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REPORT ON THE REGULATION OF MINIMUM DEPOSIT PLANS

On July 31 of this year the New York Insurance Department issued Regulation 39, which is primarily concerned with so-called high cash value minimum-deposit policies. The Regulation devotes several pages to a discussion of the topic and then enunciates various regulatory doctrines under five major captions.

On October 6 there were published Actuarial Bureau Standards in Applying Regulation 39, which have the effect of rewriting substantial portions of the original Regulation. The two documents merit thoughtful scrutiny by any actuary associated with a life insurance company. My remarks will endeavor merely to sketch some of the high lights.

The original Regulation stated that where, by departure from its regular pattern of computing cash values, a company provides more favorable cash and loan values on certain policies than on other essentially similar policies, the granting of such values is construed to constitute unfair discrimination. However, the more recently published Standards indicate that this doctrine does not apply to policies issued outside of New York, nor to industrial, group or monthly debit ordinary. It does not apply to any policy having surrender charges at least equal to \$10 per \$1,000 in the first year, decreasing uniformly to the full reserve by the end of the fifth year. A company may, however, depart even farther from its regular pattern of cash values if it can justify the higher values on the basis of savings in per-policy expense, not on the basis of dividend adjustments or a redistribution of commissions, provided the surrender charges are at least \$8 in the first year and \$4 in the second year. Reasonable amount bands for higher cash values may be recognized provided the highest minimum does not exceed \$25,000. Likewise, on a minimum-amount policy form where size bands are not involved, the minimum amount may not exceed \$25,000. On policies where there is sufficient departure from the normal cash value pattern to require justification to the Department, first year policy loans are not allowed.

The second portion of the Regulation introduces a new concept of a premium in connection with what are characterized as high early cash value minimum-deposit policies. For purposes of Section 213 and Schedule Q, one utilizes, not the first year policy premium, but rather this amount less any policy loans granted by the company within 90 days after payment of the premium. On a policy where this provision is invoked and a maximum first year policy loan is made, the Regulation has the effect of allowing roughly term commission rates on the gross premium less the policy loan for purposes of Schedule Q. However, its applicability would seem to be decidedly limited if a company complies with the first portion of the Regulation everywhere.

The original Regulation seemed to require that, if a company offered the one-year term dividend option on any policy, it must do so on all policies. The later document, however, exempts substandard, term, industrial, group, monthly debit ordinary, and policies for amounts of $5,000 or less. A company may request approval by the Department of additional underwriting limitations on the granting of the option. If a company offers the one-year term dividend option, it must specify in its policy or rider the basis of the maximum charge, and its actual current annual charges must be consistent with the mortality charge in its regular annual dividend formula, with reasonable provision for expenses. The schedule of charges for 1960 must be filed with the Department.

All companies licensed in New York State are required to issue written instructions to their agents, incorporating basic rules and safeguards to be observed in the preparation and use of cost illustrations, comparisons, advertising and other promotional material. Both the home office and the agents are to be held responsible by the Insurance Department for the observance of these rules and the proper presentation of their merchandise in New York State. Illustrations involving the one-year term dividend option, at least on minimum-deposit policies, should indicate the policy duration at which available dividends become insufficient to purchase one-year term insurance equal to the maximum policy loan, and should include the figures for that policy year and at least the succeeding five years.

Finally the Regulation states that in connection with all applications for life insurance policies in New York State the company shall have in its files over the signature of the applicant a statement as to whether or not such policies are to replace existing insurance. Where an affirmative answer is given, the Regulation states that it is considered in the public interest that an opportunity to present the facts to the insured be given to the insurer which issued the existing insurance, so that the insured may have the benefit of all information from both companies as a basis for making a decision in his best interests.

So far as I am aware, no other insurance department has taken action in this area. Shortly after New York issued the original Regulation, the New Jersey Commissioner was reported in the trade press as being sympathetic with New York's objective of controlling this type of business, but he observed that he lacked statutory authority to take direct action.

One observation on New York's action may perhaps be permitted me. It is altogether possible that, in having established an upper limit for high early cash values, the New York Department may in effect have established a goal which many an agent may seek to have his company attain. Hence I reiterate my initial observation that it behooves each of you to become well acquainted with these documents.

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