

May 15, 1962

SUBJECT: INSURANCE

Life Insurance Association of America,  
488 Madison Avenue,  
New York, N. Y.

Attention: Eldon Wallingford, Esq.,  
Associate General Counsel

Gentlemen:

It has been requested on behalf of your membership by Mr. Wallingford that in view of the recent Court of Appeals decision, the Department set forth its position with respect to Insurability Option Riders.

The approval heretofore granted with respect to Insurability Option Riders has been withdrawn by the Department by its Decision and Order of December 28, 1960, which Decision and Order has been upheld by the New York Court of Appeals.

The following are the Department's standards and procedures affecting Insurability Option Riders and endorsements designed to replace the withdrawn forms:

#### I. Revision of Insurability Option Riders

The text of the Insurability Option Rider shall be revised to provide, in substance, as follows:

"The company agrees that the respective time periods of the Suicide clause and of the Incontestability clause of each option policy shall be computed from the date of issue of (a) the original policy or of (b) this Insurability Option Rider, if issued thereafter, and in the case of the Incontestability clause, the time period shall be computed from the date of reinstatement, if any. An endorsement for the purpose of carrying out this intention shall be affixed to each option policy."

#### II. Endorsement to be affixed to Option Policies

Each company which has not heretofore obtained approval of an endorsement to be affixed to option policies for the purpose of carrying out the intention expressed in the first sentence of the quoted portion of paragraph I hereof, should prepare and submit an endorsement for such purpose and such endorsement must be submitted with the Insurability Option Rider form when such rider is revised as provided in aforesaid paragraph I.

#### III. Submission of previously approved Endorsements to be used to endorse Option Policies

If the company has previously obtained approval of an endorsement form to be affixed to each option policy for the purpose of carrying out the intention expressed in the first sentence of the quoted portion of paragraph I hereof, a copy of such approved Endorsement must be submitted with the revised Insurability Option Rider for the purpose of determining the present adequacy thereof.

IV. Formal revision of Insurability Option Riders for General Use

It is requested that each company formally submit within 30 days from the date hereof revised insurability option agreement riders which shall include in the text thereof the substance of the quoted portion of paragraph I hereof. Such revised forms will require a distinguishing form number which differs from that of any form heretofore approved.

V. Procedure for temporary revision of Insurability Option Riders by means of an approved Endorsement thereto and approval of Endorsement to be affixed to each Option Policy

As a temporary expedient, in lieu of complete revision of Insurability Option Riders, the company may, by means of an approved endorsement complying with requirements of the quoted portion of paragraph I hereof, amend and submit for approval (a) its previously approved Insurability Option Rider (s) and (b) the proposed endorsement to be used to amend such rider and (c) the endorsement to be affixed to new policies issued pursuant to the Insurability Option Rider.

It is understood that you will bring this to the attention of such of your members as are affected.

Very truly yours,

(Signed) RAYMOND M. DEFOSSEZ

Deputy Superintendent