

NEW YORK STATE  
INSURANCE DEPARTMENT

REGULATION NO. 60  
11 NYCRR 51

REPLACEMENT OF LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS

I, Neil D. Levin, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 2123, 2403 and 4226 of the Insurance Law, do hereby repeal Part 51 of Title 11 of the Official Compilation of Codes, Rules and Regulations and do hereby promulgate a new Part 51 of Title 11 of the Official Compilation of the State of New York (Regulation No. 60), to take effect 90 days after publication in the State Register to read as follows:

(ALL MATERIAL NEW)

**Section 51.1 Purposes**

The purposes of this Part are:

- (a) To implement the Insurance Law of New York by regulating the acts and practices of insurers, agents and other licensees of the Insurance Department with respect to the internal and external replacement of life insurance policies and annuity contracts.
- (b) To protect the interest of the public by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of life insurance policies and annuity contracts; by making available full and clear information on which an applicant for life insurance or annuities can make a decision in his or her own best interest; by reducing the opportunity for misrepresentation and incomplete comparison in replacement situations (commonly referred to as twisting); and by precluding unfair methods of competition and unfair practices.

**Section 51.2 Definitions**

- (a) The term “replacement of a life insurance policy or an annuity contract” as used in this Part means, except as exempted in Section 51.3 of this Part, that new life insurance or new annuities are to be purchased and delivered or issued for delivery in New York and it is known to the Department licensee that, as part of the transaction, existing life insurance policies or annuity contracts have been or are likely to be:
  - (1) Lapsed, surrendered, partially surrendered, forfeited, assigned to the insurer replacing the life insurance policy or annuity contract, or otherwise terminated;

- (2) Changed or modified into paid-up insurance; continued as extended term insurance or under another form of nonforfeiture benefit; or otherwise reduced in value by the use of nonforfeiture benefits, dividend accumulations, dividend cash values or other cash values;
  - (3) Changed or modified so as to effect a reduction either in the amount of the existing life insurance or annuity benefit or in the period of time the existing life insurance or annuity benefit will continue in force;
  - (4) Reissued with a reduction in amount such that any cash values are released, including all transactions wherein an amount of dividend accumulations or paid-up additions is to be released on one or more of the existing policies;
  - (5) Assigned as collateral for a loan or made subject to borrowing or withdrawal of any portion of the loan value, including all transactions wherein any amount of dividend accumulations or paid-up additions is to be borrowed or withdrawn on one or more existing policies; or
  - (6) Continued with a stoppage of premium payments or reduction in the amount of premium paid.
- (b) The term “sales material” as used in this Part means any sales illustration prepared in accordance with Section 3209 of the Insurance Law and any other policy or contract information used in the presentation to the applicant.
  - (c) The terms “policy” and “contract” as used in this Part shall include a certificate issued under a group policy or group contract.

### **Section 51.3 Exemptions**

This Part shall not apply when:

- (a) The application for the new life insurance policy or new annuity contract is made to the same insurer that issued the existing life insurance policy or annuity contract and a contractual conversion privilege is being exercised;

- (b) A policy change customarily granted by the insurer is being exercised, provided such change results in no additional surrender or expense charge or suicide or contestable restrictions, and only to the extent such change is approved by the Superintendent of Insurance;
- (c) The new coverage is provided under:
  - (1) a group life insurance policy or group annuity contract, except when an agent or insurer directly solicits the certificateholder for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the certificateholder;
  - (2) an individual life insurance policy or individual annuity contract whose cost is borne wholly by the applicant's employer or by an association of which the applicant is a member; or
  - (3) individual life insurance policies or individual annuity contracts covering employees of an employer, debtors of a creditor, or members of an association, that are distributed on a mass merchandising basis and administered by group-type methods, except when an agent or insurer directly solicits the applicant for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the applicant; or
- (d) The existing life insurance is a nonrenewable, nonconvertible term policy with five years or less to its expiration date.

#### **Section 51.4 Alternate Procedures**

Procedures designed to meet the purposes of this Part, that are approved in advance and determined by the Superintendent of Insurance not to be detrimental to policyholders and contractholders, may be substituted for this Part by an insurer where no sales agency force is used and the application is solicited and received by the insurer by mail or under other methods that are without agent involvement. Any procedures approved by the Superintendent of Insurance prior to the effective date of this Part must be resubmitted for approval.

#### **Section 51.5 Duties of Agent**

Each agent shall:

- (a) Obtain with or as part of each application a completed "Definition of Replacement" in a form prescribed by the Superintendent of Insurance and signed by the applicant and the agent and leave a copy of such form with the applicant for his or her records;

- (b) Submit to the insurer along with each application a signed and completed “Definition of Replacement”; and
- (c) Where a replacement has occurred or is likely to occur:
  - (1) Obtain with or as part of each application a list of all existing life insurance policies or annuity contracts proposed to be replaced;
  - (2) Notify the insurer whose policy or contract is being replaced and the insurer replacing the life insurance policy or annuity contract of the proposed replacement. Submit to the insurer whose policy or contract is being replaced a list of all life insurance policies or annuity contracts proposed to be replaced, as well as the policy or contract number for such policies or contracts, together with the proper authorization from the applicant, and request the information necessary to complete the “Disclosure Statement” with respect to the life insurance policy or annuity contract proposed to be replaced. 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;
  - (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;
  - (4) Have the applicant acknowledge that the “IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts” and the completed “Disclosure Statement” have been received and read; and
  - (5) Submit with the application to the insurer replacing the life insurance policy or annuity contract: a list of all life insurance policies or annuity contracts proposed to be replaced; a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the “IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts”; and the completed “Disclosure Statement”, including the primary reason(s) for recommending the new life insurance policy or annuity contract and why the existing life insurance policy or annuity contract cannot meet the applicant’s objectives.

## Section 51.6 Duties of Insurers

- (a) Each insurer shall:
  - (1) Inform and train its agents with respect to the requirements of this Part;
  - (2) Require with or as part of each application, a completed “Definition of Replacement” signed by the applicant and agent;
  - (3) Maintain signed and completed copies of the “Definition of Replacement” 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; and
  - (4) Require with or as part of each application a statement signed by the agent as to whether, to the best of his or her knowledge, replacement of a life insurance policy or annuity contract is involved in the transaction.
- (b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall:
  - (1) Require with or as part of each application a list prepared by the agent representing, to the best of his or her knowledge, all of the existing life insurance policies and annuity contracts proposed to be replaced;
  - (2) Require with or as part of each application a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and proof of receipt by the applicant of the “IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts” and the completed “Disclosure Statement”;
  - (3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the “Disclosure Statement”, and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part;
  - (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”;
  - (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;

- (6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the "IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts"; the signed and completed "Disclosure Statement"; and 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;
- (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. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of Section 51.6(b)(6) herein;
- (8) Treat the proposed life insurance policy or annuity contract in all respects as if it were a new issuance of the life insurance policy or annuity contract subject to no differences in underwriting or in other considerations including, but not limited to: premium discount, interest rate credit, agent compensation or expenses, or incentives such as bonuses or other inducements to agents. This provision, however, shall not prevent an insurer from paying lower compensation or expenses to agents on the proposed life insurance policy or annuity contract; and
- (9) In the event the life insurance policy or annuity contract issued differs from the life insurance policy or annuity contract applied for, ensure that the requirements of this Part are met with respect to the information relating to the life insurance policy or annuity contract as issued, including but not limited to the revised "Disclosure Statement", any revised or additional sales material used and acknowledgement by the applicant of receipt of such revised material.

- (c) Where a replacement has occurred or is likely to occur, the insurer whose life insurance policy or annuity contract is to be replaced shall:
- (1) Upon notice that its existing coverage may be replaced, maintain copies of such notification, indexed by insurer notifying it of such replacement, 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; and
  - (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.
- (d) Any insurer that issues a replacement life insurance policy or annuity contract shall provide to the policy or contract owner the right to return the policy or contract within sixty days from the date of delivery of such policy or contract and receive an unconditional full refund of all premiums or considerations paid on it, or in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender benefits provided under the policy or contract, plus the amount of all fees and other charges deducted from gross considerations or imposed under the policy or contract. Payment of such refund shall be made within ten days following receipt of the policy or contract for cancellation in accordance with the right to cancellation provision of the policy or contract. During this period, an insurer whose policy or contract has been replaced shall reinstate or restore, without underwriting or a new contestable or suicide period, such policy or contract as of the date of replacement, upon receipt by the insurer whose policy or contract has been replaced of: (1) written proof that the replacement policy or contract has been canceled, including the date of cancellation; (2) any funds, previously released under such replaced policy or contract; and (3) any premium or consideration due on the original policy or contract which shall be calculated from the paid-to-date. The insurer whose policy or contract has been replaced shall reinstate or restore the original policy or contract to its former status to the extent possible and in accordance with its published reinstatement rules to the extent such rules are not inconsistent with the provisions of this Part.

- (e) Both the insurer whose life insurance policy or annuity contract is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt. Such insurers shall also designate a principal officer specifically responsible for the monitoring and enforcement of these procedures. All insurers covered under this Part shall furnish the Superintendent of Insurance with these procedures and the name and title of the designated principal officer by the effective date of this Part. Any changes in these procedures or the designated principal officer shall be furnished to the Superintendent of Insurance within thirty days of such change.

### **Section 51.7 Prohibited Acts**

- (a) No insurer or agent shall:
  - (1) make or give any deceptive or misleading information in the “Disclosure Statement” or in any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract;
  - (2) in completing the application, fail to ask the applicant the pertinent questions relating to the probability of replacement;
  - (3) incorrectly record an answer;
  - (4) counsel an applicant to answer the question(s) with respect to replacement negatively in order to prevent notice to the insurer to be replaced; or
  - (5) counsel an applicant to write directly to the insurer in such a way as to attempt to bypass such insurer's agency representation or obscure the identity of the agent replacing the life insurance policy or annuity contract.
- (b) No insurer, agent, representative, officer, or employee of an insurer or any other licensee of this Department shall fail to comply with or engage in other practices that would prevent the orderly working of this Part in accomplishing its intended purpose in the protection of policyholders and contractholders. Any person failing to comply with this Part, or engaging in other practices that would prevent the orderly working of this Part, shall be subject to penalties under the Insurance Law of the State of New York, which may include, but shall not be limited to, monetary restitution, restoration of policies or contracts, removal of directors or officers, suspension or revocation of agent's or company's licenses and monetary fines.

- (c) Although policyholders and contractholders have the right to replace existing life insurance policies or annuity contracts after having indicated in or as a part of an application for new coverage that such was not their intention, patterns of such action by policyholders or contractholders having the same agent shall be deemed *prima facie* evidence of the agent's knowledge that replacement was intended in connection with such transactions, and such patterns of action shall be deemed *prima facie* evidence of the agent's intent to violate this Part.

### **Section 51.8 Exhibits**

The forms set forth in Appendixes 10A, 10B, 10C and 11 of this Title are hereby approved for use as specified in this Part. The forms shall be set forth in at least 12 point type and shall be highlighted as indicated herein. Substantially equivalent forms may be adopted with the prior approval of the Superintendent of Insurance.

I, Neil D. Levin, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is a new 11 NYCRR 51 (Regulation 60), promulgated by me on July 22, 1998, pursuant to the authority granted by Sections 201, 301, 2123, 2403 and 4226 of the Insurance Law, to take effect 90 days after publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed new regulation was published in the State Register on May 27, 1998. No other publication or prior notice is required by Statute.

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Neil D. Levin  
Superintendent of Insurance

July 22, 1998

APPENDIX 10A

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK

DISCLOSURE STATEMENT

IMPORTANT - IT MAY NOT BE IN YOUR BEST INTEREST TO SURRENDER, LAPSE, CHANGE OR BORROW FROM EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS IN CONNECTION WITH THE PURCHASE OF A NEW LIFE INSURANCE POLICY OR ANNUITY CONTRACT WHETHER ISSUED BY THE SAME OR A DIFFERENT INSURANCE COMPANY. YOU ARE URGED TO CONTACT YOUR EXISTING AGENT OR INSURANCE COMPANY PRIOR TO COMPLETING THE TRANSACTION. THEY CAN HELP YOU DECIDE WHETHER THE REPLACEMENT IS IN YOUR BEST INTEREST.

FOR YOUR PROTECTION, the Insurance Department of the State of New York requires that you be given this Disclosure Statement, the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts and the Definition of Replacement, together with policy information on all proposed and existing coverage affected.

Name of Applicant Telephone #

Address

Name of Agent Telephone #

Company Address

The information on existing coverage on this form was obtained from
The replaced company
Approximations if replaced company failed to provide information in the prescribed time

1. DESCRIPTION OF TRANSACTION: AS OF DATE:

Table with 4 columns: Proposed Policy/Contract, Existing Policies/Contracts Affected (1), (2), (3). Rows include Company, Customer Service, Telephone Number, Type of Insurance, Face Amount, Rider, Premium, Contract Number, Issue Date.

Proposed Policy/Contract		Existing Policies/Contracts Affected		
		(1)	(2)	(3)
\$ _____	Surrender Charge	\$ _____	\$ _____	\$ _____
_____ %	Guaranteed Interest Rate	_____ %	_____ %	_____ %
_____ %	Loan Interest Rate	_____ %	_____ %	_____ %
_____ Years	Contestable Expiry Date	_____ M/Y	_____ M/Y	_____ M/Y
_____ Years	Suicide Expiry Date	_____ M/Y	_____ M/Y	_____ M/Y

**Existing coverage to be changed by:**

Lapse or Surrender	[ ]	[ ]	[ ]
Amendment or Reissue	[ ]	[ ]	[ ]
Loan or Withdrawal	[ ]	[ ]	[ ]
Reduction To	\$ _____	\$ _____	\$ _____
Reduced Paid-Up For	\$ _____	\$ _____	\$ _____
Extended Term For	___ Yrs ___ Mos	___ Yrs ___ Mos	___ Yrs ___ Mos

Cash released by change	Year _____	\$ _____	\$ _____	\$ _____
	Year _____	\$ _____	\$ _____	\$ _____
	Year _____	\$ _____	\$ _____	\$ _____

Use of cash released: \_\_\_\_\_

**DISCLOSURE STATEMENT CONTINUED:****2. SUMMARY RESULT COMPARISON:**

New With Existing Coverage Changed			Existing Coverage Unchanged	
Guaranteed	Non-Guaranteed	Annual Premium	Guaranteed	Non-Guaranteed
\$ _____	\$ _____	At Present	\$ _____	\$ _____
\$ _____	\$ _____	5 Years Hence	\$ _____	\$ _____
\$ _____	\$ _____	10 Years Hence	\$ _____	\$ _____
Guaranteed	Non-Guaranteed	Surrender Value	Guaranteed	Non-Guaranteed
\$ _____	\$ _____	At Present	\$ _____	\$ _____
\$ _____	\$ _____	5 Years Hence	\$ _____	\$ _____
\$ _____	\$ _____	10 Years Hence	\$ _____	\$ _____
Guaranteed	Non-Guaranteed	Death Benefit	Guaranteed	Non-Guaranteed
\$ _____	\$ _____	At Present	\$ _____	\$ _____
\$ _____	\$ _____	5 Years Hence	\$ _____	\$ _____
\$ _____	\$ _____	10 Years Hence	\$ _____	\$ _____
Guaranteed	Non-Guaranteed	Dividends	Guaranteed	Non-Guaranteed
\$ _____	\$ _____	At Present	\$ _____	\$ _____
\$ _____	\$ _____	5 Years Hence	\$ _____	\$ _____
\$ _____	\$ _____	10 Years Hence	\$ _____	\$ _____

**AGENT'S STATEMENT:**

1. The primary reason(s) for recommending the new life insurance policy or annuity contract is (are):

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2. The existing life insurance policy or annuity contract cannot meet the applicant's objectives because:

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3. The advantages of continuing the existing life insurance policy or annuity contract without changes are:

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**REMARKS:**

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- The attached proposal, including sales material, was used in this sale.
- No proposal or sales material was used in this sale.

**DISCLOSURE STATEMENT CONTINUED:**

If more than three existing life insurance policies or annuity contracts are to be affected by this transaction or if more than one new life insurance policy or annuity contract is proposed, the first page of this Disclosure Statement must be completed for such additional life insurance policies and annuity contracts. In addition, a composite comparison shall be completed for all existing life insurance policies or annuity contracts to all proposed life insurance policies or annuity contracts. The proposal, including sales material used in the sale of the proposed life insurance policy or annuity contract, must accompany the submission of this form to the insurer. Copies must be given to the applicant.

**I have personally completed this form and certify that it is correct to the best of my knowledge and ability.**

**Date:** \_\_\_\_\_ **Signature of Agent:** \_\_\_\_\_

**I hereby acknowledge that I received and read the above "Disclosure Statement" before I signed the application for the new coverage.**

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

APPENDIX 10B

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK

DISCLOSURE STATEMENT (Annuity to Annuity Replacement Only)

IMPORTANT - IT MAY NOT BE IN YOUR BEST INTEREST TO SURRENDER, LAPSE, CHANGE OR BORROW FROM EXISTING ANNUITY CONTRACTS IN CONNECTION WITH THE PURCHASE OF A NEW ANNUITY CONTRACT WHETHER ISSUED BY THE SAME OR A DIFFERENT INSURANCE COMPANY. YOU ARE URGED TO CONTACT YOUR EXISTING AGENT OR INSURANCE COMPANY PRIOR TO COMPLETING THE TRANSACTION. THEY CAN HELP YOU DECIDE WHETHER THE REPLACEMENT IS IN YOUR BEST INTEREST.

FOR YOUR PROTECTION, the Insurance Department of the State of New York requires that you be given this Disclosure Statement, the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts and the Definition of Replacement, together with policy information on all proposed and existing coverage affected.

Name of Applicant \_\_\_\_\_ Telephone # \_\_\_\_\_

Address \_\_\_\_\_

Name of Agent \_\_\_\_\_ Telephone # \_\_\_\_\_

Company \_\_\_\_\_ Address \_\_\_\_\_

The information on existing coverage on this form was obtained from

\_\_\_ The replaced company

\_\_\_ Approximations if replaced company failed to provide information in the prescribed time

1. DESCRIPTION OF TRANSACTION:

AS OF DATE:

Proposed Annuity Contract

Existing Annuity Contracts Affected  
(1) (2) (3)

_____	Company	_____	_____	_____
_____ - _____	Customer Service			
_____	Telephone Number:	_____ - _____	_____ - _____	_____ - _____
	Type of Annuity	_____	_____	_____
	Contract Number	# _____	# _____	# _____
	Issue Date	_____	_____	_____

1.1

Proposed Annuity Contract

Existing Annuity Contracts Affected  
(1) (2) (3)

\$ _____	Account Value	\$ _____	\$ _____	\$ _____
\$ _____	Minus Surrender Charge	\$ _____	\$ _____	\$ _____
\$ _____	Plus/Minus Market Value Adjustment (if any)	\$ _____	\$ _____	\$ _____
\$ _____	Equals Surrender Value	\$ _____	\$ _____	\$ _____

**DISCLOSURE STATEMENT CONTINUED:**

**2. SUMMARY RESULT COMPARISON:**

**THE PROPOSED ANNUITY**

**IF YOU CONTINUE YOUR CURRENT ANNUITY**

**Surrender Value To Be Invested: \$ \_\_\_\_\_**

**Current Value \$ \_\_\_\_\_**

If Variable Annuity  
Hypothetical Rates of Return

If Variable Annuity  
Hypothetical Rates of Return

At Guaranteed Rate	At Current Rate	@ 0%	@ 6%	@ 12%		At Guaranteed Rate	At Current Rate	@ 0%	@ 6%	@ 12%
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**SURRENDER VALUE**

\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 5 Yrs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 10 Yrs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**DEATH BENEFIT**

\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 5 Yrs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 10 Yrs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**AGENT'S STATEMENT:**

1. The primary reason(s) for recommending the new annuity contract is (are):

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2. The existing annuity contract cannot meet the applicant's objectives because:

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3. The advantages of continuing the existing annuity contract without changes are:

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4. The surrender charge, if my client replaces his or her existing annuity contract, is \_\_\_% or \$\_\_\_\_. The new annuity my client is applying for imposes a new surrender charge as follows: (Describe percentage rate of surrender charge for each year in which a surrender charge is imposed)

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**REMARKS:** \_\_\_\_\_

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- The attached proposal, including sales material, was used in this sale.  
 No proposal or sales material was used in this sale.

If more than three existing annuity contracts are to be affected by this transaction or if more than one new annuity contract is proposed, the first page of this Disclosure Statement must be completed for such additional annuity contracts. In addition, a composite comparison shall be completed for all existing annuity contracts to all proposed annuity contracts. The proposal, including sales material used in the sale of the proposed annuity contract, must accompany the submission of this form to the insurer. Copies must be given to the applicant.

**I have personally completed this form and certify that it is correct to the best of my knowledge and ability.**

**Date:** \_\_\_\_\_ **Signature of Agent:** \_\_\_\_\_

**I hereby acknowledge that I received and read the above "Disclosure Statement" before I signed the application for the new annuity contract.**

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

## APPENDIX 10C

### INSURANCE DEPARTMENT OF THE STATE OF NEW YORK **IMPORTANT NOTICE REGARDING REPLACEMENT OR CHANGE OF LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS**

#### **THIS NOTICE IS FOR YOUR BENEFIT AND REQUIRED BY REGULATION NO. 60**

YOU ARE CONTEMPLATING THE PURCHASE OF A LIFE INSURANCE POLICY OR ANNUITY CONTRACT IN CONNECTION WITH THE SURRENDER, LAPSE OR CHANGE OF EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS. THE AGENT IS REQUIRED TO GIVE YOU THIS NOTICE TOGETHER WITH A SIGNED DISCLOSURE STATEMENT CONTAINING THE SUMMARY RESULT COMPARISON FOR THE NEW LIFE INSURANCE POLICY OR ANNUITY CONTRACT AND ANY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS TO BE CHANGED THAT SETS FORTH THE FACTS OF THE TRANSACTION AND ITS ADVANTAGES AND DISADVANTAGES TO YOU. YOUR DECISION COULD BE A GOOD ONE - OR A MISTAKE - SO MAKE SURE YOU UNDERSTAND THE FACTS. YOU SHOULD:

1. CAREFULLY STUDY THE DISCLOSURE STATEMENT, WHICH INCLUDES A SUMMARY RESULT COMPARISON, UNTIL YOU ARE SURE YOU UNDERSTAND FULLY THE EFFECT OF THE TRANSACTION.
2. ASK THE COMPANY OR AGENT FROM WHOM YOU BOUGHT YOUR EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS TO REVIEW WITH YOU THE TRANSACTION AND THE DISCLOSURE STATEMENT. YOU MAY BE ABLE TO EFFECT THE CHANGES YOU DESIRE MORE ADVANTAGEOUSLY WITH THEM. THEIR CUSTOMER SERVICE TELEPHONE NUMBER IS CONTAINED IN THE DISCLOSURE STATEMENT.
3. CONSULT YOUR TAX ADVISOR. THERE MAY BE UNFAVORABLE TAX IMPLICATIONS ASSOCIATED WITH THE CONTEMPLATED CHANGES TO YOUR EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS.

As a general rule, it is often not advantageous to drop or change existing coverage in favor of new coverage, whether issued by the same or a different insurance company. Some of the reasons it may be disadvantageous are:

1. The amount of the annual premium under an existing life insurance policy may be lower than that called for by a new life insurance policy having the same or similar benefits. Any replacement of the same type of policy will normally be at a higher premium rate based upon the insured's then attained age.
2. Since the initial costs of a life insurance policy are charged against the cash value increases in the earlier life insurance policy years, the replacement of an old life insurance policy by a new one results in the policyholder sustaining the burden of these costs twice. Annuity contracts usually contain provision for surrender charges, therefore a replacement involving annuity contracts may result in the imposition of surrender charges.
3. The incontestable and suicide clauses begin anew in a new life insurance policy. This could result in a claim being denied under the new life insurance policy that would have been paid under the life insurance policy that was replaced.
4. An existing life insurance policy or annuity contract often has more favorable provisions than a new life insurance policy or annuity contract in areas such as loan interest rate, settlement options, disability benefits and tax treatment.

2.

5. There may have been changes in your health since the purchase of the existing coverage.
6. The insurance company with which you have existing coverage can often make a desired change on terms that would be more favorable than if you replaced existing coverage with new coverage.

YOU HAVE THE RIGHT, WITHIN 60 DAYS FROM THE DATE OF DELIVERY OF A NEW LIFE INSURANCE POLICY OR ANNUITY CONTRACT, TO RETURN IT TO THE INSURER AND RECEIVE AN UNCONDITIONAL FULL REFUND OF ALL PREMIUMS OR CONSIDERATIONS PAID ON IT, OR IN THE CASE OF A VARIABLE OR MARKET VALUE ADJUSTMENT POLICY OR CONTRACT, A PAYMENT OF THE CASH SURRENDER BENEFITS PROVIDED UNDER THE POLICY OR CONTRACT, PLUS THE AMOUNT OF ALL FEES AND OTHER CHARGES DEDUCTED FROM GROSS CONSIDERATIONS OR IMPOSED UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT, AND MAY HAVE THE RIGHT TO REINSTATE OR RESTORE ANY LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS THAT WERE SURRENDERED, LAPSED OR CHANGED IN THE TRANSACTION TO THEIR FORMER STATUS TO THE EXTENT POSSIBLE AND IN ACCORDANCE WITH THE INSURER'S PUBLISHED REINSTATEMENT RULES TO THE EXTENT SUCH RULES ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS PART.

**IMPORTANT:** THIS RIGHT SHOULD NOT BE VIEWED AS REINSTATING OR RESTORING YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO THE SAME CONDITION AS IF IT HAD NEVER BEEN REPLACED. THERE MAY BE CONSEQUENCES IN REINSTATING OR RESTORING YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT, INCLUDING BUT NOT LIMITED TO:

- THE RIGHT TO REINSTATE OR RESTORE YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT APPLIES ONLY TO COMPANIES SUBJECT TO NEW YORK INSURANCE LAWS;
- YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT IS SUBJECT TO YOUR SPECIFIC COMPANY'S REINSTATEMENT RULES, WHICH MAY VARY FROM COMPANY TO COMPANY. THESE RULES MAY REQUIRE PAYMENT OF BOTH PREMIUM AND INTEREST; HOWEVER, YOU WILL NOT BE SUBJECT TO EVIDENCE OF INSURABILITY, OR A NEW CONTESTABLE OR SUICIDE PERIOD;
- YOU MAY NOT RECEIVE THE INTEREST OR INVESTMENT PERFORMANCE DURING THE PERIOD THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT WAS REPLACED; AND
- THERE MAY BE UNFAVORABLE FEDERAL INCOME TAX CONSEQUENCES AS A RESULT OF THE REINSTATEMENT OF YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

**IMPORTANT:** IN THE CASE OF A VARIABLE OR MARKET VALUE ADJUSTMENT POLICY OR CONTRACT, THE VALUE OF THE POLICY OR CONTRACT MAY INCREASE OR DECREASE DURING THE 60 DAY PERIOD DEPENDING ON THE PERFORMANCE OF THE UNDERLYING INVESTMENTS, WHICH MAY EFFECT THE VALUE OF THE REFUND YOU RECEIVE.

I HEREBY ACKNOWLEDGE THAT I READ THE ABOVE "**IMPORTANT NOTICE**" AND HAVE RECEIVED A COPY OF SAME.

Date: \_\_\_\_\_ Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_ Signature of Applicant: \_\_\_\_\_

**APPENDIX 11**

**INSURANCE DEPARTMENT OF THE STATE OF NEW YORK**

**DEFINITION OF REPLACEMENT**

IN ORDER TO DETERMINE WHETHER YOU ARE REPLACING OR OTHERWISE CHANGING THE STATUS OF EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS, AND IN ORDER TO RECEIVE THE VALUABLE INFORMATION NECESSARY TO MAKE A CAREFUL COMPARISON IF YOU ARE CONTEMPLATING REPLACEMENT, THE AGENT IS REQUIRED TO ASK YOU THE FOLLOWING QUESTIONS AND EXPLAIN ANY ITEMS THAT YOU DO NOT UNDERSTAND.

AS PART OF YOUR PURCHASE OF A NEW LIFE INSURANCE POLICY OR A NEW ANNUITY CONTRACT, HAS EXISTING COVERAGE BEEN, OR IS IT LIKELY TO BE:

- (1) LAPSED, SURRENDERED, PARTIALLY SURRENDERED, FORFEITED, ASSIGNED TO THE INSURER REPLACING THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT, OR OTHERWISE TERMINATED?  
YES \_\_\_\_\_ NO \_\_\_\_\_
- (2) CHANGED OR MODIFIED INTO PAID-UP INSURANCE; CONTINUED AS EXTENDED TERM INSURANCE OR UNDER ANOTHER FORM OF NONFORFEITURE BENEFIT; OR OTHERWISE REDUCED IN VALUE BY THE USE OF NONFORFEITURE BENEFITS, DIVIDEND ACCUMULATIONS, DIVIDEND CASH VALUES OR OTHER CASH VALUES?  
YES \_\_\_\_\_ NO \_\_\_\_\_
- (3) CHANGED OR MODIFIED SO AS TO EFFECT A REDUCTION EITHER IN THE AMOUNT OF THE EXISTING LIFE INSURANCE OR ANNUITY BENEFIT OR IN THE PERIOD OF TIME THE EXISTING LIFE INSURANCE OR ANNUITY BENEFIT WILL CONTINUE IN FORCE?  
YES \_\_\_\_\_ NO \_\_\_\_\_
- (4) REISSUED WITH A REDUCTION IN AMOUNT SUCH THAT ANY CASH VALUES ARE RELEASED, INCLUDING ALL TRANSACTIONS WHEREIN AN AMOUNT OF DIVIDEND ACCUMULATIONS OR PAID-UP ADDITIONS IS TO BE RELEASED ON ONE OR MORE OF THE EXISTING POLICIES?  
YES \_\_\_\_\_ NO \_\_\_\_\_
- (5) ASSIGNED AS COLLATERAL FOR A LOAN OR MADE SUBJECT TO BORROWING OR WITHDRAWAL OF ANY PORTION OF THE LOAN VALUE, INCLUDING ALL TRANSACTIONS WHEREIN ANY AMOUNT OF DIVIDEND ACCUMULATIONS OR PAID-UP ADDITIONS IS TO BE BORROWED OR WITHDRAWN ON ONE OR MORE EXISTING POLICIES?  
YES \_\_\_\_\_ NO \_\_\_\_\_
- (6) CONTINUED WITH A STOPPAGE OF PREMIUM PAYMENTS OR REDUCTION IN THE AMOUNT OF PREMIUM PAID?  
YES \_\_\_\_\_ NO \_\_\_\_\_

IF YOU HAVE ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, A REPLACEMENT AS DEFINED BY NEW YORK INSURANCE DEPARTMENT REGULATION NO. 60 HAS OCCURRED OR IS LIKELY TO OCCUR AND YOUR AGENT IS REQUIRED TO PROVIDE YOU WITH A COMPLETED DISCLOSURE STATEMENT AND THE **IMPORTANT** NOTICE REGARDING REPLACEMENT OR CHANGE OF LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS.

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

TO THE BEST OF MY KNOWLEDGE , A REPLACEMENT IS INVOLVED IN THIS TRANSACTION: YES \_\_\_\_\_ NO \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Agent:** \_\_\_\_\_