

**NEW YORK STATE
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 60
(11 NYCRR 51)
REPLACEMENT OF LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS**

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, do hereby promulgate the following First Amendment to Part 51 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 60) pursuant to the authority granted by Sections 201, 301, 2123, 2403 and 4226 of the Insurance Law, Chapter 505 of the Laws of 2000, and Chapter 13 of the Laws of 2002; to take effect upon publication in the State Register, to read as follows:

(MATTER UNDERLINED IS NEW; MATTER IN BRACKETS IS DELETED)

Section 51.1(a) is amended to read as follows:

(a) To implement the Insurance Law of New York by regulating the acts and practices of insurers, agents, brokers and other licensees of the Insurance Department with respect to the internal and external replacement of life insurance policies and annuity contracts.

Section 51.3(c) is amended to read as follows:

- (c) The new coverage is provided under:
- (1) a group life insurance policy or group annuity contract, except when an agent, broker 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, broker 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

Section 51.4 is amended to read as follows:

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 or broker 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 is amended to read as follows:

Section 51.5 Duties of agent and broker

Each agent and broker 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 or broker 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 or broker 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 or broker 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(a) is amended to read as follows:

- (a) Each insurer shall:
 - (1) inform and train its agents and brokers 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 or broker;
 - (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 or broker 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.

Section 51.6(b)(1), (6) and (8) are amended to read as follows:

- (1) require with or as part of each application a list prepared by the agent or broker representing, to the best of his or her knowledge, all of the existing life insurance policies and annuity contracts proposed to be replaced;
- (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 and broker, 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;
- (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 and or broker compensation or expenses, or incentives such as bonuses or other inducements to agents and or brokers. This provision, however, shall not prevent an insurer from paying lower compensation or expenses to agents and or brokers on the proposed life insurance policy or annuity contract; and

Section 51.6(c)(2) is amended to read as follows:

- (2) within 20 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 or broker of record of the existing life insurance policy or annuity contract being replaced and the agent or broker 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.

Section 51.7 is amended to read as follows:

Section 51.7 Prohibited acts

- (a) No insurer [or], agent or broker 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 or broker replacing the life insurance policy or annuity contract.

(b) No insurer, agent, broker, 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, broker'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 or broker shall be deemed prima facie evidence of the agent's or broker'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 or broker's intent to violate this Part.

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the First Amendment to Part 51 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 60), promulgated by me on February 13, 2003, pursuant to the authority granted by Sections 201, 301, 2123, 2403 and 4226 of the Insurance Law, Chapter 505 of the Laws of 2000, and Chapter 13 of the Laws of 2002.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on December 11, 2002. No other publication or prior notice is required by statute.

Gregory V. Serio
Superintendent of Insurance

February 13, 2003

The following forms presented in this amendment are not the correct font size and are not to be used when completing a "Disclosure Statement" required by Department Regulation No. 60

Appendix 10A to Part 51 is repealed and a new Appendix 10A is adopted to read as follows:

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, BROKER 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 or Broker _____ 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 Policy/Contract	Existing Policies/Contracts Affected		
	(1)	(2)	(3)
_____ Company _____	_____	_____	_____
_____ Customer Service _____			
_____ Telephone Number: _____	_____	_____	_____
_____ Type of Insurance _____	_____	_____	_____
\$ _____ Face Amount \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Rider \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Rider \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Rider \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Rider \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Rider \$ _____	\$ _____	\$ _____	\$ _____
\$ _____ Premium \$ _____	\$ _____	\$ _____	\$ _____
_____ Contract Number # _____	# _____	# _____	# _____
_____ Issue Date _____	_____	_____	_____
\$ _____ Surrender Charge \$ _____	\$ _____	\$ _____	\$ _____
_____ % Guaranteed Interest Rate _____ %	_____ %	_____ %	_____ %
_____ % Loan Interest Rate _____ %	_____ %	_____ %	_____ %
_____ Years Contestable Expiry Date _____ Month/Year	_____ Month/Year	_____ Month/Year	_____ Month/Year
_____ Years Suicide Expiry Date _____ Month/Year	_____ Month/Year	_____ Month/Year	_____ Month/Year

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 _____ \$ _____
	Year _____ \$ _____	Year _____ \$ _____	Year _____ \$ _____
	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 OR BROKER'S STATEMENT:

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

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

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

REMARKS: _____

- 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 or Broker:** _____

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 to Part 51 is repealed and a new Appendix 10B is adopted to read as follows:

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, BROKER 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 or Broker _____ 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	_____	_____	_____
\$ _____	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 \$ _____

At Guaranteed Rate	At Current Rate	If Variable Annuity Hypothetical Rates of Return				At Guaranteed Rate	At Current Rate	If Variable Annuity Hypothetical Rates of Return		
		@ 0%	@ 6%	@ 12%				@ 0%	@ 6%	@ 12%
SURRENDER VALUE										
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 5 Years	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 10 Years	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
DEATH BENEFIT										
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 5 Years	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	In 10 Years	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

AGENT'S OR BROKER'S STATEMENT:

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

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

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

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)

REMARKS:

- 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 or Broker: _____

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 to Part 51 is repealed and a new Appendix 10C is adopted to read as follows:

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 OR BROKER 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, AGENT OR BROKER 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.
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 to Part 51 is repealed and a new Appendix 11 is adopted to read as follows:

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 OR BROKER 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 OR BROKER 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 OR BROKER: _____