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**Individual Term Life Product Outline
(Last Updated October 26, 2018)**

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Product Outline: Individual Term Life Policies (Last Updated October 26, 2018)

This outline is current as of October 26, 2018. Subsequent changes to statutes, regulations, circular letters, etc., may not be reflected in the outline. In case of any doubt, please contact the Life Bureau.

I) Scope

This product outline applies to all individual term life insurance policies delivered or issued for delivery in New York. This outline replaces the Individual Term Life Product Outline last updated November 1, 2016.

II) Filing Process

II.A) General Information

A.1) Prior Approval Requirement

Section 3201(b)(1) provides that no policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the Superintendent as conforming to the requirements of the Insurance Law (standard and generally applicable provisions) and not inconsistent with law (federal and state statutory, regulatory and decisional law).

A.2) Discretionary Authority for Disapproval

Sections 3201(c)(1) and (2) permit the Superintendent to disapprove any policy form that contains provisions that are misleading, unfair, unjust, or inequitable or if its issuance would be prejudicial to the interests of policyholders or members.

A.3) No filing fee required

II.B) Types of Filings

B.1) Prior Approval

Policy forms submitted under Section 3201(b)(1) of the Insurance Law are subject to the submission rules noted herein, especially Circular Letter Nos. 6 (1963) and 14 (1997).

B.2) Alternative Approval Procedure

- (a) Section 3201(b)(6) and Circular Letter No. 2 (1998) provide for an expedited approval procedure designed to prevent delays by deeming forms to be approved or denied if the Department or insurer fail to act in a timely manner.
- (b) Circular Letter No. 2 (1998) provides that the certification of compliance should make reference to any law or regulation that specifically applies or is unique to the type of policy form submitted. An alternative would be to submit a certification of compliance with the applicable laws and

regulations cited in this product outline. A statement that the filing is in compliance with all applicable laws and regulations is not acceptable.

B.3) Prior Approval With Certification Procedure

- (a) Circular Letter No. 6 (2004) provides for an expedited approval procedure based on an appropriate certification of compliance signed by an officer of the company in the format provided by Circular Letter No. 6 (2004). Certifications that have altered or otherwise modified the language of the certification will not be accepted.
- (b) The original signed certification must be provided. The form number of each form and the memorandum of variable material for each form must be listed in the body of the certification, rather than in an attached list. For a certification pertaining to a large number of forms, the list may begin in the body of the certification and continue in list form on the second page.
- (c) The submission letters for paper submissions and the Filing Description for submissions made via the State Electronic Rate and Forms Filing system (SERFF) will need to comply with applicable circular letter and product outline guidance.
- (d) Substitution filings and follow-up correspondence with post-approval form changes requested prior to initial issuance of forms will not be permitted for Circular Letter No. 6 (2004) filings.

B.4) Filing of Non-English Versions of Forms

- (a) The English version of the form must be approved before the non-English version can be approved. The submission letter must identify, by form number, date of approval and Department file number, the previously approved form that is being translated into a non-English version.
- (b) The non-English version must have a different form number to distinguish it from the English version (e.g., the Spanish version of form Term-123 could be Term -123-S).
- (c) An original certification by a translator must be provided indicating that the text of the form is an accurate and complete translation of the English version of the form. The certification must reference the specific form numbers of both the English and non-English forms and must reference the memorandum of variable material. The certification may not use qualifying language such as “to the best of my knowledge and belief.”
- (d) An original certification by an officer of the company must be provided indicating that the officer has exercised due diligence in choosing a competent translator or translation service. The certification must reference the specific form numbers of both the English and non-English forms. Section 3102(b)(H)(3).

- (e) If the approval of the English version of the form was subject to any conditions or limitations, then the non-English language version of the form will be subject to the same conditions or limitations.
- (f) If the non-English version of the form contains variable material, a memorandum of variable material must be provided. The exact language of any non-English alternate text must be set forth.

B.5) Filings for Out-of-State Delivery

The Department no longer requires the filing of policy forms to be delivered out of state (except unallocated group annuity contracts, funding agreements or any other policy form specified by the superintendent pursuant to regulation). Section 3201(b)(2). Domestic insurers are required to annually file a list of policy forms issued by the insurer for delivery out of state. Section 3201(c)(6)(b).

II.C) Preparation of Forms

C.1) Duplicates

Filings, except for SERFF, must be made in duplicate. Section I.E.7. of Circular Letter No. 6 (1963).

C.2) Form Numbers

Form numbers must appear in the lower left corner of the cover page of the form. Section I.D. of Circular Letter No. 6 (1963). The lower left corner of the subsequent pages of the form should either contain the same form number as the cover page or should be left blank. The subsequent pages should not contain form numbers that differ from the form number on the cover page. However, the data page of the policy may be separately approved as a different form with a different form number.

C.3) Hypothetical Data

All blank spaces for policy forms, except applications, must be filled in with hypothetical data. Section I.E.1 of Circular Letter No. 6 (1963).

C.4) Application

- (a) The application to be used with the policy form must be an approved form. When submitting a policy form to which a copy of the application will be attached when issued, the form number and Department file number of the previously approved application must be supplied. If the application has not been approved, the application form must be submitted with the policy forms for approval. If the application is already pending approval, please provide the Department file number. Section I.E.4. of Circular Letter No. 6 (1963).
- (b) The insurer must retain information in its records concerning which approved application is being used or has been used with the policy and

the type of underwriting utilized. Such information must be available upon Department request. See Regulation 152.

- (c) The application to be used with an indeterminate premium policy must include language to the effect that the initial or current premiums may change and the maximum guaranteed premiums can be charged. If the language does not appear in the application, a separate signed notice must be used. Section 3201(c)(2).

C.5) Final Format

Policy forms submitted for formal approval should be submitted in the form intended for actual issue. Section I.F.1. of Circular Letter No. 6 (1963). Revisions to font style, paper, weight and ink color are permitted provided that the forms continue to comply with all applicable laws, including but not limited to Insurance Law Sections 3102 and 3201(c)(4).

C.6) Submissions Made on Behalf of the Insurer

If the filing is made on behalf of the insurer by another party, a letter authorizing the third party to act on behalf of the insurer must be provided. The letter must be:

- (a) on insurer letterhead or include the insurer name in the subject line of the letter;
- (b) specifically addressed to the New York State Department of Financial Services;
- (c) properly executed by an authorized officer of the insurer;
- (d) dated; and
- (e) either
 - (i) specific to the file submitted for approval by including form number(s); or
 - (ii) generally applicable to all policy forms filed on behalf of the insurer as long as a copy of such authorization is included in each submission.

It is the insurer's responsibility to ensure that their authorizations are accurate and reflect their current relationship with the third party filer.

C.7) Circular Letter No. 14 (1997)

Filings that are incomplete or do not comply with laws and regulations will be closed and returned. See Circular Letter No. 14 (1997). Note that if a product does not comply with a specific product outline requirement or is considered substantively non-compliant with applicable law, then the file may be closed.

II.D) Submission Letter Requirements/SERFF Submissions

Note: For SERFF submissions, the Life Bureau no longer requires that a separate signed cover letter be included with submissions. Instead, for SERFF filings, any information that would ordinarily be included in the signed cover letter must be in the Filing Description under General Information. Inclusion of “please see cover letter” or phrases of similar intent will not meet this requirement.

References in this outline to submission letter content requirements are also requirements for SERFF General Information unless otherwise noted.

D.1) Caption Requirement

For paper submissions, the “re” or caption of the submission letter must identify each of the forms that is being submitted for approval or filed for informational purposes and must be in compliance with Circular Letter No. 8 (1999). Section 3201(b)(6) (“Deemer”) filings must be identified in the “re” or caption. Circular Letter No. 6 (2004) filings must be identified in bold print in the “re” of the submission letter. Please see the guidance for SERFF filings available on the Department’s website at <http://www.dfs.ny.gov/insurance/serflife.htm>.

D.2) Compliance with Section I.G. of Circular Letter No. 6 (1963)

- (a) Submit in duplicate, except for SERFF filings.
- (b) The submission letter must be signed by a representative of the insurer authorized to submit forms for filing or approval for the insurer.
- (c) Identify form number of each form submitted.
- (d) State the type of coverage provided.
- (e) Indicate whether the form: (1) is replacing a previously approved form (provide the form number and date of approval); (2) will be issued in addition to other similar forms and/or benefits (provide form numbers and dates of approval); or (3) is a new form unlike any previously approved form.
- (f) If the form is other than a policy (i.e., rider, endorsement, or insert page), give the form number of the policy form or forms with which it will be used, or, if for more general use, describe the type or group of such forms as well as whether the pending forms will be used with new and/or previously issued/delivered policies.
- (g) If there are similar forms (i.e., other individual term life insurance policy forms similar to the submitted form) not being replaced, identify those forms and indicate why they are not being replaced.
- (h) If a form is intended to replace a very recently approved form because of an error found in the approved form and the approved form has not been issued, the insurer may request to make a substitution of the approved

form using the regular prior approval process. The substitution request letter must confirm that the form has not been issued and identify the changes made to the corrected form. The insurer may, under these circumstances, use the same form number on the corrected form being submitted. If the original form was approved in paper format the insurer must also return the stamped original of the approved form to the Department. The substitution option is not available for policy forms approved under the Circular Letter No. 6 (2004) procedure.

Note: If the form has been issued, the substitution option is not available and the insurer must place a new form number on the corrected form and file the form as a new submission under any of the filing options.

D.3) Term Plans

If the policy is to be approved for use with more than one term plan (for example 5 year, 10 year and 20 year level terms), the submission letter must describe each previously approved and/or pending term plan. The submission should include a separate set of specification pages, with a unique form number, for each term plan being submitted for approval.

D.4) Regulation 149

No policy of term life insurance shall be issued, renewed or continued beyond the last age in the mortality table for which minimum nonforfeiture values for whole life insurance are determined at the time of the term policy's issue. For a joint life first to die policy, this limitation is applied to the oldest age. For a joint life last to die policy this limitation is applied to the youngest age. Section 42-2.12 of Regulation 149.

D.5) Explanation of Unique Features and Markets

- (a) Submission letters must identify any special market intended (e.g., section 3205 (d) COLI market, mail-order, Section 403(b), pre-need etc.).
- (b) Submission letters must fully explain any product or feature that has not been previously approved by the Department for the insurer or is new to the marketplace in New York.

D.6) COLI Market

If the policy will be issued in the COLI market, please refer to Section 3205 and the Company-Owned Life Insurance Product Outline on the Department website.

D.7) Sex-Distinct/Unisex

Submission letters must advise whether the policy is sex-distinct or unisex (a policy may not be both sex-distinct and unisex). If sex-distinct, the letter must confirm that the policy will not be issued in any employer-employee situation subject to the Norris decision and/or Title VII of the Civil Rights Act of 1964. For employer-employee groups subject to the Norris decision, the insurer must

submit either a unisex endorsement or a separate unisex policy to be used in such cases. If a previously approved unisex endorsement will be used with the policy for Norris or Title VII situations, the submission letter should so state (provide the form number and date of approval).

D.8) Noncompliance Explanation

If the policy does not conform with a specific product outline provision, the submission letter must identify the provision and provide a complete explanation of the Company's position on the issue. Such submissions may not be submitted through the Circular Letter 6 (2004) certified process unless the Department has given permission.

D.9) Informational Filing

- (a) An informational filing should be identified in the "Re" of the submission letter. All informational filings will be acknowledged by the Department indicating that the information submitted has been placed on file with the Department for informational purposes only. Accordingly, the company should wait for the acknowledgement from the Department that the information has been filed prior to its use.
- (b) For the submission of an informational filing through SERFF, the company should use a SERFF TOI of "Life – Informational", a SERFF Sub-TOI of "Form or Rate Related", a SERFF Filing Type of "Form", and a SERFF requested Filing Mode of "Informational".

D.10) Extension of Use

If a company wishes to use a form in a manner that was not originally approved, the extension of use must be approved by the Department in a new submission.

D.11) Resubmissions

If the policy has been previously submitted to the Department and the file was closed, any resubmission of the policy to the Department must reference the file number of the previously closed file and address all outstanding issues in the new submission letter. The submission must be complete in and of itself and may not incorporate previously submitted material by reference.

D.12) Modal Premium Factor

In the Filing Description or submission letter, please provide the modal premium factor and APR for each premium mode available under the policy.

II.E) Attachments

E.1) Readability Certification

Provide a Flesch score certification signed by an officer of the company in accordance with Section 3102. The Flesch score must be at least 45. Please refer

to the Department's February 18, 1982 letter, available on the Department's website, for a sample certification.

<http://www.dfs.ny.gov/insurance/life/product/3102Intro.doc>

E.2) Policy Illustration

The submission letter must state whether the policy form is to be marketed with or without an illustration. Section 53-3.1(b) of Regulation 74. If the policy will be marketed with an illustration, submit the certification required by Section 53-3.7(d) of Regulation 74.

E.3) Self-Support Statement

Provide a statement of self-support in compliance with Section 4228(h) for each form in the submission except application forms and forms accompanied by a statement signed by the company actuary that the forms provide supplementary benefits which in the opinion of the actuary are *de minimis*. The self-support statement should state that it is valid for any combination of variable material submitted for approval. In making this determination the actuary may take into consideration the company's documented procedures for the determination of non-guaranteed elements. Each plan of insurance must be self-supporting.

E.4) Actuarial Nonforfeiture Certification

Provide a certification signed and dated by an actuary who is a member in good standing of the American Academy of Actuaries or the Society of Actuaries that the policy form is in compliance with the nonforfeiture requirements of the New York Insurance Law and regulations applicable to individual term life insurance. The certification must also indicate that the actuary has read the forms, statement of variable material and all supporting material related to nonforfeiture requirements submitted with the file.

NOTE: Although term products typically do not develop cash value, a nonforfeiture certification is nonetheless required. The nonforfeiture certification is not required for submissions made pursuant to Circular Letter 6 (2004). The general certification required by Circular Letter 6 (2004) eliminates the need for this more specific certification.

E.5) Variable Material

The submission must include a separate detailed statement of variability for any variable material other than hypothetical data. The statement of variability is subject to approval and must comply with the filing guidance on the Department's website.

E.6) Statement on the Method of Computation Values

Term policies that do not meet any of the exceptions at Section 4221(o) must provide either a detailed statement of the method of computation of the cash surrender values and paid-up nonforfeiture benefits in the policy, or such detailed

statement must be filed with the submission. Section 4221(a)(6) and Sections 42-2.7(c) and (d) of Regulation 149.

II.F) Key References

- F.1) Insurance Law. Sections 3102, 3105, 3201, 3203, 3204, 3205, 3206, 3207, 3209, 3210, 3212, 3214, 3220, 3227, 4221, 4222, 4228, 4231;
- F.2) Regulations. 11 NYCRR § 219 (Regulation 34-A), 11 NYCRR § 51 (Regulation 60), 11 NYCRR § 53 (Regulation 74), 11 NYCRR § 47 (Regulation 112), 11 NYCRR § 57 (Regulation 113), 11 NYCRR § 42 (Regulation 149); 11 NYCRR § 243 (Regulation 152);
- F.3) Circular Letters. CL 4 (1963), CL 6 (1963), CL 16 (1993), CL 14 (1997), CL 2 (1998), CL 8 (1999), CL 6 (2004);
- F.4) Federal Law. Internal Revenue Code Section 403(b).

III) Individual Term Life

III.A) Cover Page

A.1) Insurer Name and Address

- (a) The licensed New York insurer's name must appear on the cover page (front or back) as well as the cover page of each rider.
- (b) The full street address of the company's Home Office must appear on the cover page, front or back, and should be bracketed or underlined to reflect possible future changes. For changes applicable to new business, an informational filing is required. For changes applicable to existing business, an endorsement setting forth the new address must be submitted for approval and sent to all holders of in-force policies. Please refer to guidance available on the Department's website.
- (c) In addition to the home office address, the full street address of the administrative or service office, if different than the home office address, may be set forth on the cover page, front or back. The administrative or service office address, if any, should be bracketed or underlined to reflect possible future changes. An informational filing is required for such changes.
- (d) If the name of another entity is included on the cover page (insurance group designation, name of the licensed parent company or licensed affiliate, etc.), or if any corporate logo, trademark or other device is included, such name or device shall not be displayed in a manner that would have a tendency to mislead or deceive as to the true identity of the insurer, or create the impression that someone other than the insurer would have any responsibility for the financial obligations under the policy. Section 3201(c)(1). The name of the issuing insurer must be clearly disclosed and must be at least as prominent as any other entity mentioned.

- (e) No unlicensed insurer's name may appear anywhere on the form. Section 3201(c)(1).
- (f) Marketing names may not appear in the policy form. Section 3201(c)(1). Note, a marketing name may be used in the application form for the policy, but only if it appears in addition to a generic description of the policy.

A.2) Free Look Provision

A Free Look Period of not less than 10 nor more than 30 days from policy delivery whereby the policyholder may receive a full refund is required in accordance with Section 3203(a)(11). A 30 day Free Look Period is required for mail order situations. A 60 day Free Look Period is required in replacement situations. Section 51.6(d) of Regulation 60.

A.3) Form Identification Number

A form identification number (consisting of numerical digits, letters, or both) must appear in the lower left corner in accordance with Section I.D of the Department's Circular Letter No. 6 (1963). The lower left corner of the subsequent pages of the form must either contain the same form number as the cover page or be left blank. The subsequent pages may not contain form numbers that differ from the form number on the cover page. However, the data page of the policy may be separately approved as a different form with a different form number.

A.4) Brief Description of the Policy

- (a) A description of the policy must appear in accordance with Section I.A. of Circular Letter No. 4 (1963). The word "Individual" must appear as part of the policy description. For joint life forms, include either Death Benefit payable at First Death or Death Benefit payable at Second Death.
- (b) The description must include whether the policy is participating or non-participating in accordance with Section II.F.1 of Circular Letter No. 4 (1963).
- (c) The description of the policy must state whether the policy is renewable and/or convertible or non-renewable and/or non-convertible. Section II.L of Circular Letter No. 4 (1963).
- (d) Any title, caption or description using the words "Life Expectancy" or "Term to Expectancy" or similar words is considered misleading, and is not acceptable. Section II.L.3 of Circular Letter No. 4 (1963).
- (e) If the policy provides that the death benefit is not available in a lump sum, the cover page must prominently disclose this information.

A.5) Officers' Signatures

- (a) The signature of at least one officer of the company in order to execute the contract is required as a matter of contract law.
- (b) Signatures should be underlined or bracketed to denote variable material.

III.B) Specifications Page

- B.1) All hypothetical data must appear on the specifications page. Section I.E.1. of Circular Letter No. 6 (1963).
- B.2) If the policy is a participating cash value policy, the policy specifications page must state that dividends are not guaranteed and the insurer has the right to change the amount of dividend to be credited to the policy which may result in lower dividend cash values than were illustrated, or, if applicable, require more premiums to be paid than were illustrated. Section 3203(a)(15).
- B.3) If the product has nonforfeiture values the minimum guaranteed interest rate used to determine the guaranteed policy values must be specified. Section 3203(a)(17). This rate may not be variable. See section III.E of this Outline.
- B.4) If the policy offers modal premium payments which result in a higher annual premium than an annual premium payment, there must be disclosure on the specifications page. The specifications page must:
 - (a) set forth the amount of the premium payment for each premium mode offered. For example: the specifications page would show the amount due for a monthly premium payment, a quarterly premium payment, a semi-annual premium payment and an annual premium payment, if each of these premium modes was available under the policy; or
 - (b) include a narrative disclosure to the effect that if payments are made more frequently than annually, the total annual premium will be higher than a single annual premium payment, together with sufficient information, such as the modal premium factor, that will allow the policyholder to calculate the modal premium amounts. Section 3201(c)(1).
- B.5) For indeterminate premium policies:
 - (a) The maximum guaranteed premium scale must be shown on the specifications page. See Sections 3203(a)(4) and 3204.
 - (b) If the initial current premiums are shown, the guaranteed maximum premiums must be given at least equal prominence. See Section 3201(c)(1).
 - (c) Any level premium period on either a current or guaranteed basis must be disclosed. See Section 3201(c)(2).

B.6) For Substandard Rate Classes

For this purpose, substandard rate classes are any class for which mortality charges and/or premiums are based on mortality greater than 100% of the standard mortality table or include an extra risk charge. If the policy can be issued for a substandard rate class, then:

- (a) For informational purposes, the supporting documentation should include hypothetical specification page(s) for a substandard rated policy.
- (b) The specification page(s) submitted for approval must describe any extra risk charge that was applied to the mortality charges or premiums. Such language should be bracketed as variable and the exact text of any variations of the language, such as for different substandard classes, must be included in the Memorandum of Variable Material.
- (c) The actuarial memorandum should describe how mortality charges and premiums are determined for any substandard rate classes. If policies can develop cash values, then the memorandum should also demonstrate the cash value and nonforfeiture benefit calculations for substandard rate classes.

III.C) Table of Contents

A table of contents or index is required for policies that are over 3,000 words or more than 3 pages regardless of the number of words in accordance with Section 3102(c)(1)(G).

III.D) Standard Provisions

D.1) Entire Contract

- (a) The policy shall state that the policy, together with the application if a copy of such application is attached to the policy when issued, shall constitute the entire contract between the parties. Policy language must be in compliance with Section 3203(a)(4) and Section 3204.
- (b) The application must be attached to the policy if it is to be part of the entire contract. Section 3203(a)(4).
- (c) Incorporation by reference is prohibited. Section 3204(a)(1).
- (d) All statements made by, or by the authority of, the applicant for the issuance, reinstatement or renewal of any such policy shall be deemed representations and not warranties. Section 3204(c).
- (e) The entire contract provision cannot include the words “in the absence of fraud.” Section II.H.7. of Circular Letter No. 4 (1963).

- (f) The contract cannot be modified, nor can any rights or requirements be waived, except in writing signed by a person specified by the insurer in the policy. Section 3204(a)(3).
- (g) The policy form must not include a unilateral amendment provision that grants the insurer the right to change terms and conditions of the policy, except where such change or amendment is required to conform the policy with applicable New York and federal law. Any such change or amendment cannot be effective without prior approval of the Department. Prior written consent of the policyholder is required if such change diminishes the rights and/or benefits under a previously issued policy in any manner. See Section 3204.

D.2) Grace Period

- (a) The policy must provide for a grace period of 31 days or one month. Coverage continues in full force during the grace period. Section 3203(a)(1).
- (b) The policy must state that if the death of the insured occurs within the grace period, the insurer may deduct the portion of any unpaid premium applicable to the period ending with the last day of the policy month in which such death occurred. If death occurs during a period for which premium has been paid, the insurer must add to the policy proceeds a refund of any premium actually paid for any period beyond the policy month in which the death occurred. Section 3203(a)(2). Interest may not be added to any overdue premium.
- (c) For indeterminate premium policies the grace period provision must refer to the premium due (i.e. the current premium) rather than the premium stated in the policy. Section 3201(c)(2).

D.3) Incontestability

- (a) Policy language must be in compliance with Section 3203(a)(3) which provides that a policy is incontestable after it has been in force during the life of the insured for a period of no greater than two years from the date of issue.
- (b) Contests may only be based on “material misrepresentations” in accordance with Section 3105(b).
- (c) A preliminary term coverage to precede a longer term plan of insurance may contain incontestability provisions and the successor plan must compute the time period from the date of issue of the preliminary term coverage. Section II.H.3 of Circular Letter No. 4 (1963).
- (d) Exceptions to incontestability provision are permitted for non-payment of premium, violation of policy conditions as relating to service in the armed forces and, at the option of the company, provisions relating to benefits for total and permanent disability and additional benefits for accidental death.

Section 3203(a)(3). An exception to the incontestability provision for fraud is not authorized under Section 3203(a).

- (e) The contestable period for a policy issued as a conversion is measured from the original policy's issue date. Circular Letter 4 (1963) II.H.6.

D.4) Reinstatement

A policy that provides for scheduled premium payments must provide for a minimum reinstatement period of three years from the date of default. The reinstatement provision must be in compliance with Section 3203(a)(10).

D.5) Incontestability After Reinstatement

Upon reinstatement, the policy shall be incontestable after the same period following reinstatement with the conditions and exceptions provided in the policy with respect to incontestability. Section 3210. Any contest may be based only on material misrepresentations in the application for reinstatement.

D.6) Exclusions

(a) Resident of a Specified Foreign Country

- (i) An insurer may exclude or restrict liability in the event of death occurring while the insured is a resident of a specified foreign country or countries in accordance with Section 3203(b)(1).
- (ii) If death occurs while the insured is a resident of a specified foreign country or countries, the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued.

(b) Suicide

- (i) An insurer may exclude or restrict liability in the event of death caused by suicide within two years from the issue date of the policy in accordance with Section 3203(b)(1)(B).
- (ii) The insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).
- (iii) Any suicide exclusion provision shall not include the words "while sane or insane." Section II.I.1. of Circular Letter No. 4 (1963).
- (iv) The suicide exclusion cannot begin again upon reinstatement. Section 3210 applies only to the incontestability provision.

- (v) It must be clearly stated that the suicide provision will begin again only for “applied for” increases and will be applicable only to the “applied for” amount.
- (vi) Any policy issued as a result of a conversion from group coverage must indicate, either in the policy or by an endorsement, that the two-year suicide exclusion period does not start anew, but is effective as of the date of the original group coverage. Section II.H.6 of Circular Letter No. 4 (1963).

(c) Aviation

- (i) An insurer may exclude or restrict liability in the event of death caused by aviation under conditions specified in the policy in accordance with Section 3203(b)(1)(C).
- (ii) If a death occurs that is subject to an aviation exclusion or restriction, the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends and less any indebtedness, including interest due or accrued.

(d) Hazardous Occupations

- (i) An insurer may exclude or restrict liability in the event of death caused by hazardous occupations specified in the policy, provided death occurs within two years from the issue date of the policy. Section 3203(b)(1)(D).
- (ii) The insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).

(e) War

- (i) An insurer may exclude or restrict liability in the event of death as a result of:
 - (I) War or an act of war, if the cause of death occurs while the insured is serving in any armed forces or attached civilian unit and death occurs no later than six months after the termination of such service (Section 3203(c)(1)(A));
 - (II) The special hazards incident to service in any armed forces or attached civilian unit, if the cause of death occurs during the period of such service while the insured is outside the home area, and if death occurs outside the home area or within six months after the insured’s return to the home area while in such service or within six months after the

termination of such service, whichever is earlier (Section 3203(c)(1)(B));

- (III) War or act of war, within two years from the date of issue of the policy, if the cause of death occurs while the insured is outside the home area but is not serving in any armed forces or attached civilian unit, and death occurs outside the home area or within six months after the insured's return to the home area (Section 3203(c)(1)(C)).
- (ii) Any war exclusions must be drafted in accordance with the definitions listed in Section 3203(c)(3).
- (iii) Such exclusions are not to be construed as exclusions because of status as a member of any armed forces or attached civilian units, or because of the presence of the insured as a civilian in a combat area. Such permissible exclusions shall not exclude deaths due to diseases or accidents which are common to the civilian population and are not attributable to special hazards to which a person serving in such forces is exposed in the line of duty. Section 3203(c)(4).
- (iv) Any such war exclusion shall terminate six months after the end of the war in which the insured was engaged or the war in which the insured was likely to engage in at the time of application for the policy, after the discharge, release or separation of the insured from active military service, after the demobilization of the insured, or after the insured permanently leaves the war area, whichever occurs first. Section 3203(c)(5). This termination requirement does not apply to war exclusions for disability benefits under Section 3215 or accidental death benefits provided either in the life insurance policy itself or by rider to the policy.
- (v) If a death occurs that is subject to an exclusion or restriction pursuant to Section 3203(c)(1)(A) or (B), the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or, if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends and less any indebtedness, including interest due or accrued. If a death occurs that is subject to an exclusion or restriction pursuant to Section 3203(c)(1)(C), the insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).
- (vi) Any life insurance policy form containing a war or travel exclusion or restriction must have printed or stamped across the face page in red and in capital letters not smaller than twelve point type, or in an equally prominent manner established at the discretion of the

superintendent and promulgated through regulations, the following:

“Read your policy carefully.
Certain (war, travel) risks are not assumed.

(state which or both)
In case of any doubt write your company for further explanation.”

Section 3201(c)(4).

This notice requirement does not apply to war exclusions for disability benefits under Section 3215 or accidental death benefits provided either in the life insurance policy itself or by rider to the policy.

Note: In accordance with Section 336, the insurer must notify the superintendent prior to issuing life insurance policies which contain a war restriction or exclusion.

Note: An application to be used with a policy containing a war restriction must state that a war restriction is included in the policy. Section 45.1 of Regulation 19.

- (f) Sections 3203(b) and (c) provide for the only permissible exclusions. Exclusions from paying the death benefit due to medical conditions or terrorism are not permitted.

D.7) Policy Loans

Generally, term insurance products do not develop cash values, and therefore do not offer policy loans. The policy loan provisions of Insurance Law 3203(a)(8) do not apply to term insurance. If a term product develops cash value, and offering policy loans is contemplated, the insurer should contact the Life Bureau. Term policies with an endowment (return of premium) and “Economatic” whole life policies with an additional decreasing term benefit must contain a loan provision. The Individual Whole Life and Endowment Product Outline requirements pertaining to policy loans and cash value are applicable to these products. See also Section III.E of this outline for nonforfeiture requirements for term products.

D.8) Conversion

- (a) If the policy has a conversion provision, the length of the conversion period must be prominently disclosed on the cover page or policy specifications page (e.g., Conversion Period is 10 years). Section 3201(c)(2).
- (b) If the policy has a conversion provision that ends at a specified age, the policy should not be issued to issue ages that would result in the conversion provision being unavailable at issue. Section 3201(c)(2),

Section II.L of Circular Letter No. 4 (1963). For example, if a policy is issued up to age 70, it is not permissible for the latest possible date of conversion to be age 65.

- (c) Any provision relating to the risk classification of the conversion policy must provide that the classification will not be less favorable than the classification of the policy or rider being converted from. Section II.L.6 of Circular Letter No. 4 (1963). This requirement does not apply to employer-employee or association plans sold in a wholesale life context. We have accepted language that refers to the “most comparable” class.
- (d) Conversion right may not be denied to any person who is, or has been during the policy term, disabled. Right of a disabled person to convert may be delayed to the final conversion date. Section II.L.4 of Circular Letter No. 4 (1963).
- (e) If the policy provides for discounts to the whole life premium in the year of conversion, the conversion credits must be disclosed in the policy and the conversion credits should be limited to apply to the company's own products or those of an affiliate. If the policy form or memorandum of variable material provides for a conversion credit percentage that is 100% or less of the previous year's term premium, then it may be submitted for approval using the Circular Letter No. 6 certified process. Any policy form or memorandum of variable material that provides for a greater conversion credit percentage must be submitted for prior approval and will be reviewed on a case-by-case basis.
- (f) The new policy issued upon conversion must be endorsed or include language to provide that the incontestability and suicide provisions run from the issue date of the original policy. Section III.D.2 of Circular Letter No. 4 (1963).

D.9) Participating Policies

- (a) Section 3203(a)(6) requires that the insurer annually ascertain and apportion any divisible surplus accruing on the policy.
- (b) Policy language regarding participation in surplus must be in compliance with Section 4231.
- (c) The following dividend options must be made available in the policy: cash and reduction in premium payments. The company may elect to offer accumulation at interest. Section 4231(b)(6).
- (d) Any additional supplemental benefits attached to a participating policy, whether or not considered in determining surplus earnings, may not be specially labeled or described as non-participating. See II.F.3 of Circular Letter No. 4 (1963).
- (e) If dividends are not expected to be paid, the policy should so state.

D.10) Misstatement of Age or Sex

- (a) A Misstatement of Age provision is required to be in the policy and shall state that if the age of the insured has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age. Section 3203(a)(5).
- (b) If the premiums, benefits or values differ depending upon the sex of the insured, the misstatement of age may include a provision for adjustment in the event of misstatement of sex. Section II.H.8. of Circular Letter No. 4 (1963).

D.11) Settlement Options

- (a) If death benefit proceeds can be paid out in installment or annuity payments, there must be a table in the policy. Section 3203(a)(9).
 - (i) The guaranteed interest rate and mortality table being utilized for the tables must be identified in the policy for disclosure purposes.
 - (I) The description of the mortality table must identify whether the Age Nearest Birthday or Age Last Birthday version of the table is used.
 - (II) If the mortality table is modified by a projection scale, the projection scale and the years of projection must be stated in the description.
 - (III) If a percentage of the specified mortality table or projection scale is to be used, then that percentage must be stated in the description.
 - (IV) The Department has not approved an annuity purchase basis with an interest rate lower than 0.5%. Section 3201(c).
 - (ii) If the form includes a period certain only annuity option, the form must include a table of the guaranteed period certain only purchase rates.
 - (iii) If a generational mortality table is used, see section (b) below.
- (b) If death benefit proceeds will be paid using a generational mortality table such as the 2012 Individual Annuity Reserving (“IAR”) Table, no table of annuity or installment payments is required in the policy as long as:
 - (i) The policy describes the guaranteed purchase rates by reference to interest and mortality assumptions; and
 - (ii) The policy provides the insurer’s contact information for the policyholder to obtain more detailed information, including a

purchase rate quote. The contact information should provide more than just the company's website address (e.g., a telephone number) in view of policyholders who may not have access to the internet; and

- (iii) The insurer confirms that the annual report will include a statement that the policy owner or beneficiary may contact the insurer to obtain a quote for purchase rates and the contact information to obtain that quote.
- (iv) The Actuarial Memorandum accompanying the submission must describe the mortality assumptions used for settlement rates. In order to verify that the generational mortality factors are determined correctly, a spreadsheet would need to be included demonstrating the development of the mortality rates that would be used for the first 10 years for 2 annuitants, one who annuitized at age 80 and one who annuitized at age 85.

We recommend that additional information be provided in the policy and/or annual report, such as a set of illustrative guaranteed purchase rates or a list of the guaranteed purchase rates for a specific age and for specific birth years in 10 year increments.

- (c) A policy may not provide that purchase option rates or settlement option rates, whether in tabular or narrative form, provide the same income for individuals of different ages.

Note: The Department still expects tables of guaranteed payout rates to appear if the company uses a static table. This would include both situations where the company uses an age set back or a mortality projection is used to produce a single table.

- (d) If any life income settlement option with a period certain provides for installment payments of the same amount at some ages for different periods certain, the policy must state that the insurer will deem an election to have been made for the longest period certain which could have been elected for such age and amount. Section II.J.1 of Circular Letter No. 4 (1963).

Example: If at age 45 the life income option with 10 years certain paid \$50 per month for 10 years certain and the life income option with 20 years certain paid \$50 per month for 20 years certain the life option with 20 years certain would be deemed chosen.

- (e) Policy language may not refer to the placement of death proceeds into a checking or other type of account since this would relate only to the manner of distribution. Section 3201(a).
- (f) Settlement options need not appear in the policy. However, in light of Circular Letter 4 of 2012, in order for insurers to be able to offer other settlement options to the policy holder or beneficiary in addition to the

payment of the full life insurance proceeds in a single check to the beneficiary, language must be included in the policy form that indicates that additional settlement options may be made available. See Circular Letter 4 (2012.) The Department would consider the following language acceptable and would consider alternatives on a case-by-case basis:

- (i) "Unless otherwise elected by the policyholder or beneficiary, benefits will be paid in a single lump sum check. We may make other options available in addition to the single check option"; or
- (ii) "When the benefit is payable, we will pay it in a single lump sum check, unless another method of payment is requested by the policyholder or beneficiary and agreed to by us."

D.12) Additional Standard Provisions for Indeterminate Premium Policies

- (a) The application for indeterminate premium term policies must include language to the effect that the initial or current premiums may change and the maximum guaranteed premiums can be charged. If the application does not include this language, a separate signed notice may be used and must be submitted for approval.
- (b) Policy captions and provisions describing the premium adjustment must characterize such adjustment as a change in initial or current premium, rather than a reduction in premium from the maximum guaranteed premium. Section 3201 (c)(2) and Section 3204.
- (c) The maximum guaranteed premiums must be shown for all years.
- (d) The grace period provision required by Insurance Law 3202(a)(1) must refer to the premium due (i.e., the current premium) and not the premium stated in the policy. Section 3201(c)(2).
- (e) If the initial premium scale appears in the policy, then the policy shall set forth in equal prominence the maximum guaranteed premium and the initial premium scale.
- (f) If any year-end nonforfeiture values are based on the initial current premium scale, then such scale must appear in the policy. Section 42-2.6(c) of Regulation 149.

III.E) Term Products with Nonforfeiture Value

E.1) Applicability

- (a) If a term product does not meet one of the exemptions specified in Section 4221(o) (see below for common exemptions) they are subject to the requirements of Section 4221 and the nonforfeiture requirements of Regulation 149.

- (b) Term products that include a return of premium feature and “Economatic” whole life policies with an additional decreasing term benefit are not excepted from Section 4221. See the Individual Whole Life and Endowment Product Outline for requirements pertaining to policy loans, cash value, interest on surrender and dividend recognition issues applicable to these products.
 - (c) For Term products that could develop cash values, the Actuarial Memorandum should include the methodology for determining cash surrender values and paid-up nonforfeiture benefits available under the policy between policy anniversaries per Regulation 149 and include a numerical example thereof. Section 4221(a)(6) and Sections 42-2.7(c) and (d) of Regulation 149.
 - (i) Numerical examples should also be included demonstrating the method of calculating the amount of paid-up insurance provided upon default between policy anniversaries.
 - (ii) The Actuarial Memorandum should include a numerical example for when the premium is paid beyond the date of surrender.
- E.2) Term policy are excepted from the requirements of Section 4221 and the nonforfeiture requirements of Regulation 149 when the term policy meets the exceptions at Section 4221(o):
- (a) The policy is of uniform amount and provides no guaranteed nonforfeiture or endowment benefits, the term is thirty years or less expiring before age eighty-one, and uniform premiums are payable during the entire term of the policy. Section 4221(o)(1)(F).
 - (b) The policy provides for decreasing amount, with no guaranteed nonforfeiture or endowment benefits and each adjusted premium (as specified in sections (g),(h), (i) and (k) of section 4221) is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits and is issued at the same age and initial amount of insurance for a term of twenty years or less, and expires before age seventy one and uniform premiums are payable during the entire term of the policy. Section 4221(o)(1)(G).
 - (c) The policy provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid up nonforfeiture benefit, at the beginning of the policy year (calculated as specified in subsections (c), (d), (g), (h), (i) and (k) of section 4221) exceeds 2.5 % of the amount of insurance at the beginning of the same policy year Section 4221(o)(1)(H).
 - (d) For Term products that do not develop cash values, the Actuarial Memorandum should demonstrate how the actuary has determined that policies issued under the submitted policy form will not develop cash values. Please include citations to the specific section of N.Y. Insurance

Law § 4221(o) utilized for compliance. The demonstration should display calculations testing compliance per Section 42-2.6 of 11 NYCRR 42 (Insurance Regulation No. 149).

E.3) Policies that Can Develop Cash Value for Specific Issue ages or Plans

If a policy has the potential to develop cash values for certain plans or issues ages, but not for others, separate forms must be submitted (one set of forms for policies that could develop cash values and one set of forms for policies that cannot develop cash values). Please also submit separate related policy forms and supporting documentation, including specification pages, actuarial memoranda, certifications, and statements of self-support.

III.F) Other Provisions

F.1) Interest on Death Proceeds

Policy language, if any, must be in compliance with Section 3214. If no action has been commenced, interest shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest only settlement option from the date of death to the date that the death benefit, with interest, is paid to the beneficiary. The policy may state that the interest rate will be at least equal to the rate required by the state in which the policy was delivered. However, “rate required by law” language is not permitted.

F.2) Owner and Beneficiary Provisions

- (a) The policy must describe how contingent owner and joint owner provisions operate if such options are made available. Required for disclosure purposes. See Section 3203(a)(4) and Section 3204.
- (b) The policy must describe how primary and secondary beneficiary designations operate if such options are made available. Must describe how multiple beneficiary designations are handled. Required for disclosure purposes. See Section 3203(a)(4) and Section 3204.
- (c) If the policy provides for an automatic survivorship provision in the event of simultaneous death, the provisions must include the phrase “unless otherwise provided” so that the policy owner may choose another alternative.
- (d) Any change in the owner or beneficiary designation must take effect on the date the notice of change is signed subject to any actions taken by the insurer prior to receipt of this notice by the insurer. The change should not take effect only when recorded by the insurer since there could be substantial delays.
- (e) If irrevocable beneficiaries are expressly permitted in the policy, the beneficiary provision must clearly explain that such beneficiaries cannot be changed without the written consent of the irrevocable beneficiaries as compared to the revocable beneficiary designations. Required for disclosure purposes. See on Section 3203(a)(4) and Section 3204.

F.3) Assignments

- (a) Life insurance policies are freely assignable unless otherwise restricted under the policy for tax qualification purposes.
- (b) Insurer's procedures on assignments (i.e., must be in writing, filed with company etc.) should be described in the policy for disclosure purposes. See Section 3203 (a)(4) and Section 3204.
- (c) An assignment must take effect on the date the assignment is signed subject to any actions taken by the insurer prior to receipt of the assignment. The assignment should not take effect only when recorded by the insurer since there could be substantial delays. The Department has found such administrative delays to be unfair, unjust, and inequitable in violation of Section 3201(c)(2).

F.4) Claims of Creditors

Certain life insurance proceeds may be exempt from claims of creditors. Policy language, if any, must be in compliance with Section 3212.

F.5) Proof of Loss

The policy may indicate that due proof of death (i.e., a copy of the death certificate) and information reasonably necessary to process the death claim (i.e., beneficiary identification) must be provided to the insurer.

Any policy form provision that imposes a duty or obligation upon a beneficiary to waive the deceased insured's physician-patient privilege and furnish, or assist in furnishing, the insurer with the deceased insured's medical records or other claim information about the insured, other than proof of death in order to receive the death benefits, will be deemed by the Superintendent to be unfair. Circular Letter No. 1 (2017) and Section 3201(c)(2).

F.6) Arbitration

Arbitration provisions are not permitted.

F.7) Changes in Issue Ages, Level Premium Period, Current and Guaranteed Premiums

- (a) If the maximum issue age or maximum renewal age is increased after a policy has been approved, this change will need to be filed with the Department for approval. Only pages, if any, which reference this change in age need to be re-filed rather than the entire policy. The new pages should have a distinguishing form identification number, such as "Rev". A signed certification of compliance by a qualified actuary is required, see section II.E.4 of this Outline.

NOTE: Even if no new policy pages are necessary, extension of approval is still required.

- (b) If the length of the level premium period is changed, either on a current or guaranteed basis after a policy has been approved, this change will need to be filed with the Department for approval. Only pages, if any, which reference this change in age need to be re-filed rather than the entire policy. The new pages should have a distinguishing form identification number, such as “Rev”. A signed certification of compliance by a qualified actuary is required, see section II.E.4 of this Outline.

NOTE: Even if no new policy pages are necessary, extension of approval is still required. See section II.D.10 of this Outline.

F.8) Policies for the Section 403(b) Market

- (a) Compliance with Circular Letter No. 16 (1993).
- (b) Policy loan provisions should not be deleted but must be revised to comply with Section 72(p) of the Internal Revenue Code.
- (c) The insurer must provide tax counsel certification that the policy is in compliance with the Internal Revenue Code.
- (d) The policy must be issued on a unisex basis or used with a unisex endorsement if the employer-employee group is subject to the Norris decision.

F.9) Inducements

Procedural Guidance for Filing Policy Forms Containing Inducements (sometimes also referred to as non-insurance benefits, value-added services, etc.) Reference: Insurance Law §§ 4224, 3201, 1106, and 4205; Circular Letter No. 9 (2009); Numerous Office of General Counsel Opinions available on the Department’s website, including, but not limited to, the Opinion dated June 4, 2007.

- (a) Inducements must be specified in the policy. It is acceptable to use a rider attached to the policy. Whether specified directly in the policy or in an attached rider, the policy form setting forth the inducement is subject to approval under Insurance Law § 3201. Policy forms containing inducements may not be submitted via the certified process under Circular Letter No. 6 (2004), unless the Department has granted prior permission.
- (b) The policy form must describe in full detail the benefits being provided, including any limitations, restrictions and costs associated with the benefits, and the identity of the entity providing the benefits. The policy form may not include language disclaiming the insurer’s responsibility for benefits promised in the policy form, regardless of whether the benefits are provided by the insurer or a third party. If the insurer seeks to include benefits in the policy, it becomes the responsibility of the insurer to see that the benefits are provided in accordance with the provisions of the policy form.

- (c) The filing should include detailed explanations of why the insurer believes that the inducement is necessarily and properly incidental to the business of life insurance and there is a direct nexus between the inducement and the insurance with which the inducement will be provided. Inducements will be reviewed on a case-by-case basis.
- (d) While Insurance Law § 4224(c) contains a \$25 exemption, it is recommended that insurers not rely on this exemption without first discussing it with the Department. Most inducements the Department has seen in connection with life insurance do not fall within that exemption.

IV.G) Minors

- G.1) Policies issued on the lives of minors (under the age of 14 ½) need to be in compliance with the monetary limitations of Section 3207. Such limitations should be set out in the policy or in an endorsement to be attached to the policy when the policy provides for coverage on the life of a minor. Section III.B.1. of Circular Letter No. 4 (1963).
- G.2) Section 3207(c) provides an exception to the monetary limitations when the person seeking to effectuate (and pay the premiums for) the insurance has an insurable interest in the child, and the minor is not dependent on this person for support and maintenance.
- G.3) Language regarding automatic coverage on newborns may provide that coverage commences up to a maximum period of 14 days after birth. After any delay, newborns must be covered even if they continue to be hospital confined. See Section 3201(c)(2) and (3).

III.H) Re-Entry or Requalification

- H.1) Re-entry or requalification is a provision within a term policy that allows the insured upon providing evidence of insurability to requalify the term policy for premiums applicable to a newly issued term policy.
- H.2) After a re-entry or requalification, the suicide provision of the policy should not be reinstated. This must be stated in the re-entry or requalification provision or endorsement. See Section 3201(c)(2).
- H.3) After a re-entry or requalification, a limited incontestability provision which provides that if a material misrepresentation is made in the application, the amount that can be contested is limited to the difference between the regular premium rate for the policy and the re-entry or requalification premium rate for the policy and the re-entry or requalification premium rate for the policy must be stated in the re-entry or requalification provision or endorsement. See Section 3201(c)(2).

III.I) Reclassification

- I.1) If an insurer has any procedures for an insured to seek a more favorable underwriting classification, Section 57.5(d) of Regulation 113 requires that the Insurer describe those procedures in the policy. (Effective 12/30/13).

NOTE: Amounts of coverage issued on an insured may not subsequently be reclassified to a less favorable underwriting classification. This provision does not apply to any increases in insurance coverage for which evidence of insurability is required.