties of care, equity and transparency all the more important. *Knowing one's asset share is an essential underpinning of transparent equity, as is appropriate accounting and actuarial certification that the aggregate sum of asset shares bears some direct and definable relationship to those assets that are transferred, as well for those remaining. All policyholders also need to know what their asset shares are at the time of the deal in order to keep track of compensation and liability issues, whether these be individual or joint.* It is worrying both that ELAS and BWD have not provided accounts in a form sufficient to demonstrate an equitable split, and that the Independent Expert has overlooked it. And though there are practical difficulties in giving indicative asset shares before the deal, they could reasonably be claimed to have an influence on how policyholders might vote. Indeed you furnished such information prior to the Compromise, albeit not to the annuitants for cogent reasons which became apparent later. And since the Prudential will be assigning individual asset shares to transferred annuitant policies after the deal, may we please have the final values? Policyholders remaining are similarly entitled to know their individual positions after the deal. That way, everyone gets an official milestone figure which shows how much they have gained or lost up to this point.

Of course you already must have accurate asset share information in order to determine various charges, such as the 1% per annum charge on asset share value for administration and the 0.5% to maintain reserves for various regulatory requirements and to fund unspecified "guarantees" now that the consequences of not maintaining a proper estate have come home to roost. We have also to look out for what portend to be 0.5% per annum reductions in non-guaranteed income as mortality adjustments, as well as 0.5% reductions in bonus rate until 2011 to fund the residue of the GAR liability, whereas we had previously been told that this was all paid for by withholding 7 months bonus in the year 2000. *On the one hand, therefore, there can be no practical reason why we should not all have our asset shares at transfer, whereas on the other we must all keep tabs on what loss of reasonable expectations we had of the advantages of mutuality, low administration costs before the sale and lease back of administration from HBOS, or that the unequal benefits of the various guarantee classes would have been charged for in and cleared by our premiums.* Now we have what is basically an estate tracker fund with baseline charges appropriate to a more expensive unit trust, a lower smoothing limit of 0% per annum underwritten by the Prudential main WP fund in exchange for skimming the returns above an upper limit of 11%, and with "pay as you go" insurance for unhedgeable risks like mortality and "guarantees" added on. There is also an up front 1% cull of asset shares to fund expected deferments in mortality. None of this was in our original contracts let alone our expectations, and one suspects that Prudential's own with-profits policyholders are significantly better off, given that they enjoy the real advantages of an estate and assuming that their charges are limited to 10% of returns annually. The Independent Expert has not commented on any of this, nor may he have gauged its unanticipated combined below-the-line effects on annuitants' anticipated bonus rates to maintain level annuities. Since the new charges variously affect asset share, un-guaranteed income or overall return, and because there should be some adjustable run-off of asset share to support annuity levels before annuitants die, there cannot be a precise correlation of individual policyholders' annuity levels with their asset shares. Nevertheless it is not unreasonable to assume that asset share deductions and bonus reductions will feed through as broadly similar increases in the bonus rate necessary to maintain level annuities. With this in mind, you might additionally be worried that one or more of your Prudential Deal Help Desk staff think that all the charges are funded out of returns rather than asset share, the which you can confirm from my recorded conversation this Wednesday afternoon. *Pray let us therefore ask you, the FSA and the Court whether this amounts to a breach of the terms of any or all our contracts, and whether this deal is being used to legitimize the new charges as faits accompli.* We need our horse firmly before rather than after the cart on this important issue.

A more inquisitive Independent Expert might also have tracked the origins of these difficulties back to the two presentations by Ranson and Headdon of "With Profits Without Mystery" back in 1989/90, and the main thrusts of the published expert discussion. Among other things it was repeatedly observed that some form of free reserves were likely to be necessary, that dispersion of the estate and intergenerational transfer were intrinsically wrong, and in effect that the way to deal with the inequities posed by different classes of guarantee should be avoided by proper initial explanations and differential charges at the time of sale. These problems may not bother the Expert or indeed you any more than they did Ranson or Headdon, who proceeded to ignore them, but still they haunt us policyholders. And if residual charges for the GAR were not bad enough at this stage, we have still to contend with the inequities posed by the GIR. If you have forgotten our previous correspondence on this subject you will find it published in Annexe III of my update paper on "Anatomy of a Fraud", which is EQUI written evidence number 33. Had you addressed the matter or alerted the Independent Expert to it, he might have done more than merely recite the charging formula in Section 4.30c of his report. To judge its inequity, though, you can now consult the ELTA website and see the tables computed by Peter Scawen in his Oct 17th description of the proposed transfer. The figures in red indicate the percentage declines in annuity for GIR and non-GIR policies for different Anticipated Bonus Rates (ABRs) and actual returns. It is readily apparent how disadvantaged the GIRs are. What these figures do not allow for are the new below-the-line charges referred to previously. Although as previously explained there are difficulties in assessing their combined effects, it may be that the red tide of losses in Peter's tables rises between 3 and 4 rows for both GIRs and non-GIRs. *So please note that an average GIR policyholder with a 5.5-6.0% ABR would then barely maintain a level annuity even at the upper bonus "smoothing" cap of 11%. In other words, Mr. Average GIR is a no-hoper after the transfer.* This should concern a truly independent trustee for GIR annuitants and the Court. How the Prudential might handle the resulting windfall is not clear from the prospectus. I must respectfully insist that you now refer this whole matter to the FSA and the Court transfer hearing for further consideration.

One could also question the unequal split in "excess realistic" assets and transfer costs on the grounds that the deal is not all that hot for the annuitants generally or GIRs in particular, and that all must have contributed *pro rata* to the "excess" up to now. But in the end it all boils down to the following:

1. There are grave interlinked issues of equity, good faith, reputation, duties of care, transparency, franchise and independent trusteeship.
2. The deal may in effect crystallize unadvertised losses of historic contractual rights and reasonable expectations as *faits accompli*.
3. There is a dominant residual inequity caused by the continuing un-ratified GIR Differential Terminal Bonus Charge in the Prudential group, which is likely to be compounded by all the new charges under the deal.
4. There are outstanding issues of liability, compensation and litigation.
5. ***Hence one must urgently assert all Equitable policyholders' rights and needs for a milestone asset share/ benefits determination at the point of split.***
6. The accounts should be in a suitable and responsibly attested form that trails and demonstrates the equitably accurate split.

Yours truly and sincerely,

Dr Michael Nassim.

References: Late submission; EQUI Written Evidence Item 33 Annexe III; Peter Scawen Oct 17th 2007 transfer analysis: www.elta.org.uk
Mail copies: Sir Callum McCarthy (FSA); Nick Prettejohn (CEO Prudential).
Enclosures: EQUI late submission as described; covering letter to FSA/Prudential.
E-mail copies for information: Mairead McGuinness MEP; Diane Wallis MEP; Alan Duncan MP; Ann Abraham & Iain Ogilvie (PO's Office); Sir Christopher Kelly & Walter Merricks (FOS); Peter Scawen (ELTA); Michael Josephs (Investors Association); John Newman, Paul Braithwaite, Colin Slater and Nicolas Bellord (EMAG); Paul Weir (ELCAG); Liz Kwantes (ELM); Peter Butler (GAR Rectification Group); Robert Morfee (Clarke Willmott); Nicholas Oglethorpe; Neil Britten; Prof. John Bonn; Geoff Roberts; Martin Young; Brian Chase Grey; Jeremy Watts-Russell; Thelma Haile.