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INSURANCE DEPARTMENT  
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ALBANY, NEW YORK 12257

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**Circular Letter No. 22 (2008)**  
**October 10, 2008**

**TO: All New York-authorized insurers, licensed insurance producers, licensed health maintenance organizations, licensed fraternal benefit societies, and Excess Line Association of New York**

**RE: American International Group (“AIG”) Insurance Company Subsidiaries in New York**

**STATUTORY REFERENCE: Insurance Law Sections 1313, 2110, 2122, 2123, and 4226, and Article 24; 11 NYCRR 51 (Regulation 60), 11 NYCRR 215 (Regulation 34), and 11 NYCRR 219 (Regulation 34-A)**

In light of the recent events concerning the non-insurance parent company of AIG, there have been questions raised about the financial viability of AIG insurance company subsidiaries. However, under the New York Insurance Department’s supervision, New York-licensed AIG subsidiaries are meeting—and are expected to continue to meet—their obligation to pay claims.

The purpose of this circular letter is to remind licensees of certain relevant provisions of the Insurance Law and regulations thereunder. While AIG insurance company subsidiaries in New York are the focus of this circular letter, the following requirements apply with respect to any insurer.

Insurance Law §§ 2123 and 4226 prohibit an insurer authorized to write life or accident and health insurance, or make annuity contracts in New York; an agent or representative of any insurer or HMO authorized to transact life, accident or health insurance or HMO business in New York; a broker; and any other person, firm, association or corporation from making any misleading representation or misrepresentation regarding the financial condition of the insurer or the legal reserve system upon which it operates; and making or delivering to a person any incomplete comparison of any such policies or contracts for the purpose of inducing, or tending to induce, the person to lapse, forfeit or surrender any insurance policy or contract.

If a policy or contract holder wishes to replace a life insurance policy or annuity contract issued by an AIG insurance company subsidiary in New York, then the insurer and the insurance producer—as with any other replacement—must comply with 11 NYCRR 51 (Regulation 60). For example, § 51.7(a)(1) of Regulation 60 prohibits an insurer, agent or broker from making or giving “any deceptive or misleading information in the ‘Disclosure Statement’ or in any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract.”

It is incumbent upon an insurance producer to explain fully and accurately the consequences of any replacement of a life, accident and health, or property/casualty insurance policy or contract or any annuity contract so that the policy or contract holder can make an informed decision. This includes, but is not limited to, explaining surrender charges, tax consequences, new contestable periods, short rate cancellation, new underwriting reviews and requirements, and loss of premium discounts.

The Department will carefully monitor replacements of policies or contracts issued by AIG insurance company subsidiaries in New York, including any measures that a New York-authorized insurer, HMO, fraternal benefit society or insurance producer has established to address any potential improper activities. All licensees should take immediate measures to ensure that their sales practices and replacement procedures comport with the Insurance Law and regulations promulgated thereunder, and should review all documents regarding the replacement of policies or contracts issued by AIG insurance company subsidiaries in New York.

In addition, Insurance Law § 2122 prohibits an insurance agent or broker from making or issuing any advertisement, pamphlet, circular, card or other public announcement that purports to make known the financial condition of any insurer, unless it conforms to the requirements of Insurance Law § 1313, which applies to the contents of advertisements and other public announcements concerning the financial condition of an insurer. Furthermore, § 215.16 of 11 NYCRR 215 (Regulation 34) and § 219.4 of 11 NYCRR 219 (Regulation 34-A), which apply to advertisements for accident and health insurance, and life insurance and annuity contracts, respectively, prohibit an advertisement from containing statements that are untrue in fact, or misleading by implication. Although there is presently no similar regulatory requirement with respect to other kinds of insurance, the Department may consider the making of such untrue or misleading statements to be an unfair method of competition or unfair or deceptive act or practice, with respect to any kind of insurance that violates Insurance Law Article 24. Thus, licensees should review their advertisements, pamphlets, circulars, cards, and other public announcements to ensure compliance with Insurance Law §§ 1313 and 2122, Article 24, and Regulations 34 and 34-A.

Misrepresentations or misleading statements regarding AIG insurance company subsidiaries in New York—or other insurers— aimed at causing fear or undue concern amongst insurance consumers will compel the Department to take appropriate disciplinary or other regulatory action against any person violating the Insurance Law and regulations thereunder.

Please direct any questions regarding this circular letter to:

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Very truly yours,

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