

AGENT ALERT: UPDATED REGULATION 60 PROCEDURES AND MINOR CHANGES TO CERTAIN REGULATION FORMS

Please be advised that the Definition of Replacement (0010364XX) and the Annuity to Annuity Disclosure Statement (0010360XX) has been updated to reflect minor changes required by the New York State Department of Financial Services. All other Reg 60 forms are unchanged.

Effective immediately, please begin using the revised forms. Any stock of the prior editions should be discarded. Current version of the forms are available from Librarian.

Additionally, the NY Reg 60 procedures have been updated to reflect certain changes, please read the new procedure document carefully to ensure that you are in compliance with the process as outlined.

Questions can be directed to 800-765-6668 or email apolicy@smlny.com.



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Attachments

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Field Bulletin



SECURITY MUTUAL LIFE
INSURANCE COMPANY OF NEW YORK
BINGHAMTON • NEW YORK
607-723-3551 • www.smlny.com

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PROCEDURES FOR NEW YORK REGULATION 60 Replacement of Life Insurance Policies and Annuity Contracts

For every individual life insurance and annuity application written in the State of New York, unless specifically exempted (see Part III), writing agents and brokers must follow the procedures outlined below. See Field Bulletin 0011924XX for procedures applicable to Worksite applications and Field Bulletin 0013180XX for procedures applicable to Group applications.

Part I – Point of Sale

Step 1 – Complete the “Definition of Replacement” form 0010364XX. Ask and explain each question and have the applicant sign and date the form. The writing agent or broker also must sign and date this form. (**Note** that each question pertains to **ANY** existing coverage that may be replaced as part of the new purchase.)

Step 2 – If no replacement is involved based on the responses provided, proceed with completion of the application in the usual manner. Submit the completed original Definition of Replacement form with the application, make a copy for your records and leave a copy with the applicant.

Step 3 – If replacement of a life or annuity policy is indicated based on any “yes” answer recorded in the Definition of Replacement form, **STOP** writing the application. Leave a copy with the applicant, retain a copy for your records and submit the completed original to the Home Office with the application (see Step 9).

Step 4 – Complete the “Replacement Notification/Authorization” form 0010357XX, and have the owner *of the existing policy* sign the Authorization. Send or fax the Replacement Notification/Authorization to the insurance company whose policy or contract is being replaced, retain a copy for your records, and give a copy to the policyowner. **Note:** This form must be sent to the appropriate contact person as shown on the Department of Financial Services of the State of New York website. Contact information for each licensed insurer can be found at www.dfs.ny.gov/insurance/reg60/reg60contacts.htm.

- Send separate letters if more than one insurance company’s policies are being replaced, listing in each letter that company’s policies or annuity contracts that may be replaced.
- You must follow this step in every instance where another company’s life insurance policy or annuity contract is to be replaced. You may not use any other data to complete the “Disclosure Statement” form (see Step 6).
- However, if a Company life insurance policy or annuity contract is to be replaced (an “internal replacement”), you may either mail the “Replacement Notification/Authorization” form, or email or fax to the Home Office for the necessary information. Direct your inquiry to:

Individual Client Services
P. O. Box 1625
Binghamton, NY 13902
800-765-6668
Fax: 607-722-0598
apolicy@smlny.com

Step 5 – Fax to Underwriting (607-722-1528) your copy of the “Replacement Notification/Authorization” form(s) that you sent to the other insurer(s).

Step 6 – The insurer whose policy or contract is to be replaced is required to furnish you the information necessary to complete the “Disclosure Statement” form **within 20 days of receipt of the “Replacement Notification/Authorization” form**. If you do not receive the necessary information within approximately 26 days after mailing your request, you may proceed on a “good faith” basis using available data to complete the form. **Note:** On the Disclosure Statement form, indicate whether the information on the existing coverage was obtained from the replaced company(s) or whether approximations were used because the replaced company(s) failed to provide the information in the prescribed time.

- By this point, the other company will have notified its agent or broker of record of the possible replacement and provided to that agent or broker a copy of the same information sent to you.

Step 7 – If, after reviewing the sales illustration and the data sent by the other company, or—after 26 days—your “good faith” approximations based on available information, you and the applicant determine a replacement is appropriate—now complete the full “Disclosure Statement” form.

Important Note: Use “Disclosure Statement” form 0010360XX if the replacement is from an annuity to an annuity only. If the replacement is other than an annuity to an annuity, (life to life, annuity to life, life to annuity), use “Disclosure Statement” form 0010359XX.

The “Disclosure Statement” form must be signed by the applicant and the owner (if applicant is not to be the owner). If a spouse’s coverage is to be replaced, the spouse must also sign the form.

Submit the original of the “Disclosure Statement” completed in full, with the application. Retain a copy for your records and leave a copy with the applicant.

Step 8 – Review with the applicant the “Important Notice Regarding Replacement” form 0010363XX, and have the applicant sign and date the form. Submit the original with the application, retain a copy for your records and leave a copy with the applicant.

Step 9 – You may now proceed to complete the application in the usual manner. Send with the application the originals of the “Definition of Replacement” form, the “Disclosure Statement” form, the “Important Notice Regarding Replacement” form, copies of the information forwarded to you from the other company(s), the policy illustration and any other sales material used in the sales process that contains policy or contract information.

Part II – The Home Office

Step 10 – Within ten days of receipt of the application and accompanying documentation, Home Office personnel will review the data you submitted for accuracy and completeness. If data is incomplete or appears to be inaccurate, the Home Office will communicate to you, along with any other requirements, what is needed. Any missing information or any corrections must be furnished within ten days, otherwise, the Home Office **must** close out the file and write directly to the applicant (with a copy to the agent or broker) explaining why the application has been declined.

Step 11 – When data is complete and within 10 days from receipt of the application, copies of any proposal and sales materials used and the completed “Disclosure Statement” will be sent to the company being replaced. The underwriting process will continue in the usual manner.

Step 12 – If the policy is issued other than as applied for, you will receive the policy with delivery requirements to submit to the Home Office the following:

- A signed and dated illustration conforming to the policy as issued, marked “Revised Illustration”;
- A revised Disclosure Statement form, signed and dated;
- Any revised or additional sales material used that contains policy or contract information;
- “Acknowledgement of Policy Revision” form 0010358XX.

Step 13 – Any New York policy involving replacement must be issued with a 60-day free look. If the policyowner exercises his or her right to have the new policy cancelled, he or she *may* have the right to reinstate or restore the older policy, to the extent possible, to its original status without evidence of insurability.

Step 14 – When you have delivered the policy and obtained any and all delivery requirements, submit them to the Home Office along with any needed premium.

Step 15 – If a revised illustration and “Disclosure Statement” form were part of the delivery process, the Home Office will forward copies to the replaced company.

Step 16 – The policy will then be reported paid and commissions paid in the usual manner.

Please see the attached diagram of the processing steps for life insurance and annuity applications.

Part III – Exemptions

The requirements of Regulation 60 do not apply when:

- “(a) The application for the new life insurance policy or new annuity contract is made to the same insurer that issued the existing life insurance policy or annuity contract and a contractual conversion privilege is being exercised;
- (b) A policy change customarily granted by the insurer is being exercised, provided such change results in no additional surrender or expense charge or suicide or contestable restrictions, and only to the extent such change is approved by the Superintendent of Financial Services;
- (c) The new coverage is provided under:
 - (1) a group life insurance policy or group annuity contract, except when an agent, broker, or insurer directly solicits the certificate holder for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the certificate holder;
 - (2) an individual life insurance policy or individual annuity contract whose cost is borne wholly by the applicant’s employer or by an association of which the applicant is a member; or
 - (3) individual life insurance policies or individual annuity contracts covering employees of an employer, debtors of a creditor, or members of an association, that are distributed on a mass merchandising basis and administered by group-type methods, except when an agent, broker or insurer directly solicits the applicant for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the applicant; or
- (d) The existing life insurance is a nonrenewable, nonconvertible term policy with five years or less to its expiration date.”

Part IV – Prohibited Acts

The Regulation provides that:

- “(a) No insurer or agent or broker shall:
 - (1) make or give any deceptive or misleading information in the “Disclosure Statement” or in any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract;
 - (2) in completing the application, fail to ask the applicant the pertinent questions relating to the probability of replacement;

- (3) incorrectly record an answer;
- (4) counsel an applicant to answer the question(s) with respect to replacement negatively in order to prevent notice to the insurer to be replaced; or
- (5) counsel an applicant to write directly to the insurer in such a way as to attempt to bypass such insurer's agency representation or obscure the identity of the agent or broker replacing the life insurance policy or annuity contract."

Part V – The Forms

The following forms can be viewed and printed from SecurityLink. Two copies of each original, signed and dated form must be made by you. One copy is to be retained by you for your records, and the other copy is to be left with the applicant for his or her records. The original signed and dated form is to be sent to the Home Office, as instructed herein.

- Definition of Replacement0010364XX
- Replacement Notification/Authorization Letter.....0010357XX
- Disclosure Statement (use for life-to-life, annuity-to-life, life-to-annuity).....0010359XX
- Disclosure Statement (use for annuity-to-annuity only).....0010360XX
- Definitions and Complete Instructions for Disclosure Statement Form 0010359XX.....0010362XX
- Definitions and Complete Instructions for Disclosure Statement Form 0010360XX.....0010361XX
- Important Notice Regarding Replacement0010363XX
- Acknowledgement of Policy Revision (*to be furnished by the Underwriting Department if the policy is issued other than as applied for*).....0010358XX

Should you have any questions related to this bulletin or the New York Replacement Regulation in general, please contact Deborah Cuddy, Manager, Customer Relations/Product Filing at 1-800-346-7171, Ext. 7210 or email at dcuddy@smlny.com.



Frederick L. Wortman, CLU, ChFC, FLMI,
RHU, ACS, AIAA, REBC, AIRC, AAPA
Executive Vice President, Administration
Chief Compliance Officer

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The following diagram illustrates the processing steps for life insurance and annuity applications.

