

July 11, 1958

SUBJECT: INSURANCE

TO ALL AUTHORIZED LIFE INSURANCE COMPANIES:

Terminal Dividends

During the past several years the Department, in its study of terminal dividends, has assembled information reflecting the practices of the various life insurance companies licensed to do business in this State. Circular letters were issued by the Department to all authorized life companies under dates of May 24, 1955, January 25, 1956, and October 30, 1956. Hearings or conferences, at which company representatives were present, were held on March 25, 1956, August 7, 1956, and October 30, 1956. A final hearing was held on May 14, 1958 at the office of the Insurance Department for the purpose of making a determination concerning the principles to be applied in administering the provisions of Section 216 (1) of the New York Insurance Law relative to the payment of terminal dividends to policyholders commencing with policy anniversaries occurring in 1959. Companies were afforded the fullest opportunity to express their views, both verbally and by written memoranda, on the various phases relating to the payment of terminal dividends. These views have received the careful consideration of the Department in the writing of this opinion and decision.

Section 216 of the New York Insurance Law, which is the statutory authority for the payment of terminal dividends, provides in part that any domestic life insurance company "which in good faith apportions and distributes its divisible surplus . . . on an annual basis as dividends to all classes of policies and contracts entitled to share therein, may apportion and distribute all or any part of its accumulated surplus, . . . with the approval of the superintendent, at reasonable intervals with respect to any policy or contract or on its termination by death, maturity or surrender, as additional or extra dividends in an amount deemed by him not inequitable in proportion to the annual dividends paid in preceding years on such policies or contracts."

In order to qualify for favorable consideration for future Department approval of the apportionment and distribution of accumulated surplus in the form of terminal dividends, it is the Department's determination that the following criteria must be met by domestic life insurance companies for the year 1959 and thereafter:

1. A company which hereafter proposes to pay terminal dividends shall demonstrate (a) that such dividends are equitably apportioned by reason of the actual experience for the given class of policyholders and particular plans and policy durations involved, over and above the apportionment for regular annual dividends; (b) that such dividends bear a reasonable relationship to the surplus accumulated by the class of policyholders; (c) that as to such dividends the company's practices shall be consistent in classifying policies by years of insurance, plans of issue, reserve bases, etc.; and (d) that such dividends are "not inequitable in proportion," i.e., not disproportionate to the annual dividends paid in preceding years for a given class of policyholders.
2. A company shall justify the interval after which terminal dividends are to commence.
3. If a company proposes to pay terminal dividends, it shall do so for all terminations by death, maturity, and surrender, including settlement options. Suitable provision should be made in the cases of reduced paid-up insurance and extended term insurance.

4. Departmental approval for terminal dividends shall be obtained annually by domestic life insurance companies.

Pursuant to the authority conferred by subsection 5, of Section 42 of the New York Insurance Law, it is hereby declared that foreign life insurance companies and United States branches of alien life insurance companies licensed to do business in this State, shall substantially comply with rules 1 to 3 inclusive, set forth in the paragraph next preceding, in the payment of terminal dividends to policyholders in this State, and it shall be a condition precedent to the issuance of renewal licenses to each such insurer and branch that it file certified copies of resolutions with the Superintendent of Insurance, as adopted by its board of directors or other governing body relating to the payment of terminal dividends commencing with the year 1959.

Please acknowledge receipt of this letter.

Yours very truly,

[SIGNATURE]

Superintendent of Insurance