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**FOR IMMEDIATE RELEASE**

**Certifications and notifications pursuant to  
subsection 53-3.7 of Regulation 74**

There are several reasons submissions required by subsection 53-3.7 of Regulation 74 result in the Department seeking clarifications and or corrections. The following sets forth the Department's expectations with respect to submissions required by section 53-3.7 of Regulation 74.

What are the basic requirements for annual certifications?

Subdivisions 53-3.7(b) and 53-3.7(f) require annual certifications for the illustrated scales used. This means the scales **in use as of the date of the certification as well as all illustrated scales used since the previous certification**. These certifications need not certify to scales that have not been implemented.

Subdivision 53-3.7(g) requires these annual certifications to be provided each year by a date determined by the insurer. Therefore **each certification must be dated**. If the month of certification is changed then

1. the change in the month of certification must be noted, and
2. the change may not result in more then 12 months between certifications.

What else must the illustration actuary file with the Department?

Subdivision 53-3.7(d) requires a certification from the illustration actuary when a new policy form is to be illustrated. This certification applies to the scales in effect on the filing date. Scales actually used in illustrations after the approval date would be certified in the annual certification for the illustrated scales used.

Subdivision 53-3.7(e) requires prompt notice if the actuary is unable to certify the scale for any policy form illustration the insurer intends to use.

Subdivision 53-3.7(h) requires a prompt notice if the insurer changes the illustration actuary responsible for all or a portion of the company's policy forms. This notification must include:

1. The reason for the change,
2. the date of the change in the illustration actuary; and
3. the portion of the company's policy forms involved in the change.

#### How should policy forms be listed?

Paragraph 53-3.7(d) requires the illustration actuary to file a certification for policy forms for which illustrations are used. Many certifications only contain lists of policy forms that are currently being issued; however, the certification also pertains to illustrations for existing policies on forms no longer being issued.

The list of illustrated policy forms must include policy forms for which new issue illustrations were made or could have been made. **It must also include all policy forms for which in force illustrations subject to the regulation could have been made.**

The list should distinguish the policy forms that are currently being issued from the forms no longer being issued. All rider forms involved in illustrations must be listed. Application forms need not be listed.

An insurer may list policy forms or list the form numbers of insert pages if those pages contain all of the information pertaining to the guaranteed and illustrated scales. Each company should use one approach or the other consistently from year to year for a given policy form, and under the latter approach all applicable insert pages (i.e., pages which provide information on a discretionary element or the dividend scale) must be listed.

#### What are the requirements for the illustration actuary's annual certification?

Paragraph 53-3.7(c)(5) of Regulation 74 says the illustration actuary must,

“disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If non-guaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this shall be disclosed in the annual certification. If non-guaranteed elements illustrated for both new and in force policies are not consistent with the non-guaranteed elements actually being

paid, charged or credited to the same or similar forms, this shall be disclosed in the annual certification.”

Unless a deviation from the following is disclosed in the certification, every certification must affirm the following.

- No currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale.
- Non-guaranteed elements illustrated for new policies are consistent with those illustrated for similar in force policies.
- Non-guaranteed elements illustrated for both new and in force policies are consistent with the non-guaranteed elements actually being paid, charged or credited to the same or similar forms.

#### How may submissions be made?

The Department accepts paper submissions filed via regular mail and electronic submissions via the State Electronic Rate and Form Filing (SERFF) system.

Every submission (other than any illustration certification required to be included with the submission of policy forms) should clearly identify the contents of the submission as:

- i. the annual illustration actuary’s certification,
- ii. the annual responsible officer’s certification,
- iii. a change of illustration actuary notification, and/or
- iv. an inability to certify notification.

It is important to use the correct electronic captions when filing via SERFF.

When making a submission through SERFF use a Type of Insurance (TOI) of "Life Insurance & Annuity Products", a SubTOI of "General" and a filing type of "Life Annual Illustration Certification”.

Submissions via regular mail should be sent to:

Life Bureau – Suite 1910  
New York State Insurance Department  
One Commerce Plaza  
Albany, New York 12257

#### Questions?

If you have any questions, please contact Robert Priest at (518) 486-6605.



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