

NEW YORK INSURANCE REGULATION 60 (11 NYCRR 51)

FILING GUIDELINES for REPLACEMENT PROCEDURES

Section 51.6(e) of Insurance Regulation 60 (“Regulation 60”) requires licensed insurers to establish and implement procedures to ensure compliance with the requirements of Regulation 60. Such section also requires that a copy of the procedures be filed with the Superintendent and any changes to previously filed procedures be filed with the Superintendent within 30 days of such change. These filing guidelines are intended to assist life insurers and fraternal societies (hereinafter, the “company” or “companies”) in complying with Regulation 60 and the requirements related thereto as promulgated by the New York Department of Financial Services (“Department” or “DFS”).

I. Types of Filings

A. File and Use Submission Filings

The Department has implemented a new process for the submission of file and use replacement procedures (“File and Use Submission”) pursuant to Section 51.6 (e) of Regulation 60:

– All replacement procedures submitted under Section 51.6(e) of Regulation 60 will now be under the “Procedural Review” Process. These submissions must meet the procedural filing requirements as explained in more detail under Sections III.A and B, IV and V below.

Please note that the Procedural Review Process under the File and Use Submission remains subject to the Department’s full review for compliance with Regulation 60 upon examination or at such other time as the Department deems appropriate.

B. Prior Approval Filings

Notwithstanding Section I.A above, certain filings require full review by the Department and are not eligible to use the process described above. The following filings are subject to prior approval (“Prior Approval Filings”) by the Department:

1) Alternate Procedures under Section 51.4 of Regulation 60.

Includes procedures where a) there is no agent involvement and, accordingly, a Disclosure Statement is not required, or b) there is no agent involvement during the initial application solicitation stage, but there is subsequent limited agent involvement, which would require a Disclosure Statement.

- 2) Substantially Equivalent Forms (Changes to the Replacement Forms) requiring prior approval under Section 51.8 of Regulation 60.

Includes any changes (other than the addition of the name of the company and the form number) to the replacement forms (*see* Appendices 10A, 10B, 10C, and 11) that are posted on the website at [https://www.dfs.ny.gov/apps and licensing/life insurers/notices filings forms](https://www.dfs.ny.gov/apps_and_licensing/life_insurers/notices_filings_forms)

Please note that as stated above, Prior Approval Filings are subject to a full review and, as such, the Procedural review process is not applicable. Please refer to Sections III.A and V for additional details.

II. Submission Options for all Filings

- A. The Department has created a new email box specifically for the submission of filings regarding Regulation 60 procedures. All filings can be submitted through this new e-mail box at the email address below:

Reg60ProcedureSubmissions@dfs.ny.gov

- B. Companies can continue to submit filings through SERFF. ***Please note*** that the Department recommends that companies use SERFF for internet applications or applications that use electronic tools with agents where screen prints may be required. Since there is no automatic notification generated when a filing has been submitted through SERFF, the Department recommends that an email also be sent to Reg60ProcedureSubmissions@dfs.ny.gov, and Shirley Nicholas (shirley.nicholas@dfs.ny.gov) as notification to facilitate the review process.

III. Preparation of Submissions

A. All Filings – all filings must include the following:

1. A full and complete set of replacement procedures (except for Prior Approval Filings on replacement forms only pursuant to Section 51.8 of Regulation 60); with the applicable section if the filing is for prior approval. If the submitted procedures are to supersede or supplement previous filings, a statement should indicate as such with references to the specific file numbers.
2. The appropriate checklist (*see* Section VII); and
3. The Regulation 60 Forms - Definition of Replacement, Important Notice Regarding Replacement, and Disclosure Statements:
 - a) As required for prior approval submission pursuant to Section 51.8 of Regulation 60, or
 - b) Where different versions of forms are used based on products, distribution channels etc. on the same replacement procedures, or
 - c) Multiple companies within the same holding company are using the same Regulation 60 forms with the same internal generated form number (*e.g.* Disclosure Statement contains both names of Company A and B), or

- d) When the language or Sections from various versions of the Disclosure Statements posted on the website are combined to create the company's own Disclosure Statement.

B. Additional Guidance for File and Use – Procedural Review Filings

In addition to the materials required in Section III.A above, Procedural Review Filings must include the following additional materials:

1. A statement from an officer of the company stating: a) the filing is for file and use under Section 51.6(e) upon submission, and b) certifying that such procedures are in compliance with all the provisions of Regulation 60;
2. Completion of the mandatory items listed on the appropriate checklist and the inclusion of the Mandatory Materials (as defined in Section V) with the submission.

NOTE: If a company submits Regulation 60 Forms with the replacement procedures under the File and Use Submission Filings, and the Regulation 60 Forms submitted differ from those posted on the website (other than the addition of company name and form number), such forms will require prior approval by the Department and the procedures will be reviewed separately under the new process.

IT IS HIGHLY RECOMMENDED THAT COMPANIES FOLLOW THE GUIDELINES UNDER SECTION VI. BEST PRACTICES AND RECOMMENDATIONS AS THIS SECTION PROVIDES BEST PRACTICE STANDARDS IN CONNECTION WITH CONSUMER PROTECTIONS IN A REPLACEMENT TRANSACTION AND RECOMMENDATIONS FOR FILINGS WHEN ENDORSEMENTS ARE USED FOR THE 60 DAYS FREE LOOK.

IV. File and Use Review Process

- A. Filings made under the File and Use option that fail to include the required materials or are otherwise incomplete will be rejected.
- B. For Procedural Review filings, an email will be sent to the company either to:
 1. Indicate that the company has included all the required materials in the filing; or
 2. The filing is rejected because the company failed to include all the required materials, and/or the required certification or is otherwise incomplete.

Please note: Once the email has been sent, the Department will not issue any additional correspondence or communication, including responses to subsequent questions, regarding the file. If a file is rejected, a new submission can be filed regarding the same replacement procedures, provided all the mandatory items on the appropriate checklist are completed and the Mandatory Materials are provided with references to the rejected file number. The new filing would be rejected again if either the mandatory items or Mandatory Materials are not included or are otherwise incomplete.

V. Mandatory Materials

- A. Identify the name of the companies that will utilize the submitted procedures (*i.e.*, when there are several affiliates, and more than one company are using the same procedures).
- B. The name, title and email address of the principal officer responsible for the monitoring and enforcement of the Regulation 60 procedures should be provided as part of the filing submission.
- C. The company should designate a specific individual to submit all Regulation 60 filings. A company may elect to designate one contact by line of business, however, there must be coordination between the different contacts for submissions to the Department. These contacts should be able to respond to all of the Department's inquiries on filings submitted rather than requiring the Department to contact each individual area.

Similarly, if multiple filings are submitted by the company at the same time (whether by the same or different individual(s)) or if the submissions are applicable to various companies within the same holding company system, the submissions should specify the company to which these procedures apply and how the filings are different when there are multiple filings. When the multiple filings are submitted through different means (*i.e.*, Albany Filing through SERFF and email to NYC Office), the submissions should clearly identify the link between the SERFF filings, and the filings submitted through e-mails. The Department will reject the filings if DFS cannot determine the differences or the association between the filings and/or cannot determine if the procedures that were submitted ensure compliance with the requirements of Regulation 60.

- D. The procedures should include the number of days required per the specific provision in the Regulation (*i.e.*, the applicant has 60 days to cancel the replacing policy/contract and reinstate the existing coverage, the replacing company must refund the premiums within 10 days of request if applicant decides to cancel etc.).

VI. Best Practices and Recommendations

IT IS HIGHLY RECOMMENDED THAT COMPANIES FOLLOW THE GUIDELINES UNDER SECTION VI. BEST PRACTICES AND RECOMMENDATIONS AS THIS SECTION PROVIDES BEST PRACTICE STANDARDS IN CONNECTION WITH CONSUMER PROTECTIONS IN A REPLACEMENT TRANSACTION AND RECOMMENDATIONS FOR FILINGS WHEN ENDORSEMENTS ARE USED FOR THE 60 DAYS FREE LOOK.

- A. The procedures should include either an effective date or a revision date.

- B. Regulation 60 requires a 60-day free look for replacements. Companies are reminded that appropriate policy form filings are needed to change any language in the policy form free look provision that conflicts with this extended free look period. Note that a document that has the effect of amending the terms, provisions or benefits of an insurance policy or contract constitutes a policy form and must be submitted to the Albany policy form unit for approval. See Insurance Law Section 3201.
- C. When a company is not accepting replacements, a mechanism should be implemented to keep track of the consumers that go back within 30 days of the original application and change the response on the Definition of Replacement form from 'yes' to 'no' in order to obtain coverage. It is highly recommended that in such instances, the consumers be reminded of their initial responses and confirm whether the consumers are not replacing their existing coverage in this transaction. The company may propose other alternatives for the Department's review in monitoring these occurrences.
- D. When a company is not accepting replacements and the applicant indicates a replacement(s) is involved, it is recommended that no further information should be collected (other than to identify the individual for the 30 day mechanism per item C above) as such information would be subject to record retention under Regulation 152 as application files. For companies that decide to continue with the application and health questions, please explain the reason the company is collecting such information regarding an applicant since the application will be automatically rejected as it involves a replacement.

VII. Checklists^Δ for All Filings

- A. The following are the Checklists applicable for the Regulation 60 Filings. Please select the appropriate Checklists as identified below:

Checklist A - for direct replacement procedures (file and use, no approval required)

Checklist B – for filings subject to prior approval (“Prior Approval Filings”) by the Department:

- 1) Alternate Procedures under Section 51.4 of Regulation 60.

Includes procedures where a) there is no agent involvement and, accordingly, a Disclosure Statement is not required, or b) there is no agent involvement during the initial application solicitation stage, but there is subsequent limited agent involvement, which would require a Disclosure Statement.

- 2) Substantially Equivalent Forms (Changes to the Replacement Forms) requiring approval under Section 51.8 of Regulation 60.

Includes any changes (other than the addition of the name of the company and the form number) to the replacement forms (see Appendices 10A, 10B, 10C, and 11) that are posted on the website.

https://www.dfs.ny.gov/apps_and_licensing/life_insurers/notices_filings_forms

The following changes also would require approval under Section 51.8 of Regulation 60:

- Multiple companies within the same holding company are using the same Regulation 60 forms with the same internal generated form number (*e.g.* Disclosure Statement contains both names of Company A and B), or
- When the language or Sections from various versions of the Disclosure Statements posted on the website are combined to create the company's own Disclosure Statement.

Checklist C - for telesales and internet sales (or use of electronic tools) where prior approval may be required.

[^]Each Checklist can be used on a "stand-alone" basis for the specific type of procedures. Therefore, some of the information may appear in more than one section. Checklist C can be used as "Stand-alone" guidance if the procedures are supplemental procedures to direct procedures or alternate procedures that have been placed on file or approved by DFS.

Checklist A: Regulation 60 submissions – Direct Replacement Procedures (face to face with agent involvement)

The procedures should clearly state the following in the Checklist. Please note: The items marked with an * are mandatory while the items without the * in the Checklist below are optional. Though not required, it is highly recommended that all optional items should also be included to facilitate the review process. The term “producers” include agents and/or brokers. In addition, please state the page number(s) where the requirements appear in the procedures (page range may be used in conjunction with page numbers e.g. 5, 7-10, 15 etc.) or name of the attachment for documents that are not part of the procedures:

	Requirements for Direct Replacement Procedures	Page Number(s)
*1.	The products or lines of business (life, annuities or both) that the submission apply to.	
*2.	The method of distribution (i.e. face to face by paper, face to face using eApp Tool, tele-sales etc.).	
*3.	<p>When and how are the various Regulation 60 forms presented and provided to the applicant; including but not limited to the Definition of Replacement, the Important Notice Regarding Replacement, Authorization and Notification and the Disclosure Statement¹.</p> <p>The timeline of events should comply with Regulation 60 and the replacement procedures should describe the process in chronological order based on how and when the various forms are provided to the applicant.</p>	
4.	<p>The Definition of Replacement, Authorization from the applicant and Important Notice Regarding Replacement (where replacement is involved) should be signed on the date that the applicant completes or is presented with the application. For DFS to consider alternatives, the Company should explain and provide details as to the timing between completion and signature (which should be within 24 hours), and the reason why the forms are not signed at the time of completion. In addition, the procedures should explain how any completed documents (even if not signed) are maintained in accordance with Regulation 152; and what controls are in place to ensure the producers cannot circumvent Regulation 60 under this process. This paragraph does not preclude the Company’s discretion on whether to have the Disclosure Statement signed by the applicant¹.</p>	

*5.	That the list of all existing life insurance policies or annuity contracts proposed to be replaced are obtained from the applicant and provided to the Company.	
*6.	The timing of when the producer will sign and provide each of the replacement forms and copies of any sales materials (including any proposals) used in the sale to the Company; verification that the Agent/Broker signed the Disclosure Statement and included the primary reason(s) for recommending the new coverage and why the existing coverage does not meet the applicant's objectives.	
*7.	How and when the Company examines the sales material, including any proposal, used in the sale of the product and the "Disclosure Statement" and ascertains they are accurate and complete. The Disclosure Statement should be accurate at the time it's presented to the applicant.	
8.	For the Disclosure Statement, the following should also be explained ¹ :	
*a)	When the Disclosure Statement is prepared (prior to policy issue, or after policy issue).	
*b)	Whether the Company uses the same process for all transactions.	
c)	Whether the Company would allow the Disclosure Statement to be prepared at different points (prior to policy issue, or after policy issue) by a producer.	
*d)	When the notification is sent to the replaced Company to request the information to complete the Disclosure Statement for each process and identifying each of the documents as required per the language under Section 51.5(c)(3).	
*e)	Use of good faith approximations if the replaced Company did not provide the Disclosure information within 20 days of receipt of the request.	
f)	If more than one process is used by the Company, the Company should explain how it determines which process is used and the controls in place to ensure the appropriate process is being followed (i.e. by product; producer preference; Other; etc.).	
g)	If the Company depends on producers to complete the replacement process, it should describe how it keeps track of which process the producers are using.	
*h)	The Regulation 60 Procedures should explain when the Disclosure Statement, if prepared prior to policy issue, is provided to the applicant (whether the Disclosure Statement is prepared by the producer or the Company). If an initial Disclosure Statement was provided to the applicant prior to the issue of the life insurance policy or annuity contract, how does the Company identify that a revised Disclosure Statement is required pursuant to Section 51.6(b)(10)? What	

	controls are in place to prevent both the initial and revised Disclosure Statements being provided to the applicant after issue? If both Disclosure Statements are provided to the applicant, a revised Disclosure Statement must show the word “revised” on the first page of the Disclosure Statement, and the font size must be at least in 12-point type.	
*9.	Discretionary elements – Companies should clearly state their discretionary element choices, such as whether applicant signatures are required on the Disclosure Statement, providing a list versus copies of sales materials to the replaced Company for each process;	
*10.	<p>There are 3 versions of Regulation 60 Forms on the website – The Company should indicate which version of the Regulation 60 forms will be used, especially where the Company is using more than 1 version of the Regulation 60 forms in the submission. Please note the Alternate 1 version should only be used where the Disclosure Statement is prepared prior to application and provided to the applicant at time of application. All Regulation 60 forms must be in 12-point type and in compliance with Section 51.8 of Regulation 60. The Company’s name and a form number should be added to the version that is submitted with the filing.</p> <p>PLEASE NOTE ANY CHANGES OTHER THAN THE COMPANY’S NAME AND A FORM NUMBER TO THE REGULATION 60 FORMS WILL REQUIRE PRIOR APPROVAL PER SECTION 51.8 of Regulation 60.</p>	
*11.	<p><u>Other Requirements to be included in the procedures</u> (this may not be an all-inclusive list as the Company is expected to establish procedures that will satisfy all requirements of Regulation 60)</p> <p><i>Note: Whenever the phrase “per the language under Sections XXX” is used, the Company should provide the details in the procedures that will satisfy the requirements of that section.</i></p>	
*a)	Maintenance of the various replacement forms and notification per the language under Sections 51.6(a)(3), (b)(8)	
*b)	Materials be dated upon receipt	
*c)	Inform and train producers on the Regulation 60 requirements	
*d)	Within 10 days of delivery of the policy or contract furnish to the replaced Company the completed Disclosure Statement and a list of the sales materials, including any proposal with an offer to provide a copy within 10 days upon request	
*e)	Submit annual electronic reports by February 1 of each year indicating which replaced companies failed to provide the information to complete the Disclosure Statement, even if there are no such instances during the period.	

*f)	Treat the proposed policy or contract in all respects as if it were a new issuance subject to no differences in underwriting or other considerations including the specific information per the language under Section 51.6(b)(9)	
*g)	The specific requirements on the revised Disclosure Statement per the language under Section 51.6(b)(10)	
*h)	As a Replaced Company (Section 51.6(c)): 1) Maintain notification with requirements per the language under Section 51.6(c)(1) 2) Provide the Disclosure Information within 20 days of receipt per the language under Section 51.6(c)(2)	
*i)	60-day Freelook for a replacing Company and Reinstatement of replaced policy within 60 days for replaced Company per the language under Section 51.6(d)	

¹ Instead of providing all the details per items 3, 4 and 8 of Checklist A above, the Company may include in the Regulation 60 procedures the controls that the Company has in place to ensure the Definition of Replacement (Appendix 11) and Important Notice Regarding Replacement (Appendix 10C) are provided to the applicant no later than the time of application; and an accurate and complete Disclosure Statement is provided to the applicant no later than the time of policy or contract delivery. These controls should be in line with the replacement process as described in the procedures. For example, where there are instances of policies issued other than as applied for (e.g. changes in the amount of coverage, changes in the underwriting class etc.), what controls are in place to determine if a “revised” Disclosure Statement needs to be prepared, and where it is required, what controls are in place to ensure the revised Disclosure Statement labeled as “revised” will be provided to the applicant. Where signatures are required on a Disclosure Statement that is not presented at or prior to the time of application, what controls are in place to ensure that the applicant will sign the form and send it back to the Company. When signatures can be applied electronically, what controls are in place to ensure the signatures will be applied (i.e. digital pad, wet signatures, e-signatures through click box etc.) and the applicant and the Company will receive and retain a copy of these signed forms. When signatures are not required on the Disclosure Statement, what controls are in place to ensure that the Disclosure Statement is delivered to the applicant. The Disclosure Statement should be accurate at the time it’s presented to the applicant.

Checklist B: Regulation 60 Submissions - Alternate Replacement Procedures Filing requiring prior approval per Section 51.4 or Replacement Forms requiring prior approval per Section 51.8 of Insurance Regulation No. 60

Alternate procedures filed pursuant to Section 51.4 must be approved in advance and determined by the Superintendent not to be detrimental to policyholders and contract holders. Replacement forms that differ from the versions posted on the website must be approved in advance pursuant to Section 51.8 and determined by the Superintendent to be substantially equivalent to the forms set forth in the Regulation. The replacement forms can be submitted separately (for procedures that are “file and use”) or in conjunction with the alternate replacement procedures where applicable. The procedures and replacement forms should clearly state the following in the Checklist. Please note: The items marked with an * are mandatory while the items without the * in the Checklist below are optional. Though not required, it is highly recommended that all optional items should also be included to facilitate the review process. The term “producers” include agents and/or brokers. In addition, please state the page number(s) that the requirements appear on the procedures (page range can be used in conjunction with page numbers e.g. 5, 7-10, 15 etc.) or name of the attachment for documents that are not part of the procedures:

	Requirements for Alternate Procedures	Page Number(s)
*1.	Which part under Section 51.4 (Alternate Procedures) the procedure is applicable.	
*2.	The products or lines of business (life, annuities or both) the procedures are applicable to.	
*3.	The Company’s compliance with all relevant requirements under Section 51.6 (Duties of Companies) of Regulation 60.	
*4.	The distribution method used (i.e. direct mail, direct internet sales etc.).	
*5.	When there is limited agent involvement (Section 51.4(b)(2)), the procedures should describe how all relevant requirements under Section 51.5 (Duties of Insurance Agent or Broker) of Regulation 60 will be met including how the Company complies with requirements on the Disclosure Statement.	
*6.	Where there is no producer involvement,	
*a)	Whether the Important Replacement Notice (Exhibit 1) will be used in lieu of the Definition of Replacement. In such cases, the procedure should indicate which form will be used and how the applicable form will be provided to the applicant.	
*b)	If the Important Replacement Notice is used, specify whether it is referenced on the application (provide a copy of the application) or a separate document will be used with a signature line. This Notice or reference to the Notice must appear before the replacement question.	
*7.	Whether or not the Company will accept replacement transactions through this alternate procedure.	

*8.	Notwithstanding 7 above, the procedures should describe the controls in place to ensure the Definition of Replacement/Important Replacement Notice will be provided to the applicant at or prior to the time of application. If replacements are not accepted, then the procedures should state that this form be provided prior to the time of application. The Company should explain what types of signatures are accepted (i.e. electronic, wet, telephonic) and how are the signed forms returned to the Company.	
*9.	Where there is no producer involvement and the Company issues replacements, the procedures should describe the controls in place to ensure the Important Notice Regarding Replacement (Appendix 10C) is provided to the applicant at the time of application, the type of signature to be affixed to the form (i.e. electronic, wet) and how are the signed forms returned to the Company. The Company should also obtain the list of all existing life insurance policies or annuity contracts proposed to be replaced from the applicant. Further, the Company's procedure should reference that the notification to the replaced Company should advise that a Disclosure Statement will not be prepared, since it is not required for Alternate Procedures per Section 51.4(b)(1).	
10.	When there is producer involvement per Section 51.4(b)(2) and the Company issues replacement policies:	
*a)	When and how are the various Regulation 60 forms presented and provided to the applicant: including the Definition of Replacement, the Important Notice Regarding Replacement and the Disclosure Statement. How are these signed forms returned to the Company? ¹ The timeline of events should comply with Regulation 60 and the replacement procedures should describe the process in chronological order based on how and when the various forms are provided to the applicant.	
*b)	The type of signatures that can be affixed to the forms (i.e. electronic, wet etc.).	
*c)	Procedures should include the following requirements:	
*i)	Obtaining the list of all existing life insurance policies or annuity contracts proposed to be replaced from the applicant and provided to the Company.	
*ii)	Whether the Company is using the Important Replacement Notice (Exhibit 1) in lieu of the Definition of Replacement. Where producers are involved, if Important Replacement Notice is used then a statement must be signed by producer as to whether replacement is involved in the transaction.	

*iii)	The timing of when the producer will sign and provide each of the replacement forms and copies of any sales materials (including any proposals) used in the sale to the Company; verification that the Agent/Broker signed the Disclosure Statement and included the primary reason(s) for recommending the new coverage and why the existing coverage does not meet the applicant's objectives.	
*iv)	How and when the Company examines the sales material, including any proposal, used in the sale of the product and the "Disclosure Statement" and ascertain they are accurate and complete. The Disclosure Statement should be accurate at the time it's presented to the applicant.	
d)	For the Disclosure Statement, the following should also be explained ¹ :	
* i.	When the Disclosure Statement is prepared (prior to policy issue, or after policy issue);	
ii.	Whether the Company would allow the Disclosure Statement to be prepared at different points (prior to policy issue, or after policy issue) by a producer;	
*iii.	When the notification is sent to the replaced Company to request the information to complete the Disclosure Statement for each process and identifying each of the documents as required per the language under Section 51.5(c)(3);	
*iv.	Use of good faith approximations if the replaced Company did not provide the Disclosure information within 20 days of receipt of the request;	
v.	If the Company depends on producers to complete the replacement process, it should describe how it keeps track of which process the producers are using.	
*vi.	The Regulation 60 Procedures should explain when the Disclosure Statement, if prepared prior to policy issue, is provided to the applicant (whether the Disclosure Statement is prepared by the producer or the Company). If an initial Disclosure Statement was provided to the applicant prior to the issue of the life insurance policy or annuity contract, how does the Company identify that a revised Disclosure Statement is required pursuant to Section 51.6(b)(10)? What controls are in place to prevent both the initial and revised Disclosure Statements from being provided to the applicant after issue? If both Disclosure Statements are provided to the applicant, a revised Disclosure Statement must show the word "revised" on the first page of the Disclosure Statement, and the font size must be at least in 12-point type.	
11.	Definition of Replacement and Important Notice Regarding Replacement (where replacements are involved) should be signed on the date that the applicant completes or is presented	

	with the application. For DFS to consider alternatives, the Company should explain and provide details as to the timing between completion and signature (which should be within 24 hours), and the reason why the forms are not signed at the time of completion. In addition, the procedures should explain how any completed documents (even if not signed) are maintained in accordance with Regulation 152; and what controls are in place to ensure the producers cannot circumvent Regulation 60 under this process	
*12.	Discretionary elements – Companies should clearly state their discretionary element choices, such as whether applicant signatures are required on the Disclosure Statement, the types of signatures accepted (i.e. electronic, wet etc.), providing list vs. copies of sales materials to replaced Company for each process.	
*13.	<p>There are 3 versions of Regulation 60 Forms on the Department’s website – The Company should indicate which version of the Regulation 60 forms will be used, especially where the Company is using more than one version of the Regulation 60 forms in the submission. Please note the Alternate 1 version should only be used where the Disclosure Statement is prepared prior to application. All Regulation 60 forms must be in 12-point type and in compliance with Section 51.8 of Regulation 60. The Company’s name and a form number should be added to the version that is submitted with the filing.</p> <p>PLEASE NOTE ANY CHANGES OTHER THAN THE COMPANY’S NAME AND A FORM NUMBER TO THE REGULATION 60 FORMS WILL REQUIRE PRIOR APPROVAL PER SECTION 51.8 of Regulation 60.</p>	
*14.	<p><u>Other Requirements to be included in the procedures</u> (this may not be an all-inclusive list as the Company is expected to establish procedures that will satisfy all requirements of Regulation 60)</p> <p><i>Note: Whenever the phrase “per the language under Sections XXX” is used, the Company should provide details in the procedures that will satisfy the requirements of that section.</i></p>	
*a)	Maintenance of the various replacement forms and notification per the language under Sections 51.6(a)(3), (b)(8)	
*b)	Materials be dated upon receipt	
*c)	Inform and train producers or insurance underwriters (or any other personnel involved) on the Regulation 60 requirements	
*d)	Within 10 days of delivery of the policy or contract furnish to the replaced Company the completed Disclosure Statement and either copies or a list of the sales materials, including any	

	proposal with an offer to provide a copy within 10 days upon request	
*e)	Submit annual electronic reports by February 1 of each year indicating which replaced companies failed to provide the information for the Disclosure information, even if there are no such instances during the period.	
*f)	Treat the proposed policy or contract in all respects as if it were a new issuance subject to no differences in underwriting or other considerations including the specific information per the language under Section 51.6(b)(9)	
*g)	The specific requirements on the revised Disclosure Statement per the language under Section 51.6(b)(10)	
*h)	As a Replaced Company (Section 51.6(c)): 1) Maintain notification with requirements per the language under Section 51.6(c)(1) 2) Provide the Disclosure Information within 20 days of receipt per the language under Section 51.6(c)(2)	
*i)	60-day Freelook for a replacing Company and Reinstatement of replaced policy within 60 days for replaced Company per the language under Section 51.6(d)	
	Requirements for Use of Substantially Equivalent Replacement Forms Subject to Prior Approval	Page Number(s)
*1.	Specify/Highlight the changes made and the reason for the change	
*2.	Specify the products these replacement forms will be used for or the specific replacement procedures these forms will be applicable to	
*3.	Whether the replacement forms are generated electronically or by paper	

¹ Instead of providing all the details per item 10a & 10d above, the Company may include in the Regulation 60 procedures the controls that the Company has in place to ensure the Definition of Replacement (Appendix 11)/Important Replacement Notice and Important Notice Regarding Replacement (Appendix 10C) are provided to the applicant no later than the time of application; and an accurate and complete Disclosure Statement is provided to the applicant no later than the time of policy or contract delivery (where applicable). These controls should be in line with the replacement process as described in the procedures. For example, where there are instances of policies issued other than as applied for, what controls are in place to determine if a “revised” Disclosure Statement needs to be prepared, and where it is required, what controls are in place to ensure the revised Disclosure Statement labeled as “revised” will be provided to the applicant. When signatures are required on the Disclosure Statement, what controls are in place to ensure the applicant will sign the form and send it back to the

Company. When signatures can be applied electronically, what controls are in place to ensure the signatures will be applied (i.e. digital pad, wet signatures, e-signatures through click box etc. *Please see Checklist C for more details*) and the applicant and the Company will receive and retain a copy of these signed forms. When signatures are not required on the Disclosure Statement, what controls are in place to ensure that the Disclosure Statement is delivered to the applicant. The Disclosure Statement should be accurate at the time it's presented to the applicant.

Checklist C: Regulation 60 Submissions - for Use of Electronic Tools, Internet Sales and Tele-sales including use of electronic or voice signatures (Electronic and telephonic procedures)

NOTE - Filings for approval for use of all electronic/telephonic procedures involving electronic and/or voice signatures of the applicant must be made with the Policy Forms Filing Unit in Albany (even if the policy forms are approved previously in paper format only), **AND** the Market Conduct Unit in the NYC Office for Regulation 60 procedures. Alternatively, the Company may submit supplemental replacement procedures for the electronic and/or telephonic procedures to other Regulation 60 procedures on file instead of separate electronic and/or telephonic procedures. **The supplemental replacement procedures should describe the differences in how the various Regulation 60 forms are being presented to the applicant, what alternative signatures are accepted, how these forms are provided to the applicant with reference to the other Regulation 60 procedures already on file with the Department for the remaining requirements.** The Company may reference the Albany file number instead of submitting the screen prints if the entire electronic screen prints (including replacement forms and signature process, the screen prints should include the entire page showing the signature line) are submitted to the Albany Office. Please refer to the checklist below which list the items required for the electronic Regulation 60 process as supplemental procedures.

If companies are submitting these electronic procedures as separate procedures, then the guidance for Checklist C should be combined with either Checklist A or Checklist B depending on whether the electronic replacement procedures require prior approval as alternate procedures per Section 51.4. If the Electronic and Telephonic procedures fall under the definition of alternate procedures as defined by Section 51.4, the Company must ensure the procedures include the checklists under both Checklists B and C.

The procedures should clearly state the following in the Checklist. Please note: The items marked with an * are mandatory while the items without the * in the Checklist below are optional. Though not required, it is highly recommended that all optional items should also be included to facilitate the review process. The term “producers” include agents and/or brokers. In addition, please state the page number(s) that the requirements appear on the procedures (page range can be used in conjunction with page numbers e.g., 5, 7-10, 15 etc.) or name of the attachment for documents that are not part of the procedures:

	Requirements for Electronic and Telephonic Procedures	Page Number(s)
1.	If these are separate procedures instead of supplemental procedures, please include Checklist from either Checklist A (Direct Replacement Procedures) or Checklist B (Alternate Replacement Procedures). Refer to file numbers if the company is submitting the electronic procedures as supplements to procedures already on file	
*2.	The products or lines of business (life, annuities or both) these processes apply to.	
*3.	The specific process used: tele-sales, eApp tool, or Internet sales (without agent involvement) or the combination thereof	

*4.	The Albany Extension of Use approval letter or the Albany file number submitted by the Company.	
*5.	If the Company is accepting replacements under this process.	
*6.	Whether the Company is using the Important Replacement Notice (Exhibit 1) in lieu of the Definition of Replacement. Where producers are involved, if Important Replacement Notice is used then a statement must be signed by producer as to whether replacement is involved in the transaction.	
*7.	If the Important Replacement Notice is used, specify whether it is referenced on the application (provide a copy of the application) or a separate document will be used with a signature line. This Notice or reference to the Notice must appear before the replacement question.	
*8.	When and how the various Regulation 60 forms are presented and provided to the applicant electronically; including but not limited to the Definition of Replacement/Important Replacement Notice and the Important Notice Regarding Replacement (Appendix 10C), Authorization to Disclose Form.	
*9.	Describe the type of signatures are accepted (i.e., wet, electronic by e-mail (stamp), electronic device, voice etc.) on the Definition of Replacement/Important Replacement Notice and the Important Notice Regarding Replacement (Appendix 10C).	
*10.	Describe when and the method used to leave a copy of the forms (Definition of Replacement/Important Replacement Notice and the Important Notice Regarding Replacement (Appendix 10C), Disclosure Statement) with the applicant at the time of application and how are the signed forms returned to the Company. For eSignature processes that allow forms to be downloaded or printed as the method to provide the forms to the applicants, how long will such option be available for the applicants and whether the applicant can request a copy from the Company. The timeline of events should comply with Regulation 60 and the replacement procedures should describe the process in chronological order based on how and when the various forms are provided to the applicant.	
11.	For the Disclosure Statement, the following should also be explained:	
*a)	When the Disclosure Statement is prepared (prior to policy issue, or after policy issue).	
b)	Whether the Company would allow the Disclosure Statement to be prepared at different points (prior to policy issue, or after policy issue) by a producer;	

*c)	Describe <u>how and when</u> the completed Disclosure Statement is provided to the applicant (by mail, hand delivery, electronic delivery through email, electronic delivery through portal or other means).	
*d)	Describe the type of signatures accepted (i.e. wet, electronic by e-mail (stamp), electronic device, voice etc.) on the Disclosure Statement for the agent and applicant (where applicant signatures are required); and how the signed Disclosure Statement will be returned to the Company	
*e)	How does the Company identify that a revised Disclosure Statement is required? What controls are in place to prevent both the initial and revised Disclosure Statements from being provided to the applicant after issue? If both Disclosure Statements are provided to the applicant, a revised Disclosure Statement must show the word “revised” on the first page of the Disclosure Statement, and the font size must be at least in 12-point type.	
*f)	How the Company examines the sales material, including any proposal, used in the sale of the product and the “Disclosure Statement” and ascertain they are accurate and complete. The Disclosure Statement should be accurate at the time it’s presented to the applicant.	
12.	Definition of Replacement and Important Notice Regarding Replacement (where replacements are involved) should be signed on the date that the applicant completes or is presented with the application. For DFS to consider alternatives, the Company should explain and provide details as to the timing between completion and signature (which should be within 24 hours), and the reason why the forms are not signed at the time of completion. In addition, the procedures should explain how any completed documents (even if not signed) are maintained in accordance with Regulation 152; and what controls are in place to ensure the producers cannot circumvent Regulation 60 under this process	
*13.	Discretionary elements – Companies should clearly state their discretionary element choices, such as whether applicant signatures are required on the Disclosure Statement, providing list vs. copies of sales materials to replaced Company.	
*14.	There are 3 versions of Regulation 60 Forms on the Department’s website – The Company should indicate which version of the Regulation 60 forms will be used, especially where the Company is using more than 1 version of the Regulation 60 forms in the submission. Please note the Alternate 1 version should only be used where the Disclosure Statement is prepared prior to application. All Regulation 60 forms must be in 12-point type and in compliance with Section 51.8 of Regulation 60. The Company’s name and a form	

	<p>number should be added to the version that is submitted with the filing.</p> <p>PLEASE NOTE ANY CHANGES OTHER THAN THE COMPANY’S NAME AND A FORM NUMBER TO THE REGULATION 60 FORMS WILL REQUIRE PRIOR APPROVAL PER SECTION 51.8 of Regulation 60.</p>	
*15.	Screen Prints/Tele-scripts submissions	
*a)	<p>For companies that <u>use electronic application tools</u>, the submission <u>must</u> include screen prints of Regulation 60 documents for internet sales or use of electronic tool as viewed by the applicant, and tele-scripts for use of tele-sales (if tele-scripts is used). The submission <u>must</u> include the complete Regulation 60 document including the prompt for the applicant would sign the Regulation 60 document electronically.</p> <p>For filings that allow the consumers to <u>apply directly (without agents) through internet or telesales</u>, screen prints of Regulation 60 documents and tele-scripts (if used by the company) must be submitted showing the presentation of the Definition of Replacement/Important Replacement Notice during the application process and the presentation of the Regulation 60 forms to obtain signatures from the applicant.</p> <p>Where the producers are using their own systems or electronic application/signature tools with or without the Company’s review, the insurer should explain the process including whether the producers’ systems integrate with the company’s and if not, how are the signed forms sent back to the Company. The insurers should also explain what information or requirements are provided to the producer (including how does the company ensure the producers are using the company’s own Regulation 60 forms) and how the companies verify that the producers are following the insurer’s instructions. If the companies state screen prints cannot be provided, the companies must provide the reason and also explain how an insurer can provide screen prints for the application for policy forms filing but not for the Regulation 60 filings.</p> <p>The following are guidelines for the electronic process. Please make sure that the procedures and/or screen prints include the following:</p> <ul style="list-style-type: none"> • Definition of Replacement/Important Replacement Notice should appear before any replacement questions. 	

	<ul style="list-style-type: none">• The documents requiring electronic signatures should be listed separately or shown in a manner allowing the applicants to know what documents they are signing• Provide sample copy of the Regulation 60 forms before and after the electronic signatures, showing how the various signature methods would appear on the forms. <p><i>NOTE: The <u>placement</u> of the Definition of Replacement/Important Replacement Notice for the electronic application or telesales can deviate from the paper application filing with our Albany Office.</i></p>	

Exhibit 1

The following will be printed in bold-faced type, and in a font size no smaller than 12-point type.

NEW YORK RESIDENTS ONLY
IMPORTANT REPLACEMENT NOTICE

It may not be in your best interest to replace existing life insurance policies or annuity contracts in connection with the purchase of a new life insurance policy or new annuity contract, whether issued by the same or a different insurance company. A replacement will occur if, as part of your purchase of a new life insurance policy or a new annuity contract, existing coverage has been, or is likely to be, lapsed, surrendered, forfeited, assigned, terminated, changed or modified into paid-up insurance or other forms of benefits, loaned against or withdrawn from, reduced in value by use of cash values or other policy values, changed in the length of time or in the amount of insurance that would continue, or continued with a stoppage or reduction in the amount of premium paid. Prior to completing a replacement transaction, you may want to contact the insurance company or agent who sold you the life insurance or annuity contract that will be replaced, to help you decide whether the replacement is in your best interest.

- **In addition to the foregoing statement, the following statement will be added to the application, which would appear just above the signature section of the application:**
- **“I have read the Important Replacement Notice on the back of the application (or wherever placed).”**
- **Finally, the following replacement question would be included in the application just above the signature section:**
- **“Is the insurance applied for intended to replace, in whole or in part, any existing insurance or annuity? Yes _____ No _____**

(Substantially similar language may be used in place of the above notice but prior approval will be required)

***SIGNATURE SECTION SHOULD BE ADDED IF THIS IS A STAND-ALONE DOCUMENT**