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New York Insurance Department

Guidance on Equity Index Products

The Department is receiving a number of Policy Form submissions in which the insurer guarantees that all or a portion of the amounts allocated to the insurer's general account will be based on the change in an equity-index. This feature may appear in Individual Life Policies, Individual Annuity Contracts, Group Life Policies/Certificates and Allocated Group Annuity Contract/Certificates. The design of an equity-index product should consider the following:

(1) The product must comply with all the usual nonforfeiture requirements associated with the particular product.

(2) The equity-index is readily available from published sources and is identified in the policy.

(3) There may be no loss of value in the product solely based on changes in the equity-index.

(4) The contract must describe how the equity-index is used to determine the equity-index accumulation amount including any limitation on the portion of the change in the equity-index that is reflected in the equity-index accumulation amount. The limitation is usual a variation of one or more of the following:

(i) 0nly crediting a portion of the equity-index (e.g. 50% of the change in the S&P 500);

(ii) Limiting the increase to a specified cap on annual basis (e.g. the change in the S&P 500 but not more that 6%);

(iii) Limiting the increase to a specified cap on a monthly basis with the change in the equity-index being reflected in the product's values on a monthly basis(e.g. the change in the S&P 500 for the month but not more than 1.5%); or

(iv) Limiting the increase to the sum of the monthly changes in the index where the increase for each month is subject to a cap (e.g. the sum of the monthly changes in the S&P 500 where the increase for any month is limited to 2.5%).

(5) If there are limitations on the portion of a positive change in the equity-index that is reflected in the product value then such limitations must either be:

(i) Guaranteed for the entire period of the equity-index is in effect; or

(ii) Subject to periodic change where such change:

(a) Occurs no more frequently then annually;

(b) Is subject to minimums stated in the product for the entire period of time that the equity-index is in effect; and

(c) Any limitations that allows for increases in the portion of the product's value based on the equity-index accumulation amount above the stated minimums in the contract are considered additional amounts within the meaning of section four thousand two hundred thirty-two of the Insurance Law and are subject to all conditions and requirements thereto.

(6) Changes in the equity-index may not be considered more frequently than monthly and must be reflected in the product's value at least annually. The requirement for annual crediting of the change in the equity-index may reflect when the premium was received.

(7) If at the time a limitation on the equity-index is set, the limitation is such that, the change in the equity-index cannot exceed the amount currently being credited in any fixed account in the product for the period the limitation is set for, then the product should provide for the automatic transfer of the equity-indexed account to the fixed account. For example, if the equity-index is subject to a current limit of 3% on an annual basis and the current annual interest rate in the fixed account is 4%, the equity index account value should be transferred to the fixed account. This requirement:

(a) Applies only at the time the equity index limitation is set;

(b) Is not applicable if the contract does not provide for a fixed account option; and

(c) Is not applicable if transfers from the fixed account to the equity index account are not permitted