



**STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004**

Circular Letter No. 33 (1998)
November 23, 1998

TO: All Life Insurers

RE: Dollar Cost Averaging Accounts

This circular letter discusses the position of the New York State Insurance Department regarding the crediting of enhanced interest rates on dollar cost averaging accounts in variable annuity contracts and certificates.

The Department has reviewed the applicable statutory provisions and has determined that Section 4232(a)(2) of the Insurance Law does not, in all instances, limit the additional amounts to be credited to those based on reasonable assumptions for the one year that some portion of the contract or certificate holder's money is in the dollar cost averaging account.

The Department will now review the interest rate credited to each dollar cost averaging account to determine the reasonableness of the assumptions as to investment income, mortality and expenses used by each insurer given the unique nature of that product and the insurer's proposed method of recouping, over time, any additional amounts credited. In addition, for each product, disclosure must be provided to the consumer that is clear and complete and provides information to the consumer regarding all costs associated with the enhanced interest rate.

Correspondence regarding the issues discussed in this circular letter should be addressed to:

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New York State Insurance Department
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Very truly yours,

(SIGNED)

Martin F. Carus
Asistant Deputy Superintendent
and Chief Examiner, Life Bureau