

December 19, 1980

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 18 (1980)

December 19, 1980

TO: ALL INSURERS AUTHORIZED TO WRITE LIFE INSURANCE IN NEW YORK STATE

RE: GUIDELINES FOR SUBMISSION AND APPROVAL OF LIFE INSURANCE POLICIES WITH PROJECTED INDETERMINATE OR ADJUSTABLE PREMIUM RATES LESS THAN OR EQUAL TO MAXIMUM GUARANTEED PREMIUM RATES

The Insurance Department has received for approval life insurance policy forms which provide that the premium at time of issue and subsequent premiums will be established by the insurer based on current projected assumptions for such factors as investment earnings, mortality, persistency and expense, but subject to a maximum guaranteed premium set forth in the policy. Traditionally, life insurance policies have had fixed guaranteed premiums established at the time of policy issuance. The initial premium scale (the premiums that would be paid if the initial pricing assumptions do not change) for these new policies based on current projected assumptions is generally lower than the premiums which would be charged if the assumptions used were those applicable to a traditional life insurance policy with a fixed guaranteed premium.

While the Department recognizes this projected premium approach may be beneficial to policyholders, it is necessary to establish the following guidelines for approval of such policies to prevent possible unfairness and misunderstanding to policyholders:

A. Policy Forms

1. It must be stated in the policy that: (a) adjustments in premiums will be by class and based upon changes in future expectations for such factors as: investment earnings, mortality, persistency and expenses; and (b) any change in premiums will be determined in accordance with the procedures and standards on file with the Department of Insurance.
2. Policy captions and provisions describing the premium adjustment must characterize such adjustment as a change in premium, rather than a reduction in premium from the maximum guaranteed premium.
3. The Grace Period provision should refer to the premium due, rather than the premium stated in the policy.
4. The policy shall set forth in equal prominence the maximum guaranteed premium and the initial premium scale.

5. The policy shall describe the frequency with which premiums for in-force policies shall be reviewed to determine whether an adjustment in premiums should be made.

6. Applicants shall be advised by means of a statement in the application form, or through a separate notice signed by the applicant, of the following information:

- a) that the premium may change
- b) that the premium then charged is not guaranteed and the insurer may charge the full maximum guaranteed premium.

If a separate notice is used, the insurer shall maintain in its files, during the existence of the contract, a copy of the signed notice.

B. Premium Rates - Actuarial Memorandum

1. Filing Procedures

At the time the policy form is filed for approval, or when a new premium table is filed for new issues of a previously approved policy form, or when the premiums are adjusted for in-force policies, an actuarial memorandum describing the calculation of premiums will be made a part of the filing. The matters to be covered in the actuarial memorandum shall include:

- a) The formulas for calculation of premiums.
- b) Specification of projected assumptions as to investment earnings, mortality, persistency and expense on which the initial premium scale is based, and a comparison of such assumptions with corresponding assumptions for comparable non-participating and participating guaranteed premium policies. Specification of the revised projected assumptions for new issues or in-force policies as to the investment earnings, mortality, persistency and expense and justification for the revision in assumptions.
- c) The tables of premiums, including both the initial premiums and the maximum guaranteed premiums. Changes in the table of premiums for in-force policies may not include an upward change in the maximum guaranteed premium applicable to such policies.
- d) Cost comparisons with similar non-participating and participating guaranteed premium plans of insurance then being written by the Company. Such comparison shall include both the initial and maximum guaranteed premium basis and shall be on an interest-adjusted payment index and interest-adjusted surrender index.
- e) Description of the conditions, methods and procedures to be used for the adjustment of premiums.

2. General Requirements:

- a) Any changes in premiums, formulas or pricing assumptions for new and in-force policies must be approved by the company's board of directors and be filed with the Insurance Department at least 60 days prior to use.

b) The pricing assumptions for in-force policies, unless they are subject to an initial guaranteed period, must be reviewed whenever the premiums for new issues are changed, but in no event more often than once each policy year nor less often than once every five policy years.

c) Any filing of new plans and/or a change in premiums on in-force policies shall be accompanied by an actuarial certification stating that the assumptions are reasonable, appear to be self-supporting and for future years on in-force policies such assumptions do not discriminate unfairly between new issues and in-force policies.

d) An adjustment in premiums cannot distribute past gains or recoup past losses but will be based on changes in future expectations for such factors as: investment earnings, mortality, persistency and expenses. The Company's profit factor in the premium formulas must be fixed at issue and cannot be changed for future premium adjustments for in-force policies unless approved by the Superintendent.

e) When the company changes its table of premiums for similar non-participating or participating guaranteed premium plans of insurance, comparisons in accordance with Section B(1)(b) and (d) must be filed with the Insurance Department and a justification for the action that will be taken on their indeterminate or adjustable premium policies.

C. Non-Forfeiture Values and Reserves.

Policy cash values must be fixed at issue. Minimum cash values required by Section 208-a and minimum reserves required by Section 205 will be determined on the basis of the initial premium scale, except that minimum reserves required by Section 206 will be based on the maximum values applicable to the policy premium(s).

D. Advertising.

Advertising material for the adjustable premium product must be available for Department review and should include the following:

- 1) Equal prominence to the initial premium scale and maximum guaranteed premiums.
- 2) Prominent statement of the non-guaranteed nature of the initial premium rate scale.
- 3) The frequency of the right to change premium rates.

E. Disclosure

Any Disclosure material for the adjustable premium product should include the following:

- 1) The information required in D above.
- 2) Cost illustrations using the initial premium scale and maximum guaranteed premium rates, and a comparison to the Company's non-participating and participating guaranteed premium policy with the same or similar benefits for insureds of essentially the same class of risk, if any.

F. Noncompliance

Failure to comply with these guidelines may be a basis for withdrawal of approval of the insurer's previously approved policy form, and/or other Insurance Department disciplinary action.

G. Subsequent Revision

These guidelines will be reviewed for possible amendment as experience develops.

[SIGNATURE]

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Superintendent of Insurance