

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK
REGULATION NO. 151
(11 NYCRR 99)
VALUATION OF ANNUITY, SINGLE PREMIUM LIFE INSURANCE, GUARANTEED
INTEREST CONTRACT AND OTHER DEPOSIT RESERVES

I, Neil D. Levin, Superintendent of Insurance of the State of New York, pursuant to the authority granted by sections 201, 301, 1304, 4217, 4240 and 4517 of the Insurance Law of the State of New York, do hereby promulgate the following new Part 99 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 151), to take effect upon publication in the State Register, to read as follows:

(All Material is New)

Section

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SECTION 99.1 Purposes

The purposes of this Part are:

- (a) to prescribe rules and guidelines for valuing contracts involving fund accumulations in accordance with statutory reserve formulae;
- (b) to prescribe rules and guidelines for valuing annuity benefits and structured settlements in accordance with statutory reserve formulae; and
- (c) to adopt new mortality tables for valuing annuity benefits.

SECTION 99.2 Applicability

This Part shall apply to all life insurance companies and fraternal benefit societies doing business in this State and all companies holding a certificate from the superintendent as being accredited for the reinsurance of life insurance, annuities or accident and health insurance. It shall apply to all obligations of any of the foregoing, whether funded in the general account or in a separate account, no matter where issued or assumed, and no matter where shown in the annual statement. This Part shall be applicable to such companies, societies and insurers for all statements filed after the effective date of this Part.

SECTION 99.3 Definitions

As used in this Part, the following terms have the following meanings:

(a) "Account value" means, with respect to a contract, the aggregate net considerations credited to the contract plus all additional amounts, including interest and dividends credited to the contract, less partial withdrawals (but not loans), and less all charges and fees imposed against the accumulated amount under the contract other than surrender charges and market-value adjustments.

(b) "Actuarial opinion and memorandum" means the opinion and memorandum of an appointed actuary submitted in accordance with section 4217(e) and section 4517 of the Insurance Law.

(c) "Annuity purchase amount" means the dollar amount which is applied at the time of annuitization under a deferred annuity contract. This value could be greater than or less than the account value.

(d) "Annuity weighting factors" means the weighting factors referred to in section 4217(c)(4)(D)(iii) of the Insurance Law.

(e) "Annuity valuation formula" means the formula referred to in section 4217(c)(4)(B)(ii) of the Insurance Law and used to determine the calendar year statutory valuation interest rate for certain contracts.

(f) "Annuity 2000 Mortality Table" means that mortality table shown in 99.10(h)(2)(i)(2) of this Part.

(g) "Appointed actuary" means the individual defined in Part 95.4(e) of this Title.

(h) "Bail-out rate" means the threshold interest rate below which any declared interest rate will trigger the option to surrender a contract with waiver of any applicable surrender charge.

(i) "Book value" means, for assets, the value prescribed by section 1414 of the Insurance Law and for reserves the value prescribed by Article 42 and Article 45 of the Insurance Law.

(j) "C-3 risk" means the risk that interest rates will change and cause an adverse deviation in the amount or timing of asset or liability cash flows.

(k) "Company" means any life insurance company, fraternal benefit society or accredited life reinsurer subject to the provisions of this Part.

(l) "Contract" means an annuity contract, annuity benefit (whether or not issued as a supplementary contract), guaranteed interest contract or funding agreement, or any benefit thereunder assumed by a reinsurer.

(m) "Current interest rate" means the sequence of interest rates currently in effect for determining contract benefits, whether contractually guaranteed or currently declared, for a specified period. It includes any additional interest in excess of the long-term minimum contractual guarantee.

(n) "Guarantee duration" means (unless otherwise defined herein):

(1) with respect to benefits or contracts with cash settlement options, the number of years for which the interest rates provided in, or declared pursuant to, the contract are guaranteed to exceed the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty years; and

(2) with respect to benefits or contracts with no cash settlement options, the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(o) "Interest guarantee maturity date" means the date of expiry of the current interest rate as defined in subdivision (m) of this section.

(p) "Life insurance valuation formula" means the formula referred to in section 4217(c)(4)(B)(i) and section 4517 of the Insurance Law and used to determine the calendar year statutory valuation interest rate for contracts to which the annuity valuation formula does not apply.

(q) "Market-value adjustment" means:

(1) with respect to individual contracts and group certificates subject to section 4223 of the Insurance Law (or that would be subject to section 4223 of the Insurance Law if delivered in this state), such adjustments according to a formula described in the contract for increasing and decreasing the account value in order to determine cash surrender values or account values in accordance with Part 44 of this Title. Such adjustments are not directly related to the supporting assets; and

(2) with respect to group annuities under contracts not subject to section 4223, such adjustments either according to a formula described in the contract or by company practice or procedure outside the contract or negotiated between the contractholder and the company for increasing and decreasing the cash values in event of surrender or termination. Such adjustment may be directly related to the value of the supporting assets or may be related to the change in some other assets or may be according to some other criteria.

(r) "Net considerations" means gross considerations received under a contract minus all deductions from considerations made before crediting considerations to the contract.

(s) "Plan type" means one of the types of contracts or benefits, referred to in section 4217(c)(4)(D)(iii)(V) of the Insurance Law, used to determine annuity-weighting factors.

(t) "Reference interest rate" means the interest rate referred to in section 4217(c)(4)(F)(ii) through (vi) of the Insurance Law.

(u) "Single premium policy" means any single premium life insurance policy, issued on or after January 1, 1982, which provides for crediting additional amounts pursuant to section 4232 of the Insurance Law and under which interest rates provided in, or declared pursuant to, the policy are, for some period, guaranteed to exceed the greater of (i) 6% per year and (ii) the valuation interest rate for other life insurance policies with guarantee durations in excess of twenty years. "Single premium policy" includes any such single premium life insurance policy under which additional payments may be made at the option of the policyholder. However, in order to qualify as a single premium policy, the policy shall contractually remain in force for life or endow at age 95 without additional payments based on an illustration using current assumptions at time of issue.

(v) "Single premium policy weighting factors" means the weighting factors referred to in section 4217(c)(4)(D)(i) of the Insurance Law and used in the valuation formulae for single premium policies.

(w) "Surrender charge" means, with respect to a contract, a deduction made against the account value when a contract is surrendered for its cash value:

(1) including, in the case of group contracts other than those subject to section 4223 of the Insurance Law (or that would be subject to section 4223 of the Insurance Law if delivered in this State), any downward market-value adjustment; and

(2) excluding, in the case of contracts subject to section 4223 of the Insurance Law (or that would be subject to section 4223 of the Insurance Law if delivered in this State), any downward adjustment resulting from the application of a market value adjustment formula as defined in Part 44 of this Title.

In the case of two tier annuities the surrender charge is the difference between the account value of the higher tier and the cash surrender value. This surrender charge may be unconditional or it may be a conditional charge that is waived, for example, in the event the interest rate declared for any subsequent period is less than the bail-out rate as defined in this section.

(x) "Valuation interest rate" means the calendar year statutory valuation interest rate as determined by using the appropriate valuation formula, the appropriate annuity or single premium policy weighting factor, and the appropriate reference interest rate taking into account, with respect to a contract or benefit, the guarantee duration and the plan type.

(y) "1983 Table "a"" means that mortality table shown in section 99.10(h)(2)(i)(1) of this Part.

(z) "1983 GAM Table" means the mortality table shown in section 99.10(h)(2)(i)(3) of this Part.

(aa) "1994 GAR Table" means that mortality table shown in section 99.10(h)(2)(i)(4) of this Part.

SECTION 99.4 Individual Contracts and Group Certificates Involving Individual Fund Accumulations

(a) General

(1) Except as noted in paragraphs (2) through (6) of this subdivision, this section pertains to individual contracts, individual funding agreements and group certificates involving fund accumulations for particular individuals where annuities are not in course of payment and where both assets and reserves are valued on a book value basis.

(2) Individual Contracts

This section applies to all individual contracts that involve accumulations for particular individual beneficiaries, except as noted in paragraph (5) of this subdivision.

(3) Group Certificates

This section applies to all group certificates involving individual fund accumulations in which the individual exercises control of withdrawal and of transfer between investment options. For purposes of this section, "contract" shall include "certificate" as described in this paragraph.

(4) Individual Funding Agreements

This section also applies to individual funding agreements, such as individual deferred annuity certain contracts that do not provide for annuities with life contingencies, but provide for the accumulation of net contributions at interest based on an interest rate

set in advance for a specified period.

(5) Modified Guaranteed Annuities

Modified guaranteed annuities are contracts with values available at specified times or dates without a market value adjustment but provide for a market-value adjustment both upward and downward, depending on both the changes in interest rates prior to the expiry of the interest guarantee and the remaining period of the guaranteed interest rate. For modified guaranteed annuities for which the assets are valued on a book value basis, this section and the relevant requirements of Part 44 of this Title shall apply. The relevant requirements of Part 44 of this Title and this Part, except for paragraph (b)(1) of this section, shall apply to modified guaranteed annuities for which the assets are valued on a market value basis.

(6) Life Insurance and Health Insurance Riders

Life or health insurance riders attached to an annuity contract, where all components of the rider (e.g., premiums, benefits contract changes, accumulation values, and other components) are separate and distinct from the components of the annuity contract, shall be treated as a separate life or health insurance contract not subject to this section.

(b) Elective and Non-Elective Benefits

(1) For purposes of determining reserves under this section, each benefit available under the annuity contract must be placed into one of the two categories defined as follows:

(i) Non-Elective Benefits: Benefits that are payable to contract owners or beneficiaries only after the occurrence of a contingent or scheduled event independent of a contract owner's election of an option specified in the contract, including (but not limited to) death benefits, accidental death benefits, disability benefits, nursing home benefits, and benefits payable under either a deferred or immediate annuity contract (with or without life contingencies), where no benefit options are available under the terms of the contract; or

(ii) Elective Benefits: Benefits that do not fall under the non-elective benefits category (i.e., benefit options that may be freely elected under the terms of the contract). Elective benefits include (but are not limited to) full surrenders, partial withdrawals, and full and partial annuitizations.

In some cases it may not be clear whether some benefits are elective or non-elective. For example, some annuity contracts offer benefits that vary depending upon the age of retirement. In such cases, the appointed actuary shall use judgment in making this determination, by considering factors such as the degree to which contract owner actions would be influenced by the availability of the benefit.

(2) If the death benefit under a fixed account contract exceeds 105% of the current account value, then the reserve for the excess of the death benefit over 105% of the current account value shall not be less than the one year term insurance reserve as of the date of valuation using the appropriate life insurance valuation mortality table

and life insurance valuation interest rate as if the excess death benefit were a stand-alone policy.

(c) Elective and Non-Elective Incidence Rates

(1) For non-elective benefits, incidence rates from tables prescribed by section 4217 of the Insurance Law shall be applied to determine the payment of non-elective benefits and to discount, for survivorship, all benefit payments included in an integrated benefit stream, as defined in section 99.4(d). If no incidence tables are prescribed, then company or industry experience (with margins to cover moderately adverse deviations in experience) may be used, as appropriate. Annuity mortality tables prescribed by section 99.10 of this Part shall be used to determine all mortality based benefits under the contract (including, but not limited to, annuitizations and death benefits) and to discount other types of benefit payments for survivorship. However, if the death benefit under a fixed account value exceeds 105% of the current account value, then the procedures of paragraph (b)(2) of this section shall be followed for the excess of the death benefit over the current account value.

(2) For elective benefits, incidence rates shall not be based on tables reflecting past company experience, industry experience or other expectations. Instead, every potential guaranteed elective benefit stream must be considered in the determination of integrated benefit streams. This is accomplished by considering trial sets of guaranteed elective benefit incidence rates, either through numerical testing or analytical means, to determine which trial set produces the "greatest present value". This means that all possible elective benefit incidence rates between 0% and 100% shall be considered.

(d) Integrated Benefit Stream

An integrated benefit stream is one potential blend of guaranteed elective and non-elective benefits available under the contract, determined as the combination of (1) and (2), where:

(1) is one potential stream of one or more types of guaranteed elective benefits available under the terms of the contract, based upon a chosen set of elective benefit incidence rates; and

(2) is the stream of all guaranteed non-elective benefits provided under the terms of the contract, recognizing the guaranteed elective benefit stream under consideration in 99.4(d)(1), and the non-elective incidence rates defined in section 99.4(c)(1).

Both (1) and (2) above shall be discounted for survivorship, based on the non-elective incidence rates defined in this section.

(e) Annuity Reserve Valuation Method

Minimum reserves for contracts subject to this section shall be calculated assuming no indebtedness on the contracts and shall not be less than the greatest present value of all potential integrated benefit streams, reflecting all guaranteed elective and non-elective benefits available to the contract owner. Each integrated benefit stream available under the contract must be individually valued and the ultimate reserve established must be the greatest of the present values of these values, based on valuation interest rate(s) as defined in paragraph (6) of this subdivision.

Examples of integrated benefit streams that must be considered include those described in paragraphs (1), (2), and (3) of this subdivision:

(1) Cash Surrender Value Streams

(i) For contracts not requiring future considerations, the reserve shall not be less than the greater of: (a) the cash surrender value or (b) the greatest present value of any possible blend of future guaranteed partial withdrawals and full surrenders available under the contract on any day of each respective contract year, assuming no future considerations are paid, with appropriate recognition of all guaranteed non-elective benefits available under the contract.

(ii) For contracts requiring future considerations, the reserve shall never be less than the greater of: (a) the reserve determined by subparagraph (i) of this paragraph assuming no future considerations are paid or (b) the greatest of the respective excesses of the present values, at the date of valuation, of any possible blend of future guaranteed partial withdrawals and full surrenders (including those resulting from receipt of required gross considerations) provided for by the contract on any day of each respective contract year with appropriate recognition of all guaranteed non-elective benefits available under the contract, over the present value, at the date of valuation, of any future valuation net considerations derived from future gross considerations, required by the terms of the contract that become payable prior to such day of such respective contract year, assuming required considerations are paid.

(iii) In general, future considerations are not required for single premium deferred annuity (SPDA) and flexible premium deferred annuity (FPDA) contracts but may be required for scheduled premium contracts. Considerations are considered to be required, if failure to pay considerations causes a change in status of the contract. Conversely, considerations are considered not to be required if failure to pay considerations causes no change in the status of the contract. Where considerations are required, the valuation net considerations are the portions of the respective gross considerations applied under the terms of the contract to determine nonforfeiture or withdrawal values.

(2) Guaranteed Purchase Rate Streams

(i) For contracts not requiring future considerations, the reserve shall not be less than the greatest present value, at the date of valuation, of any possible blend of future guaranteed full or partial annuitization elections available to the contract owner on any day of each respective contract year, assuming no future considerations are paid, with appropriate recognition of all guaranteed non-elective benefits available under the terms of the contract.

(ii) For contracts requiring future considerations, the reserve shall not be less than the greater of: (a) the reserve determined by subparagraph (i) of this paragraph assuming no future considerations are paid or (b) the greatest of the respective excesses of the present value, at the date of valuation, of any possible blend of future guaranteed full or partial annuity benefit streams available under all annuitization options provided for by the guaranteed purchase rates in the contract on any day of each respective contract year with appropriate recognition of all guaranteed non-elective benefits available under the terms of the contract, over the present value, at the date of valuation, of any future valuation net considerations derived from future gross considerations, required by the terms of the contract that become payable prior to such respective contract year, assuming required considerations are paid.

(iii) In general, future considerations are not required for single premium deferred annuity (SPDA) and flexible premium deferred annuity (FPDA) contracts but may be required for scheduled premium contracts. Considerations are considered to be required if failure to pay considerations causes a change in status of the contract. Conversely considerations are considered not to be required if failure to pay considerations causes no change in the status of the contract. Where considerations are required, the valuation net considerations are the portions of the respective gross considerations applied under the terms of the contract.

(iv) The future guaranteed annuity benefit streams shall be calculated for all guaranteed annuitization options and possible future guaranteed annuitization election dates.

(v) For purposes of this paragraph, the present values shall be determined using the valuation interest rate(s) defined in paragraph (6) of this subdivision.

(vi) The current annuity purchase rates shall be ignored for the purpose of this paragraph, if such rates are not guaranteed.

(3) Other Elective Benefit Streams

In addition to the cash surrender value and guaranteed purchase rate streams described in sections 99.4(e)(1) and 99.4(e)(2), all other possible elective benefits (for example, elective commutation of annuity benefits) available under the contract, including blends of more than one type of elective benefit, must be considered in a manner consistent with the cash surrender value and guaranteed purchase rate streams, with appropriate recognition of all guaranteed non-elective benefits available under the contract.

(4) Special Considerations for Applying Paragraphs (1), (2) and (3)

(i) Except as permitted in subparagraph (iii) of this paragraph, only unconditional surrender charges or surrender charges subject to conditions not considered to be meaningful may be deducted in determining future elective and non-elective benefits. However, the deduction of any surrender charges in determining future elective and non-elective benefits may be done only to the extent justified by an acceptable actuarial opinion and memorandum in accordance with sections 95.8 and 95.9 of Part 95 of this Title.

(ii) An example of a surrender charge subject to conditions is a charge that will be waived upon surrender if the rate at which interest is credited falls below the bailout

rate. The conditions are meaningful if the bailout rate is greater than the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty years issued in the same year.

(iii) Notwithstanding subparagraph (v) of this paragraph, the company may, at its option, deduct surrender charges subject to conditions considered to be meaningful if: (a) the current interest rate equals or exceeds the bail-out rate and (b) reserves are calculated based on the assumption that future account values are projected as if the bail-out rate were guaranteed until expiry of the contractual provision for waiving the surrender charge and thereafter the future account values are based on the greater of the contractual minimum interest rate and any higher declared interest rate.

(iv) For contracts with bail-out rates which are a function of an external index, a judgment as to the availability of the surrender charges may be made by comparing historical values of the function with corresponding values of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty years. If the values of the function have generally been less than or equal to the valuation rates, then the conditions may be treated as not meaningful.

(v) Waivers of surrender charges upon contractholder or certificate holder death, disability, unemployment or admittance to a nursing home and other guaranteed non-elective benefits must be reflected in the determination of future integrated benefit streams, based on the appropriate non-elective benefit incidence rates.

(vi) The future account values shall be determined by using the current interest rate for the remaining guarantee duration, and thereafter the interest rate specified in the contract for determining guaranteed benefits. The present values shall be determined using the valuation interest rate(s) defined in paragraph (6) of this subdivision.

(5) Current Purchase Rates

(i) This paragraph applies to:

(a) contracts which provide for the crediting of additional amounts during the payout period over those guaranteed at the commencement of annuity payments; and
 (b) contracts which guarantee the availability of current annuity purchase rates at the time of annuitization.

(ii) For the purpose of this paragraph, current annuity purchase rates include:

(a) rates being offered by the company for single consideration immediate annuities on the date of valuation to the same class of annuitants; and
 (b) any other annuity purchase rates available other than those specified in the contract as guaranteed purchase rates.

(iii) Minimum reserves under this paragraph shall not be less than (a) minus (b), where (a) is the greater of the annuity purchase amount or the account value, and (b) is an expense allowance not to exceed seven percent of (a). This paragraph does not require the calculation of a reserve equal to the present value of annuity income based upon current purchase rates.

(6) Determination of Valuation Interest Rates

(i) Section 99.8 of this Part sets forth requirements for the determination of valuation interest rates. Additional valuation interest rate requirements for this section

are provided in paragraphs (ii), (iii), and (iv) below.

(ii) As referred to in section 4217(c)(4) of the Insurance Law, the valuation interest rates determined in this section are determined based on the following parameters:

- (a) the basis of valuation (issue year or change in fund);
- (b) whether or not the annuity provides for cash settlement options;
- (c) whether interest is guaranteed on premiums received more than 12 months following issue (or the valuation date for change in fund basis);
- (d) the guarantee duration; and
- (e) the plan type.

Parameters (a), (b) and (c) in this subparagraph shall be determined at a contract level, while parameters (d) and (e) in this subparagraph shall be determined at a benefit level, as set forth in this paragraph. Under a contract level determination, parameters are set based on the characteristics of the contract as a whole. Under a benefit level determination, parameters are set based on the characteristics of each benefit, resulting in potentially different valuation rates for each benefit type comprising the integrated benefit stream.

(iii) Determination of guarantee duration and plan type

Guarantee duration and plan type are based upon the specific characteristics of each individual benefit type that comprise the integrated benefit stream, as follows:

(a) For portions of the integrated benefit stream attributable to full surrender and partial withdrawal benefits, the plan type shall be based upon the withdrawal characteristics of the benefit, as stated in the contract. This may result in a plan type A, B, or C. The guarantee duration is the number of years for which interest rates are guaranteed to exceed the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty (20) years.

(b) For portions of the integrated benefit stream attributable to full and partial annuitization benefits, the determination of the valuation interest rate involves the use of the appropriate weighting factor as defined in section 4217 of the Insurance Law and the appropriate plan type, with the guarantee duration as the number of years from the original date of issue or date of purchase, to the date the annuitization is assumed to commence. If the underlying assumption is that the contract owner may withdraw funds only as an immediate life annuity or as installments over 5 years or more, this will generally result in a plan type A, with the valuation interest rate changing as different assumed annuitization dates determine guarantee durations which will fall into different guarantee duration bands. An assumed annuitization option which has a non-life contingent payout period of less than 5 years shall be considered a plan type C, with the valuation interest rate changing as different assumed annuitization dates determine guarantee durations which fall into different guarantee bands.

(c) For portions of the integrated benefit stream attributable to non-elective benefits, since the underlying assumption is that no withdrawal is permitted, plan type A will generally be used, with a guarantee duration determined as the number of years from issue or purchase to the date non-elective benefits may first be paid. However, if the death benefit under a fixed account contract exceeds 105% of the account value, the procedures of paragraph (b)(2) of this section shall be followed for the excess of the death benefit over 105% of the current account value. In addition, portions of an

integrated benefit stream attributable to any non-elective benefit, other than a death benefit or a waiver of surrender charge, shall be discounted using the interest rate which would be applicable for such non-elective benefit if such benefit were issued as a stand alone policy.

(iv) Issue Year or Change in Fund Basis

Section 99.8 of this Part sets forth considerations in applying the issue year and change in fund basis.

(7) Reserves for purposes of this subdivision may be determined using any other method substantially consistent with paragraphs (1) through(5) of this subdivision and with the prior written approval of the superintendent.

(8) While in theory there may be an infinite number of contract owner options, this section requires that the actuary consider, though not necessarily test, all potential integrated benefit streams to ascertain to what extent each contract owner option has a material impact on the reserve. The actuary may eliminate some potential streams by analytical methods. The actuary may also demonstrate the reserve adequacy of certain approximations.

(9) Where the requirements of this subdivision produce higher reserves than those calculated for the 1999 yearend valuation, the company shall; for 2000 and later issues, comply with this subdivision. For 1999 and earlier issues, the company may linearly interpolate between the higher reserves and the old reserves as follows:

(i) 33 1/3 percent and 66 2/3 percent, respectively, starting with yearend 2000;

(ii) 66 2/3 percent and 33 1/3 percent, respectively, starting with yearend 2001;

and

(iii) the company shall hold the full amount of such new reserves for such issues starting with yearend 2002.

(10) Grouping of contracts or portions of contracts before determination of reserves is permissible only if all contracts or portions of contracts within a group have substantially identical features including the same year of issue, current interest rate, long-term guaranteed interest rate, surrender charge schedule, and year of maturity of the current interest rate.

SECTION 99.5 Group Contracts Including Fund Accumulations

(a) General

The cash settlement options associated with contracts referred to in this section may be in the form of a lump sum without any adjustment or may be with an adjustment based on some formula including but not limited to a fixed percentage charge; or a variable charge to reflect changes in interest rates or asset values since receipt of the funds; or in the form of installment payments with or without an adjustment in the interest rate during the installment payout period. Group contracts involving fund accumulations

include the following, with special requirements indicated therein:

(1) Immediate Participation Guarantee Contracts

(i) These contracts typically provide for participation by both retired and active lives in the experience of the company. The annuities in course of payment for retired lives are not considered as being purchased unless the funds fall below a specified level, in which case the contract becomes a deposit administration contract.

(ii) The reserve for the annuities on retired lives and for previously guaranteed annuities on deferred lives shall be at least equal to the reserves, determined in accordance with section 99.6 of this Part, based on the minimum valuation basis assuming such annuities were purchased in the year of valuation, at time of retirement or at time of previous guarantee, provided such method is consistently applied.

(iii) Any portion allocated for active lives may or may not have interest guarantees.

(2) Deposit Administration Contracts

(i) These contracts typically provide for an unallocated fund accumulation for active lives out of which immediate annuities are purchased for individuals at retirement and deferred annuities are purchased for terminated individuals (e.g., employees) with vested benefits.

(ii) The reserve for retired lives and deferred annuities purchased for terminated individuals with vested benefits shall be at least as much as that determined in accordance with section 99.6 of this Part, based on the minimum valuation basis in effect on the date of purchase.

(iii) There may or may not be high interest guarantees on the active life funds.

(3) Funding Agreements

These contracts are generally funds accumulated for specified purposes, but which do not include provisions for the application of funds to provide annuities involving life contingencies.

(4) Guaranteed Interest Contracts (GICs)

These contracts may include those referred to in paragraphs (1) through (3) of this subdivision as well as other contracts which include high interest rate guarantees (that is, guarantees above which either no or minimal additional interest is likely to be credited) for a specified period (generally several years). There may or may not be high interest guarantees for future considerations.

(b) Group Allocated Contracts

(1) Group allocated contracts generally refer to those contracts in which the company maintains records for each individual covered under the contract.

(2) Where the individual certificate holder has control of both withdrawal and of transfer between investment options the reserve for each certificate shall not be less than the reserve calculated in accordance with section 99.4 of this Part.

(3) Where the individual certificate holder has limited control, such as where the holder or the holder's beneficiary can withdraw funds only in the event of a death, disability, retirement, or bonafide termination of employment, or can redirect or transfer funds to another investment option within the contract, the contract shall be valued the same as for a group unallocated contract except that the contract shall be considered as a plan type C group contract, or if the contract contains written provisions which are designed to reduce the C-3 risk to the company, the contract shall be considered as a plan type B group contract.

(i) A plan or contract that meets the criteria to be considered plan type B would include both of the following provisions:

(a) No direct transfer to competing funds, whether such funds are alternate funds of the company or not. This provision prohibits direct transfer of funds from the GIC option to a competing plan option that offers either a guarantee of principal or to an option in which the risk of loss of principal is small such as a money market fund or short-term bond fund. Any transfer to such an option must first go through a non-competing plan option and reside there for at least 90 days.

(b) For a GIC that funds plan investment options where interest is allocated to plan participants based on how much of their account balance is in each particular interest rate "cell", a participant is not allowed to redirect any of the balance the participant has in a GIC funding a particular cell to a competing fund until the GIC's maturity date.

(ii) In order to use the plan type B valuation interest rate, the appointed actuary must be satisfied that the GIC provisions designed to reduce the C-3 risk are administered by the company in the designed manner. This requirement may be fulfilled by the actuary obtaining from the appropriate company officer a certificate of intent regarding the company administration of the provisions.

(iii) The appointed actuary shall annually review the actual experience under the contract to verify the appropriateness of the plan type assumption for the contract.

(4) All other group allocated contracts shall be valued as group unallocated contracts with the plan type determined on the basis of the group contract holder's rights of withdrawal or transfer of funds.

(c) Group Unallocated Contracts

(1) This subdivision generally applies to contracts wherein the fund accumulation is not allocated to specific individuals. The funds may or may not provide for annuities either involving life contingencies and/or annuities not involving life contingencies to be purchased from the fund accumulation. The contract holder or a third party may or may not provide for recordkeeping of the funds for allocation to specific individuals. There may or may not be guaranteed interest factors on the accumulation of the funds. This subdivision does not apply to such contracts with guaranteed benefits for which assets are held in the separate account and valued on a market value basis; for such contracts, reserves shall be determined in accordance with Part 97 of this Title.

(2) Valuation interest rates

(i) The maximum valuation interest rates for 1981 and earlier issue years or changes in fund shall be 7.5%.

(ii) The maximum valuation interest rates for 1982 and later issue years or changes in fund shall be determined in accordance with section 4217(c)(4) of the Insurance Law, and shall vary depending on the type of contract, the plan type, the guarantee duration, whether guaranteed interest rates apply to future considerations, and whether an issue year or change in fund basis is used.

(3) For contracts which (i) guarantee interest rates for an initial duration of A years, (ii) guarantee the return of book value after N years (where N exceeds A); and (iii) permit withdrawals at the greater of the fund value or some other value which is approximately equal to the present value (at then current interest rates for new investments) of the book value at maturity assuming that the initial interest rate is continued to maturity, the guarantee duration shall be N years.

(4) Minimum reserves under this subdivision shall never be less than the greater of:

(i) the value of the funds (on a book value basis) that are payable on surrender or transfer on the valuation date; or

(ii) the minimum reserve for the applicable portion of any active life funds with guaranteed interest rates and not yet applied or allocated for the purchase of annuities calculated by the following formula:

$$R = F(1-E)(1+i_g)^n/(1+i_v)^n,$$

where

R = reserve,

E = any fixed charge, not to exceed 5%, assessed before transfer of cash values and/or application to purchase annuities,

F = the fund or portion of the fund subject to the applicable guaranteed interest rate and applicable valuation rate,

i_g = the guaranteed rate,

i_v = the applicable maximum valuation interest rate, and

n = the number of years or portion thereof remaining as of the valuation date for which the guaranteed interest rate exceeds the maximum valuation rate.

(5) Minimum reserves shall be calculated on the assumption of no future considerations. No reduction in reserves shall be made for guaranteed annuity purchase rates based on assumptions that are more conservative than the minimum reserve standards for annuity income. Additional reserves shall be held where guaranteed purchase rates are based on assumptions that are less conservative than the minimum reserve standards for annuity income. The additional reserves shall be based on the judgment of the appointed actuary and on the insurer's experience, or if appropriate, other relevant experience regarding incidence of annuitization and type of annuity option chosen.

(6) Special reserve valuation procedures may be permitted by the superintendent

for contracts that are subject to this subdivision but are not referred to in subdivision (a) of this section.

(7) Grouping of contracts or portions of contracts before determination of reserves is permissible only if all contracts or portions of contracts within a group have substantially identical features including the same year of issue, current interest rate, long-term guaranteed interest rate, surrender charge schedule, and year of maturity of the current interest guarantee.

SECTION 99.6 Annuity Income and Structured Settlements

(a) General

(1) For purposes of this section, an annuity shall be considered as a series of payments made not less frequently than annually for five years or more, in which the payments in any one contract or calendar year (at the option of the company) after the first do not exceed 115 percent of the payments in the immediately preceding contract or calendar year. An immediate annuity is an annuity in which the first payment begins in thirteen or fewer months after issue. A deferred annuity is an annuity in which the first payment begins more than thirteen months after issue.

(2) A series of payments made less frequently than annually and/or payable for less than five years shall be considered a series of lump sums. A lump sum shall be considered a cash settlement option.

(3) Immediate annuity payments may or may not be convertible to a lump sum by commuting future payments. Any payments in a year in excess of 115 percent of the prior calendar or contract year's payments may be considered as a lump sum or may be considered as part of a new annuity, depending on the circumstances. Some contracts may consist of combinations of annuities and of lump sums.

(b) Where a contract contains, for the current or any future period of time, a sequence of payments which are payable less frequently than annually, i.e., a series solely consisting of lump sums, the maximum valuation interest rate for each payment within such period or periods shall be determined using the guarantee duration of each payment assuming plan type B. The plan type B guarantee duration of such a payment is the number of years from the date of issue or date of purchase to the date on which the payment is due. Year of issue valuation interest factors shall be used for these types of contracts.

(c) Where a contract contains, for the current or any future period of time, a sequence of annual (or more frequent) payments which is less than five years in length but such sequence would qualify as an annuity except for the number of years of payments, the maximum valuation interest rate for the sequence shall be determined assuming plan type B. The plan type B guarantee duration for the sequence of

payments is the number of years from the date of issue or date of purchase to the date on which the first installment payment of such sequence is due. Year of issue valuation interest rates shall be used for these types of contracts.

(d) Where the amount of the deferred annuity income payments is guaranteed and there are no cash settlement options, the reserve shall be based on the present value of the income payments based on an appropriate annuity mortality table and the valuation rate of interest in accordance with section 4217(c) of the Insurance Law based on an issue year method and a guarantee duration equal to the number of years from the date of issue to the date the first payment begins.

(e) Individual structured settlements vary considerably in payment pattern and duration. These contracts may provide for level and/or increasing periodic payment schedules, as well as lump sum benefit payments. These contracts do not allow for commutation of the future payouts unless directed by a court of competent jurisdiction. In valuing individual structured settlements, a split of all or a portion of the lump sum payments from the periodic benefit payments may be appropriate. Splits not in accordance with paragraph (1) of subdivision (f) of this section would require valuation in accordance with the procedures in subdivision (g) of this section, subject to any restrictions in that subdivision.

(f) This subdivision applies to blocks of contracts consisting of immediate annuities, deferred annuities, and structured settlements where such annuities and structured settlements have fixed income, no withdrawal rights, and payments both no less frequently than annually and for at least five years.

(1) As to all amounts guaranteed to be paid under such contracts issued in a given calendar year, the calendar year valuation interest rate for single premium immediate annuities may be used if the first such payment is made thirteen or fewer months after issuance of the contract, or if the first such payment is made at a later time, then the appropriate plan type A valuation interest rate may be used, provided:

(i) the guaranteed payments under each contract in the block due in any contract or calendar year (at the option of the company) after the first is not greater than 115 percent of the guaranteed payments due in the immediately preceding contract or calendar year; or

(ii) the total guaranteed payments under all contracts combined included in the block due in any calendar year after the second are not greater than 110 percent of the total guaranteed payments due in the immediately preceding calendar year but only contracts having payments not less frequently than annually for at least five years shall be included.

(2) The year to year comparison of benefits may be made before or after considering the effect of mortality or any certain period, but the actuary shall indicate and justify the method used.

(3) For contracts which contain, for the current or any future period of time, a

sequence of payments which are payable less frequently than annually or for less than five years, the sequence of payments shall be valued in accordance with subdivisions (b) or (c) of this section, as applicable.

(g) If a block of immediate annuities with income fixed, deferred annuities with income fixed, or structured settlements with income fixed, or other contracts with income fixed, and which provide for payments no less frequently than annually for at least five years, provide for payments that do not meet the requirements of subdivision (f) of this section (i.e., payments exceeding the applicable 110% or 115% rule), then one of the procedures in paragraphs (1) through (3) of this subdivision shall be used. For contracts which contain, for the current or any future period of time, a sequence of payments which are payable less frequently than annually and/or for less than five years, the sequence of payments shall be valued in accordance with subdivisions (b) or (c) of this section, as applicable.

(1) The block shall be divided into components so that:

(i) the contracts/payments satisfying the requirements of subdivision (f) of this section are included in one or more components and those not satisfying such requirements are included in another component or components. The valuation interest rate for single premium immediate annuities or the appropriate plan type A valuation interest rate or rates, whichever is applicable, may be used in accordance with subdivision (f) of this section for the component or components of the block which satisfy such requirements. The plan type A guarantee duration of a given component is the number of years from the date of issue or date of purchase to the date on which the first payment in such component is due.

(ii) The maximum valuation interest rate for any payment included in a component which does not satisfy the requirements of subdivision (f) of this section (i.e., a payment in excess of the applicable 110% or 115% rule) shall be determined using the guarantee duration of the lump sum payment and on the assumption that the payment is made under a contract of plan type B. The plan type B guarantee duration of a lump sum payment is the number of years from the date of issue or date of purchase to the date on which the payment or the first installment payment of payments payable annually (or more frequently) for less than five years is due.

(iii) Year of issue valuation interest rates shall be used for both plan type A and plan type B components.

(iv) The lump sum payment (i.e., the payment in excess of the applicable 110% or 115% rule) shall be disregarded for purposes of determining compliance of the immediately following year's payments.

(v) The actuary shall describe the components and justify the choice of valuation interest rate or rates for the component or components of the block that, if included, would cause the block to fail the test.

(2) The reserves for each contract for each valuation year shall be the greater of the "level interest rate reserves" and of the "graded interest rate reserves". Graded interest rate reserve factors for each separate year of issue for all future payments of such year of issue, whether periodic or lump sum payments, shall be graded in a

manner that produces reserves at least as great as the method described in subparagraphs (i) through (iv) of this paragraph. The procedure of this paragraph shall not be used for contracts with payments for which the latest scheduled payment is 20 years or less after issue. Contracts subject to this subdivision for which the latest scheduled payment is 20 years or less after issue shall be valued in accordance with paragraph (1) or paragraph (3) of this subdivision. If this procedure is used for any contract issued in a given calendar year subject to this subdivision for which the latest scheduled payment is more than 20 years after issue, it shall be used for all contracts issued in the same calendar year subject to this subdivision for which the latest scheduled payment is more than 20 years after issue.

(i) Step one, calculate the present value of future benefits at issue for each contract using the calendar year valuation interest rate for single premium immediate annuities if the first payment under the contract is made thirteen or fewer months after issue, or if the first such payment is made at a later time, then the appropriate (level) plan type A interest rate for contracts without cash settlement options for the guarantee duration corresponding to the number of years from the date of issue or date of purchase to the date that the first payment is due. Define this value as "PV(0)", and define the reserves at successive durations using this interest rate as "level interest rate reserves".

(ii) Step two, solve for "x percent" such that the present value of future benefits at issue for each contract is equal to PV(0) (calculated in accordance with step one), using "x percent" as the valuation interest rate for the first twenty contract years after issue and thereafter the plan type A valuation interest rate for contracts without cash settlement options for guarantee durations of more than twenty years. However, "x percent" shall be limited to 115% of the appropriate plan type A interest rate in step one; where such limit is effected, the present value at issue shall be greater than PV(0).

(iii) For each valuation year calculate the "graded interest rate reserves" based on the assumption that the valuation interest rate during the first twenty contract years is "x percent" as calculated in step two and thereafter the plan type A valuation interest rate for contracts without cash settlement options and guarantee durations of more than twenty years; or

(3) Any other method substantially consistent with paragraph (1) or paragraph (2) of this subdivision, with the prior written approval of the superintendent.

(h) For contracts for which additional amounts may be payable during the payout period, the reserve before annuitization shall be determined in accordance with section 99.4 or section 99.5, as applicable, of this Part and the reserve after annuitization shall be the greater of:

(1) the present value, at the valuation date, of the guaranteed annuity benefits determined using, as the valuation basis, the valuation mortality table, if applicable, and the maximum applicable valuation interest rate; or

(2) the present value, at the valuation date, of the guaranteed annuity benefits determined using, as the valuation basis, the mortality table, if applicable, and the

interest rate over which additional amounts may be payable.

Any other method in recognition of the method for paying additional amounts, substantially consistent with the principles of this subdivision, may be used with the prior written approval of the superintendent.

(i) Use of substandard annuity mortality tables, for structured and other settlements of tort actions

(1) Solely for the purpose of valuing benefits arising from settlements or judgments of claims pertaining to tort actions (such as in accordance with Articles 50-A or 50-B of the Civil Practice Law & Rules), or settlements involving similar actions such as workers' compensation, or settlements of long term disability where a temporary or life annuity has been used in lieu of continuing disability payments, and where the injured party is the annuitant, a substandard annuity mortality table may be used, as specified in paragraphs (2) or (3) below. The insurer shall retain, as proof of the individual's impaired health and shortened longevity, all relevant hospital records, treating physicians' reports or other independent medical evaluations utilized in the underwriting process.

(2) The minimum reserves for applicable contracts are the reserves based on a mortality table obtained by making a constant addition to the mortality rate of the otherwise applicable standard valuation mortality table, as specified in section 99.10(e) of this Part, such that the expectation of life as of the issue date on the adjusted valuation table is greater than or equal to the average of the expectations of life as of the issue date indicated by or obtained from information given by the company's medical directors or underwriters during the underwriting and pricing process. The constant addition to the mortality table herein described shall be made as of the issue date and, once determined, held constant for the period of time that the contract remains in force.

(3) For annuitants other than the injured person in such settlements, the actual age and an appropriate statutory standard annuity mortality table or any modification of such table which produces reserves at least as high as those under the standard table based on the actual age shall be used.

(4) Where a company uses a modified table with higher mortality rates for impaired lives under structured judgments and settlements, the company shall maintain records of actual to expected mortality to monitor the appropriateness of the substandard mortality.

SECTION 99.7 Special Considerations for Valuing Reserves for Single Premium Policies

(a) For single premium policies issued on or after 1982 (other than market value separate account policies providing for a cash surrender value adjusted for changes in

interest rates prior to the date on which an unadjusted cash surrender value is guaranteed), the minimum reserve standard shall not be less than the greater of the reserve for death and endowment benefits or the greatest present value (discounting with interest only) of projected guaranteed cash surrender values if there are meaningful surrender charges (unadjusted by any market-value formula for any general account or book value separate account product).

(b) For single premium policies (other than market-value separate account policies providing for a cash surrender value adjusted for changes in prevailing interest rates prior to the date on which an unadjusted cash surrender value is guaranteed and other than policies valued on a year of issue basis with guarantee durations in excess of ten years), for each year of issue separately, the valuation interest rate for the period specified in subdivision (c) of this section commencing on the valuation date shall be determined by the annuity valuation formula and thereafter the valuation interest rate shall be determined by the life insurance valuation formula. The weighting factors used in such formulas shall be the single premium policy weighting factors for policies providing guaranteed cash surrender values without adjustment and the annuity weighting factors (plan type B) for policies providing guaranteed cash surrender values at periodic dates with adjustment for changes in prevailing interest rates for surrender prior to such dates.

(c) The specified period referred to in subdivision (b) of this section shall be ten years less the number of years elapsed since the year of issue.

(d) Single premium policies are also subject to Part 98 of this Title.

SECTION 99.8 Special Considerations in Determining Valuation Interest Rates

(a) General

As indicated by section 4217(c)(4)(E) of the Insurance Law, a company may elect to value contracts or single premium policies with cash settlement options on either an issue year basis or on a change in fund basis. A change in fund basis of valuation refers to a valuation basis under which different maximum valuation interest rates are determined for each change in fund held under the contract or single premium policy based on the reference rate for the calendar year in which the change in fund occurs. Annuity contracts with no cash settlement options must be valued on an issue year basis. The issue year basis or change in fund basis shall be determined for the contract as a whole, and thus must be consistently applied to all portions of all integrated benefit streams available under the annuity contract. The election of issue year or change in fund basis must be made at the issuance of the contract and must not change during the term of the contract without the prior written approval of the superintendent. The basis chosen (i.e., change in fund basis or issue year basis) shall be applied for all such contracts with the same original year of issue.

(b) Change in fund basis

(1) For contracts or single premium policy values using the change in fund valuation method, in determining the appropriate calendar year valuation interest rates and the appropriate guarantee durations as measured from date of issue, a company may, at its option, update the issue year for the entire contract or single premium policy to be consistent with the date of declaration of the latest current interest rate, or the year or years of investment of the supporting assets but shall maintain consistency from year to year and shall justify the choice of the basis used. However, for contracts that provide for one-year interest guarantees only, the issue year shall only be updated based on the year or years of investment of supporting assets. The definition of issue year must be appropriate for the type of contract or single premium policy and for the year or years of investment of the supporting assets. The procedures chosen shall be applied for all contracts of the same type issued in the same year.

(2) One suitable application of the change in fund valuation method is where the change in the fund in any given calendar year equals the balance of the fund on December 31 of the given year less the balance of the fund on December 31 one year earlier. This change in fund may be positive or negative. The sum of the annual change in the fund shall equal the fund balance as of the valuation date.

(3) A second suitable application is similar to the one above except that the change in fund in any year must be positive or zero. If application of the above method produces a negative result, the change in fund is zero for that year, and the change in fund for the immediately preceding year is reduced by this amount.

(4) Any other application of the change in fund valuation method substantially similar to (2) or (3) of this subdivision may be used with the prior written approval of the superintendent.

(c) Issue year basis

For contracts or single premium policies involving fund accumulations valued using the issue year valuation method, in determining the appropriate calendar year valuation interest rates and the appropriate guarantee durations as measured from date of issue, a company may, at its option, base the issue year on either the original date of issue of the contract or single premium policy or the date of declaration of the latest current interest rate or the year or years of investment of the supporting assets but shall maintain consistency from year to year and shall justify the choice of the basis used. The definition of issue year must be appropriate for the type of contract or single premium policy and for the year or years of investment of the supporting assets. The procedures chosen shall be applied for all contracts of the same type issued in the same year.

(d) Single weighting factors and interest rates

(1) This subdivision does not apply to contracts that fall under the scope of

section 99.4 of this Part.

(2) For contracts other than single consideration immediate annuities, the guarantee duration and an annuity weighting factor shall be determined. In valuing such contracts with guarantee durations greater than five years, it is not appropriate to use more than one weighting factor in determining the calendar year statutory valuation interest rate unless the contract provides for scheduled installment payments. In that case, it may be appropriate to determine a guarantee duration and weighting factor separately for each scheduled installment payment.

(3) A single valuation interest rate factor is determined based on the guarantee duration. This rate is lower for longer durations and does not change when the remaining guarantee duration becomes less than the lowest duration for the block in which the guarantee duration lies.

SECTION 99.9 Special Considerations for Valuing Reserves for Separate Account Contracts and Single Premium Policies

(a) Some separate account contracts do not guarantee principal and interest but do have some guarantees as to mortality and expense. The assets are valued at market and the liabilities are approximately equal to the value of the assets with due recognition of the guarantees of mortality and expense. The reserves for such contracts and single premium policies are covered in part by Part 50 and Part 54 of this Title, unless otherwise defined in this section. Reserves for such a contract shall be calculated based on the annuity reserve valuation methods described in section 99.4 of this Part. However, for the variable portion of such contract future benefits shall be based on the account value projected at the valuation rate less contractual charges, including guaranteed mortality and expense charges. The present value shall be determined using plan type A, B, or C provided the same valuation rate is used for projecting and discounting. The plan type for the fixed account portion of such contracts shall be the plan type that would be applicable if such portion were a fixed account contract.

(b) In the case of a variable annuity contract which provides a minimum guaranteed death benefit that has the potential to exceed the account value (whether or not the death benefit on the valuation date exceeds the account value), then the requirements of this subdivision shall apply in determining the reserve for the minimum guaranteed death benefit. Currently offered minimum guaranteed death benefits include, but are not limited to, provisions commonly referred to as Return of Premium, Roll-ups, Ratchets, and Resets. However, the appointed actuary shall also exercise judgment in determining the applicability of this subdivision. For example, it may be inappropriate to apply this subdivision for a contract with a minimum guaranteed death benefit where the associated net amount at risk decreases when the underlying funds experience a drop in market value or a period of underperformance. This subdivision

does not apply to contracts falling under the scope of sections 99.9(c), 99.9(d) or 99.9(e) of this Part.

(1) For purposes of this subdivision, the following definitions apply:

(i) "Reduced account value" means the account value on the valuation date, reduced by the sum of the immediate drops for each asset class.

(ii) "Projected reduced account value" means the reduced account value, projected into the future using the net assumed returns for each asset class.

(iii) "Projected net amount at risk" means the projected death benefit resulting from the minimum guaranteed death benefit and the projected reduced account value, less the projected reduced account value. The projected net amount at risk shall never be less than zero.

(iv) "Projected unreduced account value" means the projected account value, without reduction for an immediate drop, projected as required in section 99.9(a).

(v) "Base benefit streams" means the streams of projected benefits reflecting the projected unreduced account values as required in section 99.9(a), and ignoring minimum guaranteed death benefits.

(vi) "Integrated benefit stream" means streams which reflect the base benefit streams discounted for survivorship and the minimum guaranteed death benefits discounted for mortality, as required in section 99.9(a).

(vii) "Calculation period" means the periods for which the integrated benefit streams are projected in the Integrated Reserve calculation, consisting of successive periods, beginning with the valuation date and ending prior to the maturity date of the contract.

(2) The valuation of reserves for minimum guaranteed death benefits involves two distinct reserve calculations: a Separate Account Reserve and an Integrated Reserve. The Integrated Reserve represents the total reserve held by the company in support of the entire variable annuity contract. The additional reserve held for the minimum guaranteed death benefit, which equals the excess of the Integrated Reserve over the Separate Account Reserve, but not less than zero, is held in the General Account.

(3) The Separate Account Reserve represents the reserve that would be held in the absence of the minimum guaranteed death benefit, based on the application of the annuity reserve valuation methods to separate account contracts as described in section 99.9(a) of this Part.

(4) The Integrated Reserve is the reserve determined using all contract benefits, including the minimum guaranteed death benefit, based on the application of the annuity reserve valuation methods to separate account contracts as described in section 99.9(a) of this Part. The integration of the minimum guaranteed death benefit with other contract benefits in the determination of future integrated benefit streams is accomplished by combining the three separate benefit streams (w), (x) and (y) where:

(w) is the stream of projected net amounts at risk paid to those expected to die during the calculation period, based on valuation mortality,

(x) is the benefit stream of projected unreduced account values paid to those expected to die during the calculation period, based on valuation mortality, and

(y) is the base benefit streams provided during the calculation period, and is discounted for survivorship based on valuation mortality.

These future integrated benefit streams are determined over all calculation periods, and are discounted at the valuation interest rate(s).

The greatest present value occurs in the calculation period in which the present value of the future integrated benefit streams is maximized (as opposed to the present values of (w), (x) and (y) being individually maximized).

The projected net amount at risk is determined by assuming an immediate drop in the supporting asset values, followed by a subsequent recovery based upon a net assumed return.

For example, the reduced account value after the immediate drop would equal the account value on the valuation date, multiplied by (1 - immediate drop percentage).

The projected reduced account value "n" years later would equal the reduced account value multiplied by $(1 + \text{net assumed return})^n$. The projection shall continue until the maturity of the contract. To determine the immediate drop and net assumed return, the separate account funds supporting the variable annuity contracts on the valuation date shall be allocated to the following five asset classes: the Equity Class, the Bond Class, the Balanced Class, the Money Market Class and the Specialty Class, as described in section 99.9(b)(9) of this Part. Since these descriptions are broad in nature, the ultimate determination of the appropriate fund classifications, for purposes of this subdivision, is the responsibility of the appointed actuary.

The immediate drop percentages and gross assumed returns for each asset class are as follows:

<u>Asset Class</u>	<u>Immediate Drop Percentage</u>	<u>Gross Assumed Return</u>
Equity	14.00%	14.00%
Bond	6.50%	9.50%
Balanced	9.00%	11.50%
Money Market	2.50%	6.50%
Specialty	9.00%	9.50%

The gross assumed returns shown do not include deductions for asset based charges. All asset based contract and fund charges and fees shall be deducted from those shown to obtain the net assumed returns to be used in determining the projected reduced account values.

In the case of variable annuity contracts that provide for various types of fixed account options in which underlying guarantees, consistent with General Account annuities, are provided, the fixed account shall be projected as a separate asset class, with an immediate drop percentage equal to zero and a net assumed return equal to the guaranteed rate(s).

The immediate drop for each contract is determined by taking the sum of the immediate drops for each asset class. The net assumed return for each contract is determined by taking the weighted average of the net assumed returns for each asset class, based upon the allocation of the total account value between the asset classes.

(5) The mortality basis used to discount projected death benefits referred to as the 1994 Variable Annuity Minimum Guaranteed Death Benefit Mortality Table, is shown in section 99.10(i)(5).

(6) The valuation interest rates used for both the Separate Account Reserve and the Integrated Reserve shall be annuity valuation interest rates, consistent with those required in section 99.4(e)(6) of this Part.

(7) For contracts that reinsure some or all of the minimum guaranteed death benefit, an Integrated Reserve net of reinsurance shall be calculated. This reserve shall be calculated as outlined in section 99.9(b)(2) of this Part, with the integrated benefit streams being modified to reflect both the payment of future reinsurance premiums and the recovery of future reinsured death benefits. This is accomplished by treating the future reinsurance premium as an additional benefit and reducing the minimum guaranteed death benefit in the benefit stream of the Integrated Reserve calculation by future reinsurance recoveries.

(8) Similar to the formula demonstrated in section 99.9(b)(4) of this Part, the determination of future integrated benefit streams including the impact of reinsurance is accomplished by combining four separate benefit streams w^r , x^r , y and z , where:

w^r , is the stream of projected net amounts at risk paid to those expected to die during the calculation period, based on valuation mortality. It is equal to benefit stream (a) defined in section 99.9(b)(4) of this Part, reduced by future projected net amounts at risk reinsurance recoveries,

x^r is the benefit stream of projected unreduced account values paid to those expected to die during the calculation period, based on valuation mortality. It is equal to benefit stream (b) defined in section 99.9(b)(4) of this Part, reduced by future projected unreduced account values reinsurance recoveries,

y is as defined in section 99.9(b)(4) of this Part, and

z is the stream of future projected reinsurance gross premiums during the calculation period, determined using projected reduced account values and discounted for survivorship, using valuation mortality.

These future integrated benefit streams are determined over all calculation periods, and are discounted at the valuation interest rate. The greatest present value occurs in the calculation period in which the present value of the future integrated benefit streams, net of reinsurance, is maximized. This calculation period does not necessarily have to be the same as the calculation period that maximizes the integrated benefit streams before consideration of reinsurance.

The reinsurance reserve credit to which the ceding company is entitled is equal to the difference between the Integrated Reserve before any consideration of reinsurance and the Integrated Reserve net of reinsurance. The Integrated Reserve net of reinsurance may be greater than the Integrated Reserve before any consideration of reinsurance (i.e., the reserve credit may be negative).

The reserve for reinsurers assuming minimum guaranteed death benefit risk shall be the maximum difference, at each calculation period, between the present value of the

reinsured death benefits and the present value of reinsurance premiums.

Referring to the formulae in sections 99.9(b)(4) and 99.9(b)(7) of this Part, the reinsured death benefit is the difference between the combination of benefit streams (w^r) and (x^r), and the combination of benefit streams (w) and (x), while benefit stream (z) represents the stream of reinsurance premiums defined above (i.e., $(w) - (w^r) + (x) - (x^r) - (z)$). Each of these benefit streams is discounted using valuation mortality and interest assumptions consistent with those used by the ceding company.

The greatest present value occurs in the calculation period in which the difference between the present value of the reinsured death benefits and the present value of reinsurance premiums is maximized. This calculation period does not necessarily have to be the same as the calculation period that maximizes the Integrated Reserve, either before or after consideration of reinsurance.

(9) Description of Asset Classes

(i) Equity Class

Although equity funds have a broad range of investment objectives, all invest primarily in publicly traded securities, such as common stocks, preferred stocks and convertible securities. The choice of securities purchased by the portfolio manager will be guided by the fund objective (such as Growth of Capital or Income, or Approximating an Index), the capitalization of the companies issuing the stock (e.g., small, medium or large) or the target region (domestic U.S., Pacific Rim, Latin America, etc.). Although some equity funds maintain a general strategy, allowing a portfolio manager great latitude in purchase, other equity funds have become quite specific in their investment objectives. All equity funds, however, are somewhere on the high end of the risk/return scale.

(ii) Bond Class

Investment objective is usually to provide a high level of income consistent with moderate fluctuations in principal value. The objective is accomplished through investments in fixed income securities, such as U.S. government securities, foreign government securities, or publicly traded debt securities issued by U.S. or foreign corporations. Since most bonds are assigned ratings by private Rating Agencies, the specific objectives of the funds are often described by the funds' purchase of instruments at specified rating levels. Funds that focus predominantly on safety will tend to emphasize U.S. Government securities, while a fund that focuses predominantly on income may tend to emphasize lower investment grade instruments. All bond funds, however, are somewhere in the midrange of the risk/return scale.

(iii) Balanced Class

Investment objective is to seek a maximum total return over time, consistent with an emphasis on both capital appreciation and income. Typically, these funds will contain 50%-75% stocks, with the remaining assets invested in bonds and cash equivalents. However, balanced funds grant the portfolio manager the latitude to shift the asset allocation depending on a current analysis of market trends. Besides the term "Balanced", common terms for this fund type include "Total Return", "Adviser's" and "Asset Allocation".

(iv) Money Market Class

Investment objective is to achieve maximum current income consistent with liquidity and preservation of capital. These funds typically aim to maintain a stable net asset value

of \$1 per share. The assets contained in this fund typically have a stated maturity of less than thirteen months with an average maturity of less than 90 days. Common assets held include U.S. Government obligations, certificates of deposit, time deposits and commercial paper.

(v) Specialty Class

Investment objective is to seek a maximum total return with an emphasis on long term capital appreciation, and sometimes current income. Typically, this fund type will invest most of its assets in common stocks or debt instruments of companies that operate within a specified industry. Commonly, specialty funds invest in utilities, natural resources and real estate, although there is a broad range of possible industries to choose from. The key difference between a specialty fund and an equity or bond fund is the targeted approach to investing. In a specialty fund, no effort is made to diversify outside the target industry.

(10) Where the requirements of this subdivision produce higher reserves than those calculated for the 1999 yearend valuation, the company shall, for 2000 and later issues, comply with this subdivision. For 1999 and earlier issues, the company may linearly interpolate between the higher reserves and the old reserves as follows:

(i) 33 1/3 percent and 66 2/3 percent, respectively, starting with yearend 2000;

(ii) 66 2/3 percent and 33 1/3 percent, respectively, starting with yearend 2001;

and

(iii) such company shall hold the full amount of such new reserves for such issues starting with yearend 2002.

(c) Some separate account contracts have guarantees as to principal and interest and have assets meeting the requirements for general account assets with assets valued in the same manner as for the general account. The reserves for the corresponding liabilities are governed in part by sections 99.4, 99.5, 99.6, 99.8 and 99.9 of this Part.

(d) In the case of modified guaranteed annuities, the reserve requirements are specified in paragraph 99.4(a)(5) of this Part.

(e) In the case of separate account contracts providing guaranteed benefits and for which the assets are valued at market and which are not subject to Part 44 of this Title, the requirements of Part 97 of this Title apply.

SECTION 99.10 Mortality Tables to be Used in Determining Reserve Liabilities for Annuities and Pure Endowments

(a) Individual annuities and pure endowments issued or purchased prior to January 1, 2000

(1) The 1983 table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for the purpose of determining the minimum standard of valuation for individual annuity and

pure endowment contracts issued on or after January 1, 1979 and prior to January 1, 1984, excluding any disability and accidental death benefits in such contracts, and, at the election of the company, for annuities purchased on or after such date and prior to January 1, 1984 under individual deferred annuity contracts or under individual or group life insurance policies.

(2) The 1983 table "a" shall be used for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued or purchased (under individual deferred annuity contracts or under individual or group life insurance policies) on or after January 1, 1984 and prior to January 1, 2000. For contracts issued prior to the election date of the 1983 table "a", the applicable standard valuation mortality table as defined in section 4217 of the Insurance Law shall be used.

(b) Individual annuities and pure endowments issued or purchased on or after January 1, 2000

The Annuity 2000 Mortality Table shall be used in determining the minimum standard of valuation for individual annuities and pure endowment contracts issued or purchased (under individual deferred annuity contracts or under individual or group life insurance policies) on or after January 1, 2000.

(c) Group annuities and pure endowments issued or purchased prior to January 1, 2000

(1) The 1983 GAM table is recognized and approved as a group annuity mortality table for valuation and, at the option of the company, may be used for the purpose of determining the minimum standard of valuation for annuities and pure endowments purchased or to be purchased on or after January 1, 1977 and prior to January 1, 1985, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts. For annuities purchased prior to the election date of the 1983 GAM table, the applicable mortality table as defined in section 4217 of the Insurance Law shall be used.

(2) The 1983 GAM table shall be used for determining the minimum standard of valuation for all annuities and pure endowments purchased on or after January 1, 1985 and prior to January 1, 2000, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts.

(d) Group annuities and pure endowments issued or purchased on or after January 1, 2000

The 1994 GAR table shall be used for determining the minimum standard of valuation for all annuities and pure endowments purchased or to be purchased on or after January 1, 2000 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts.

(e) Structured settlements and other tort actions

(1) For structured settlements and other tort actions, as described in section 99.6(i) of this Part, issued or purchased prior to January 1, 2000, the applicable (individual or group) annuitant standard valuation mortality table as required by this Part and section 4217 of the Insurance Law (with modification, if issued on a substandard basis, in accordance with the procedures described in section 99.6(i) of this Part) shall be used for determining the minimum standard of valuation; the use of projection scale G is not required.

(2) For structured settlements and other tort actions, as described in section 99.6(i) of this Part, issued or purchased on or after January 1, 2000, the 1983 table "a" (with modification, if issued on a substandard basis, in accordance with the procedures described in section 99.6(i) of this Part) shall be used for determining the minimum standard of valuation; the use of projection scale G is not required.

(f) Minimum guaranteed death benefits under variable annuity contracts
The mortality basis used to discount projected minimum guaranteed death benefits under variable annuity contracts is the 1994 Variable Annuity Minimum Guaranteed Death Benefit Mortality Table.

(g) Approximations, including the use of male tables for female lives with age setbacks and/or a lower interest rate, producing reserves approximately equal to those by the above standards may be used.

(h) Prohibited discrimination

(1) The rates of mortality under the tables cited above are sex distinct. Such tables are for the purpose of placing a sound value on the liability for the benefits purchased. Such tables are not required by this Part to be used for determining any nonforfeiture benefits nor for determining the purchase price of benefits, nor for determining the equivalent value of optional benefits.

(2) In order to assist employers to comply with applicable state and federal statutes prohibiting sex discrimination with respect to employer-employee benefit plans, a company may use an appropriate annuity mortality table with the same rates for men and women for the purpose of determining nonforfeiture benefits, the purchase price of annuities and the equivalent value of optional benefits.

(i) Mortality Tables

(1) The 1983 table "a"

The rates of mortality per 1,000 lives based on age nearest birthday for the 1983 table "a" are as follows:

<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>
5	0.377	0.194	45	2.399	1.122	85	90.987	65.518
6	0.350	0.160	46	2.693	1.231	86	99.122	73.493
7	0.333	0.134	47	3.009	1.356	87	107.577	82.318
8	0.352	0.134	48	3.343	1.499	88	116.316	92.017
9	0.368	0.136	49	3.694	1.657	89	125.394	102.491
10	0.382	0.141	50	4.057	1.830	90	134.887	113.605
11	0.394	0.147	51	4.431	2.016	91	144.873	125.227
12	0.405	0.155	52	4.812	2.215	92	155.429	137.222
13	0.415	0.165	53	5.198	2.426	93	166.629	149.462
14	0.425	0.175	54	5.591	2.650	94	178.537	161.834
15	0.435	0.188	55	5.994	2.891	95	191.214	174.228
16	0.446	0.201	56	6.409	3.151	96	204.721	186.535
17	0.458	0.214	57	6.839	3.432	97	219.120	198.646
18	0.472	0.229	58	7.290	3.739	98	234.735	211.102
19	0.488	0.244	59	7.782	4.081	99	251.889	224.445
20	0.505	0.260	60	8.338	4.467	100	270.906	239.215
21	0.525	0.276	61	8.983	4.908	101	292.111	255.953
22	0.546	0.293	62	9.740	5.413	102	315.826	275.201
23	0.570	0.311	63	10.630	5.990	103	342.377	297.500
24	0.596	0.330	64	11.664	6.633	104	372.086	323.390
25	0.622	0.349	65	12.851	7.336	105	405.278	353.414
26	0.650	0.368	66	14.199	8.090	106	442.277	388.111
27	0.677	0.387	67	15.717	8.888	107	483.406	428.023
28	0.704	0.405	68	17.414	9.731	108	528.989	473.692
29	0.731	0.423	69	19.296	10.653	109	579.351	525.658
30	0.759	0.441	70	21.371	11.697	110	634.814	584.462
31	0.786	0.460	71	23.647	12.905	111	695.704	650.646
32	0.814	0.479	72	26.131	14.319	112	762.343	724.750
33	0.843	0.499	73	28.835	15.980	113	835.056	807.316
34	0.876	0.521	74	31.794	17.909	114	914.167	898.885
35	0.917	0.545	75	35.046	20.127	115	1000.000	1000.000
36	0.968	0.574	76	38.631	22.654			
37	1.032	0.607	77	42.587	25.509			
38	1.114	0.646	78	46.951	28.717			
39	1.216	0.691	79	51.755	32.328			
40	1.341	0.742	80	57.026	36.395			
41	1.492	0.801	81	62.791	40.975			
42	1.673	0.867	82	69.081	46.121			
43	1.886	0.942	83	75.908	51.889			
44	2.129	1.026	84	83.230	58.336			

(2) The Annuity 2000 Mortality Table

The rates of mortality per 1,000 lives based on age nearest birthday for the Annuity 2000 Mortality Table are as follows:

<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>
5	0.291	0.171	45	1.752	0.939	85	73.275	57.913
6	0.270	0.141	46	1.974	1.035	86	80.076	65.119
7	0.257	0.118	47	2.211	1.141	87	87.370	73.136
8	0.294	0.118	48	2.460	1.261	88	95.169	81.991
9	0.325	0.121	49	2.721	1.393	89	103.455	91.577
10	0.350	0.126	50	2.994	1.538	90	112.208	101.758
11	0.371	0.133	51	3.279	1.695	91	121.402	112.395
12	0.388	0.142	52	3.576	1.864	92	131.017	123.349
13	0.402	0.152	53	3.884	2.047	93	141.030	134.486
14	0.414	0.164	54	4.203	2.244	94	151.422	145.689
15	0.425	0.177	55	4.534	2.457	95	162.179	156.846
16	0.437	0.190	56	4.876	2.689	96	173.279	167.841
17	0.449	0.204	57	5.228	2.942	97	184.706	178.563
18	0.463	0.219	58	5.593	3.218	98	196.946	189.604
19	0.480	0.234	59	5.988	3.523	99	210.484	201.557
20	0.499	0.250	60	6.428	3.863	100	225.806	215.013
21	0.519	0.265	61	6.933	4.242	101	243.398	230.565
22	0.542	0.281	62	7.520	4.668	102	263.745	248.805
23	0.566	0.298	63	8.207	5.144	103	287.334	270.326
24	0.592	0.314	64	9.008	5.671	104	314.649	295.719
25	0.616	0.331	65	9.940	6.250	105	346.177	325.576
26	0.639	0.347	66	11.016	6.878	106	382.403	360.491
27	0.659	0.362	67	12.251	7.555	107	423.813	401.054
28	0.675	0.376	68	13.657	8.287	108	470.893	447.860
29	0.687	0.389	69	15.233	9.102	109	524.128	501.498
30	0.694	0.402	70	16.979	10.034	110	584.004	562.563
31	0.699	0.414	71	18.891	11.117	111	651.007	631.645
32	0.700	0.425	72	20.967	12.386	112	725.622	709.338
33	0.701	0.436	73	23.209	13.871	113	808.336	796.233
34	0.702	0.449	74	25.644	15.592	114	899.633	892.923
35	0.704	0.463	75	28.304	17.564	115	1000.000	1000.000
36	0.719	0.481	76	31.220	19.805			
37	0.749	0.504	77	34.425	22.328			
38	0.796	0.532	78	37.948	25.158			
39	0.864	0.567	79	41.812	28.341			
40	0.953	0.609	80	46.037	31.933			
41	1.065	0.658	81	50.643	35.985			
42	1.201	0.715	82	55.651	40.552			
43	1.362	0.781	83	61.080	45.690			
44	1.547	0.855	84	66.948	51.456			

(3) The 1983 GAM

The rates of mortality per 1,000 lives based on age nearest birthday for the 1983 GAM table are as follows:

<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Age</u>	<u>Male</u>	<u>Female</u>
5	0.342	0.171	40	1.238	0.665	75	44.597	23.992
6	0.318	0.140	41	1.370	0.716	76	49.388	27.184
7	0.302	0.118	42	1.527	0.775	77	54.758	30.672
8	0.294	0.104	43	1.715	0.841	78	60.678	34.459
9	0.292	0.097	44	1.932	0.919	79	67.125	38.549
10	0.293	0.096	45	2.183	1.010	80	74.070	42.945
11	0.298	0.104	46	2.471	1.117	81	81.484	47.655
12	0.304	0.113	47	2.790	1.237	82	89.320	52.691
13	0.310	0.121	48	3.138	1.366	83	97.525	58.071
14	0.317	0.131	49	3.513	1.505	84	106.047	63.807
15	0.325	0.140	50	3.909	1.647	85	114.836	69.918
16	0.333	0.149	51	4.324	1.793	86	124.170	76.570
17	0.343	0.159	52	4.755	1.948	87	133.870	84.459
18	0.353	0.168	53	5.200	2.119	88	144.073	91.935
19	0.365	0.179	54	5.660	2.315	89	154.859	101.354
20	0.377	0.189	55	6.131	2.541	90	166.307	111.750
21	0.392	0.201	56	6.618	2.803	91	178.214	123.076
22	0.408	0.212	57	7.139	3.103	92	190.460	135.630
23	0.424	0.225	58	7.719	3.442	93	203.007	149.577
24	0.444	0.238	59	8.384	3.821	94	217.904	165.103
25	0.464	0.253	60	9.158	4.241	95	234.086	182.419
26	0.488	0.268	61	10.064	4.702	96	248.436	201.757
27	0.513	0.283	62	11.133	5.210	97	263.954	222.043
28	0.542	0.301	63	12.391	5.769	98	280.803	243.899
29	0.572	0.320	64	13.868	6.385	99	299.154	268.185
30	0.607	0.342	65	15.592	7.064	100	319.185	295.187
31	0.645	0.364	66	17.579	7.817	101	341.086	325.225
32	0.687	0.388	67	19.804	8.681	102	365.052	358.897
33	0.734	0.414	68	22.229	9.702	103	393.102	395.842
34	0.785	0.443	69	24.817	10.921	104	427.255	438.360
35	0.860	0.476	70	27.530	12.385	105	469.531	487.816
36	0.907	0.502	71	30.354	14.128	106	521.945	545.886
37	0.966	0.535	72	33.370	16.159	107	586.518	614.309
38	1.039	0.573	73	36.680	18.481	108	665.268	694.884
39	1.128	0.617	74	40.388	21.091	109	760.215	789.474
						110	1000.000	1000.000

(4) The 1994 GAR

(i) The rates of mortality per 1,000 lives based on age nearest birthday for the 1994 GAR are as follows:

THE 1994 GROUP ANNUITY RESERVING TABLE

AGE (x)	MALE		FEMALE	
	q_x^{1994}	AAx	q_x^{1994}	AAx
1	0.592	0.020	0.531	0.020
2	0.400	0.020	0.346	0.020
3	0.332	0.020	0.258	0.020
4	0.259	0.020	0.194	0.020
5	0.237	0.020	0.175	0.020
6	0.227	0.020	0.163	0.020
7	0.217	0.020	0.153	0.020
8	0.201	0.020	0.137	0.020
9	0.194	0.020	0.130	0.020
10	0.197	0.020	0.131	0.020
11	0.208	0.020	0.138	0.020
12	0.226	0.020	0.148	0.020
13	0.255	0.020	0.164	0.020
14	0.297	0.019	0.189	0.018
15	0.345	0.019	0.216	0.016
16	0.391	0.019	0.242	0.015
17	0.430	0.019	0.262	0.014
18	0.460	0.019	0.273	0.014
19	0.484	0.019	0.280	0.015
20	0.507	0.019	0.284	0.016
21	0.530	0.018	0.286	0.017
22	0.556	0.017	0.289	0.017
23	0.589	0.015	0.292	0.016
24	0.624	0.013	0.291	0.015
25	0.661	0.010	0.291	0.014
26	0.696	0.006	0.294	0.012
27	0.727	0.005	0.302	0.012
28	0.754	0.005	0.314	0.012
29	0.779	0.005	0.331	0.012
30	0.801	0.005	0.351	0.010
31	0.821	0.005	0.373	0.008
32	0.839	0.005	0.397	0.008
33	0.848	0.005	0.422	0.009
34	0.849	0.005	0.449	0.010
35	0.851	0.005	0.478	0.011
36	0.862	0.005	0.512	0.012
37	0.891	0.005	0.551	0.013
38	0.939	0.006	0.598	0.014
39	0.999	0.007	0.652	0.015
40	1.072	0.008	0.709	0.015

AGE (x)	MALE		FEMALE	
	q_x^{1994}	AAx	q_x^{1994}	AAx
41	1.156	0.009	0.768	0.015
42	1.252	0.010	0.825	0.015
43	1.352	0.011	0.877	0.015
44	1.458	0.012	0.923	0.015
45	1.578	0.013	0.973	0.016
46	1.722	0.014	1.033	0.017
47	1.899	0.015	1.112	0.018
48	2.102	0.016	1.206	0.018
49	2.326	0.017	1.310	0.018
50	2.579	0.018	1.428	0.017
51	2.872	0.019	1.568	0.016
52	3.213	0.020	1.734	0.014
53	3.584	0.020	1.907	0.012
54	3.979	0.020	2.084	0.010
55	4.425	0.019	2.294	0.008
56	4.949	0.018	2.563	0.006
57	5.581	0.017	2.919	0.005
58	6.300	0.016	3.359	0.005
59	7.090	0.016	3.863	0.005
60	7.976	0.016	4.439	0.005
61	8.986	0.015	5.093	0.005
62	10.147	0.015	5.832	0.005
63	11.471	0.014	6.677	0.005
64	12.940	0.014	7.621	0.005
65	14.535	0.014	8.636	0.005
66	16.239	0.013	9.694	0.005
67	18.034	0.013	10.764	0.005
68	19.859	0.014	11.763	0.005
69	21.729	0.014	12.709	0.005
70	23.730	0.015	13.730	0.005
71	25.951	0.015	14.953	0.006
72	28.481	0.015	16.506	0.006
73	31.201	0.015	18.344	0.007
74	34.051	0.015	20.381	0.007
75	37.211	0.014	22.686	0.008
76	40.858	0.014	25.325	0.008
77	45.171	0.013	28.366	0.007
78	50.211	0.012	31.727	0.007
79	55.861	0.011	35.362	0.007
80	62.027	0.010	39.396	0.007
81	68.615	0.009	43.952	0.007
82	75.532	0.008	49.153	0.007
83	82.510	0.008	54.857	0.007
84	89.613	0.007	60.979	0.007
85	97.240	0.007	67.738	0.006

AGE (x)	MALE		FEMALE	
	q_x^{1994}	AAx	q_x^{1994}	AAx
86	105.792	0.007	75.347	0.005
87	115.671	0.006	84.023	0.004
88	126.980	0.005	93.820	0.004
89	139.452	0.005	104.594	0.003
90	152.931	0.004	116.265	0.003
91	167.260	0.004	128.751	0.003
92	182.281	0.003	141.973	0.003
93	198.392	0.003	155.931	0.002
94	215.700	0.003	170.677	0.002
95	233.606	0.002	186.213	0.002
96	251.510	0.002	202.538	0.002
97	268.815	0.002	219.655	0.001
98	285.277	0.001	237.713	0.001
99	301.298	0.001	256.712	0.001
100	317.238	0.001	276.427	0.001
101	333.461	0.000	296.629	0.000
102	350.330	0.000	317.093	0.000
103	368.542	0.000	338.505	0.000
104	387.855	0.000	361.016	0.000
105	407.224	0.000	383.597	0.000
106	425.599	0.000	405.217	0.000
107	441.935	0.000	424.846	0.000
108	457.553	0.000	444.368	0.000
109	473.150	0.000	464.469	0.000
110	486.745	0.000	482.325	0.000
111	496.356	0.000	495.110	0.000
112	500.000	0.000	500.000	0.000
113	500.000	0.000	500.000	0.000
114	500.000	0.000	500.000	0.000
115	500.000	0.000	500.000	0.000
116	500.000	0.000	500.000	0.000
117	500.000	0.000	500.000	0.000
118	500.000	0.000	500.000	0.000
119	500.000	0.000	500.000	0.000
120	1000.000	0.000	1000.000	0.000
116	500.000	0.000	500.000	0.000
117	500.000	0.000	500.000	0.000
118	500.000	0.000	500.000	0.000
119	500.000	0.000	500.000	0.000
120	1000.000	0.000	1000.000	0.000

(ii) The values in the 1994 GAR table are as follows:

q_x^{1994} = The mortality rate for a person age x in year 1994, and

AA_x = The annual improvement factor in the mortality rate for age x.

(iii) To produce the mortality rate per 1,000 lives for a person age x in year (1994 + n), the following formula shall be used:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

(5) The 1994 Variable Annuity Minimum Guaranteed Death Benefit (MGDB) Mortality Table

(i) The rates of mortality per 1,000 lives based on male age nearest birthday for the 1994 Variable Annuity MGDB Mortality Table are as follows:

AGE	q_x	AGE	q_x	AGE	q_x	AGE	q_x	AGE	q_x
1	0.701	24	0.738	47	2.246	70	28.068	93	234.658
2	0.473	25	0.782	48	2.486	71	30.696	94	255.130
3	0.393	26	0.824	49	2.751	72	33.688	95	276.308
4	0.306	27	0.860	50	3.050	73	36.904	96	297.485
5	0.280	28	0.892	51	3.397	74	40.275	97	317.953
6	0.268	29	0.922	52	3.800	75	44.013	98	337.425
7	0.257	30	0.948	53	4.239	76	48.326	99	356.374
8	0.238	31	0.971	54	4.706	77	53.427	100	375.228
9	0.230	32	0.992	55	5.234	78	59.390	101	394.416
10	0.233	33	1.003	56	5.854	79	66.073	102	414.369
11	0.245	34	1.004	57	6.601	80	73.366	103	436.572
12	0.267	35	1.006	58	7.451	81	81.158	104	460.741
13	0.302	36	1.020	59	8.385	82	89.339	105	484.644
14	0.352	37	1.054	60	9.434	83	97.593	106	506.047
15	0.408	38	1.111	61	10.629	84	105.994	107	522.720
16	0.463	39	1.182	62	12.002	85	115.015	108	534.237
17	0.509	40	1.268	63	13.569	86	125.131	109	542.088
18	0.544	41	1.367	64	15.305	87	136.815	110	546.908
19	0.573	42	1.481	65	17.192	88	150.191	111	549.333
20	0.599	43	1.599	66	19.208	89	164.944	112	550.000
21	0.627	44	1.725	67	21.330	90	180.886	113	550.000
22	0.658	45	1.867	68	23.489	91	197.834	114	550.000
23	0.696	46	2.037	69	25.700	92	215.601	115	1000.000

(ii) The rates of mortality per 1,000 lives based on female age nearest birthday for the 1994 Variable Annuity MGDB Mortality Table are as follows:

AGE	q _x								
1	0.628	24	0.344	47	1.316	70	16.239	93	184.435
2	0.409	25	0.344	48	1.427	71	17.687	94	201.876
3	0.306	26	0.348	49	1.549	72	19.523	95	220.252
4	0.229	27	0.356	50	1.690	73	21.696	96	239.561
5	0.207	28	0.372	51	1.855	74	24.107	97	259.807
6	0.194	29	0.392	52	2.050	75	26.832	98	281.166
7	0.181	30	0.415	53	2.256	76	29.954	99	303.639
8	0.162	31	0.441	54	2.465	77	33.551	100	326.956
9	0.154	32	0.470	55	2.713	78	37.527	101	350.852
10	0.155	33	0.499	56	3.030	79	41.826	102	375.056
11	0.163	34	0.530	57	3.453	80	46.597	103	401.045
12	0.175	35	0.565	58	3.973	81	51.986	104	428.996
13	0.195	36	0.605	59	4.569	82	58.138	105	456.698
14	0.223	37	0.652	60	5.250	83	64.885	106	481.939
15	0.256	38	0.707	61	6.024	84	72.126	107	502.506
16	0.287	39	0.771	62	6.898	85	80.120	108	518.642
17	0.309	40	0.839	63	7.897	86	89.120	109	531.820
18	0.322	41	0.909	64	9.013	87	99.383	110	541.680
19	0.331	42	0.977	65	10.215	88	110.970	111	547.859
20	0.335	43	1.037	66	11.465	89	123.714	112	550.000
21	0.339	44	1.091	67	12.731	90	137.518	113	550.000
22	0.342	45	1.151	68	13.913	91	152.286	114	550.000
23	0.344	46	1.222	69	15.032	92	167.926	115	1000.000

(iii) The rates of mortality per 1,000 lives based on male age last birthday for the 1994 Variable Annuity MGDB Mortality Table are as follows:

AGE	q _x								
1	0.587	24	0.760	47	2.366	70	29.363	93	243.533
2	0.433	25	0.803	48	2.618	71	32.169	94	264.171
3	0.350	26	0.842	49	2.900	72	35.268	95	285.199
4	0.293	27	0.876	50	3.223	73	38.558	96	305.931
5	0.274	28	0.907	51	3.598	74	42.106	97	325.849
6	0.263	29	0.935	52	4.019	75	46.121	98	344.977
7	0.248	30	0.959	53	4.472	76	50.813	99	363.757
8	0.234	31	0.981	54	4.969	77	56.327	100	382.606
9	0.231	32	0.997	55	5.543	78	62.629	101	401.942
10	0.239	33	1.003	56	6.226	79	69.595	102	422.569
11	0.256	34	1.005	57	7.025	80	77.114	103	445.282
12	0.284	35	1.013	58	7.916	81	85.075	104	469.115
13	0.327	36	1.037	59	8.907	82	93.273	105	491.923
14	0.380	37	1.082	60	10.029	83	101.578	106	511.560
15	0.435	38	1.146	61	11.312	84	110.252	107	526.441
16	0.486	39	1.225	62	12.781	85	119.764	108	536.732
17	0.526	40	1.317	63	14.431	86	130.583	109	543.602
18	0.558	41	1.424	64	16.241	87	143.012	110	547.664
19	0.586	42	1.540	65	18.191	88	156.969	111	549.540
20	0.613	43	1.662	66	20.259	89	172.199	112	550.000
21	0.642	44	1.796	67	22.398	90	188.517	113	550.000
22	0.677	45	1.952	68	24.581	91	205.742	114	550.000
23	0.717	46	2.141	69	26.869	92	223.978	115	1000.000

(iv) The rates of mortality per 1,000 lives based on female age last birthday for the 1994 Variable Annuity MGDB Mortality Table are as follows:

AGE	q_x	AGE	q_x	AGE	q_x	AGE	q_x	AGE	q_x
1	0.519	24	0.344	47	1.371	70	16.957	93	192.270
2	0.358	25	0.346	48	1.488	71	18.597	94	210.032
3	0.268	26	0.352	49	1.619	72	20.599	95	228.712
4	0.218	27	0.364	50	1.772	73	22.888	96	248.306
5	0.201	28	0.382	51	1.952	74	25.453	97	268.892
6	0.188	29	0.403	52	2.153	75	28.372	98	290.564
7	0.172	30	0.428	53	2.360	76	31.725	99	313.211
8	0.158	31	0.455	54	2.589	77	35.505	100	336.569
9	0.154	32	0.484	55	2.871	78	39.635	101	360.379
10	0.159	33	0.514	56	3.241	79	44.161	102	385.051
11	0.169	34	0.547	57	3.713	80	49.227	103	411.515
12	0.185	35	0.585	58	4.270	81	54.980	104	439.065
13	0.209	36	0.628	59	4.909	82	61.410	105	465.584
14	0.239	37	0.679	60	5.636	83	68.384	106	488.958
15	0.271	38	0.739	61	6.460	84	75.973	107	507.867
16	0.298	39	0.805	62	7.396	85	84.432	108	522.924
17	0.315	40	0.874	63	8.453	86	94.012	109	534.964
18	0.326	41	0.943	64	9.611	87	104.874	110	543.622
19	0.333	42	1.007	65	10.837	88	116.968	111	548.526
20	0.337	43	1.064	66	12.094	89	130.161	112	550.000
21	0.340	44	1.121	67	13.318	90	144.357	113	550.000
22	0.343	45	1.186	68	14.469	91	159.461	114	550.000
23	0.344	46	1.269	69	15.631	92	175.424	115	1000.000

SECTION 99.11 Severability

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the applications thereof to other persons and circumstances.

I, NEIL D. LEVIN, Superintendent of Insurance of the State of New York, certify that the foregoing is a new 11 NYCRR 99 (Regulation 151), promulgated by me on February 7, 2001, pursuant to the authority granted by Sections 201, 301, 1304, 4217, 4240 and 4517 of the Insurance Law, to take effect upon 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 November 8, 2000. No other publication or prior notice is required by statute.

Neil D. Levin
Superintendent of Insurance

February 7, 2001