

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**SECOND AMENDMENT TO REGULATION NO. 33  
(11 NYCRR 91)**

**ALLOCATION OF INCOME (RECEIPTS) AND EXPENSES**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 1106, 4216, 4224, 4231, 4235, 4238, and 4239 of the Insurance Law, do hereby promulgate the following Second Amendment to Part 91 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 33) to take effect upon publication in the State Register, to read as follows:

(Matter in brackets is deleted: new matter is underlined)

The statutory authority references for Part 91 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 1106, 4216, 4224, 4231, 4235, 4238, and 4239

Section 91.1(a) is amended to read as follows:

(a) Equitable allocation of income and expenses of a life insurer is the responsibility of its management. Its exercise of such responsibility, while shaped by appropriate consideration of such facts as size, mode of operation and classes of business written by the insurer, must accord with sound accounting practice and comply with Insurance Law requirements that holders of insurance policies and annuity contracts be treated equitably (§§[204, 209, 216, 221, 223, and 226] 4216, 4224, 4231, 4235, 4238, and 4239) and that insurance policies and annuity contracts be self-supporting on reasonable assumptions as to mortality, morbidity, interest and expense (§§[213] 4228 and [221] 4235).

Section 91.2(a) is amended to read as follows:

(a) *Lines of business* means such classifications of insurance business by line, class, type of policy and/or contract, or groups thereof, as are warranted in application of sections [204, 209, 216, 221, 223 and 226] 4216, 4224, 4231, 4235, 4238 and 4239 of the Insurance Law to the outstanding insurance obligations of a life insurer.

The column caption set forth in Section 91.2(c) is amended to read as follows:

Column on page [5] 6 of annual statement

Section 91.3 is amended to read as follows:

Section 91.3 Investment expenses.

Distribution of expenses to investment activities shall be made on the same principles as used for subdivision of expenses by major annual statement lines of business. Investment expenses (column [[3]] [4] of exhibits 5 and 6) shall include all amounts reported as “real estate expenses” (exhibit 5, line 9.1), “investment expenses not included elsewhere” (exhibit 5, line 9.2) and “real estate taxes” (exhibit 6, line 1) and all costs incurred in connection with the investing of funds, servicing of investments, and the obtaining of investment income, or chargeable against [invesment] investment income.

The opening paragraph of subdivision (a) of Section 91.5 is amended to read as follows:

(a) Distribution of net investment income shall be made in accordance with paragraph (2) of subdivision (c) of section 91.4 or by use of an investment year method in accordance with the following rules, which are designed to assure that a life insurer’s use of an investment year method is in accordance with Insurance Law requirements that holders of insurance policies and annuity contracts be treated equitably (§§[204, 209, 216, 221, 223, 226] 4216, 4224, 4231, 4235, 4238, 4239) and which are subject to subdivision (b) of this section 91.5: