



**STATE OF NEW YORK  
INSURANCE DEPARTMENT  
160 WEST BROADWAY  
NEW YORK, NEW YORK 10013**

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**Circular Letter No. 13 (1995)  
August 17, 1995**

**TO: All Licensed Financial Guaranty Corporations**

**RE: Policies Guaranteeing Obligations of Insurance Companies**

As a part of an extensive review of regulation and its impact on availability of competitive insurance products in New York, the Insurance Department has reconsidered its position with regard to Financial Guaranty Insurance as a guarantor of certain insurance obligations. The Superintendent has determined, on advice of the Department's General Counsel, that there is no statutory prohibition against the guarantee of certain insurance corporate obligations where the guarantees are limited to: guaranteed interest contracts issued by Life Insurers which are not dependent upon the continuance of human life and to: guarantees of reinsurance recoveries due a ceding insurer under a reinsurance contract when the financial guaranty insurance serves as collateral for the recoveries.

Financial Guaranty Insurers must adhere to the following guidelines for the Guarantee of Insurance Company Contract Obligations:

The Financial Guaranty Insurance shall not serve as a substitute for reinsurance or for purposes of determining exposure to loss on any risk assumed by the issuer of the underlying insurance contract;

A financial guaranty insurance policy used to guarantee payment for reinsurance recoverable shall have terms and conditions that are substantially similar to letters of credit meeting the requirements of Regulation 133.

The financial guaranty insurance policy shall not insure any insurance contract obligation which is dependent on the continuance of human life nor shall the financial guaranty insurer insure any death benefit provided by the underlying insurance contract;

An underlying insurance contract must be of investment grade. The insurance contract shall be deemed to have the same grade as its issuing insurer except when the contract is a separate account issued pursuant to Section 4240. The financial guaranty insurance corporation shall keep a record of the basis on which the underlying insurance contract was determined to be investment grade;

A financial guaranty insurer shall not condition or delay payment of the claim with respect to a guaranteed interest contract obligation upon the insured or beneficiary having to make a claim on the underlying guaranteed interest contract with a guaranty fund. If, before the financial guaranty corporation pays such a claim, the guaranty fund pays a claim to the insured or beneficiary on the underlying contract for an amount which, when added to the amount of the financial guaranty insurance, would exceed the amount that would have been paid on the underlying guaranteed interest contract, then the financial guaranty corporation shall not pay the claim to the insured or beneficiary for such

excess amount but shall instead pay it to the guaranty fund.