STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street
San Francisco, California 94105

Bulletin 87-3

Amended November 1, 1992[1]

TO: All Admitted Insurers Authorized to Transact Life Insurance and Other Interested Persons

SUBJECT: Requirements for Issuance of Variable Life Insurance in California

This bulletin amends Bulletin 87-3 to authorize and regulate group variable life insurance policies in addition to the previously authorized individual variable life insurance policies.

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[1] Originally issued on March 27, 1987 and amended January 31, 1989.

PREFACE

1. Authority. California Insurance Code Section 10506.3(b) (Stats. 1986, Chapter 1328, A.B. 3604), effective January 1, 1987, directed the Insurance Commissioner of California to issue a Bulletin, on or before July 1, 1987, setting forth "conditions under which variable life insurance may be issued, or issued for delivery, in this state as permitted by Chapter 731 of the Statutes of 1984."[2] Section 10506.3(b) was amended in 1992 (Stats. 1992, Chapter 973, SB 1492), effective September 26, 1992, to authorize the Commissioner to amend the Bulletin on or before July 1, 1993 to "include reasonable provisions relating to requirements for group variable life insurance," which that legislation explicitly authorized through amendments to Insurance Code Section 10506 subpart (a) and the addition of new subpart (j).

By authority of Insurance Code Section 10506.3, Bulletin 87-3 has been issued to set forth standards applicable to variable life insurance, including but not limited to flexible premium variable life insurance policies, and to enable insurers to issue such policies in California. It is hereby amended to include provisions relating to group variable life insurance.

Except as amended to include group variable life insurance and to otherwise reflect statutory changes, the requirements in this Bulletin remain unchanged from the prior version dated January 31, 1989.

2. Purpose. The purpose of Bulletin 87-3 as hereby amended is to modify the existing variable life insurance regulations so as to permit the issuance in California of flexible premium variable life insurance, to authorize group variable life insurance explicitly, and to allow insurers a somewhat greater flexibility in investment policy for variable life insurance separate accounts, pending promulgation by the Insurance Department of formal amendments to various provisions of those regulations. In all likelihood, the text of the proposed amendments will be very similar to the terms of this Bulletin.

3. Effective Date. Bulletin 87-3 has been in effect since March 27, 1987 and remains in force, except as amended hereinafter. All amendments are effective immediately. Insurers already qualified to issue variable life insurance in this State, as well as insurers which have previously filed applications for variable life insurance qualification that contemplate issuance of group variable life insurance policies, should take the opportunity to review their operations or proposed operations in light of this Bulletin.

4. Duration. As prescribed by Insurance Code Section 10506.3(b), this Bulletin will remain in force until the process of promulgating formal regulatory amendments has been completed and the amended regulations have become final and effective. In the interim, as also specified by Section 10506.3(b), this Bulletin possesses the same force and effect as duly-promulgated regulations, and will be so administered and enforced by the Insurance Commissioner.

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[2] Chapter 731 of Stats. 1984 amended variable contract separate account investment limitations in Insurance Code Section 10506(a) which were considered inconsistent with the types of investments commonly employed in regard to newly-developed policies of variable life insurance termed "flexible premium variable life insurance." The apparent intent of this amendment was to remove perceived statutory impediments to amendment of existing regulations which govern variable life insurance in Article 11.1 of Title 10, California Code of Regulations, Section 2534 et seq. (Ruling 189) to authorize flexible premium variable life insurance policies in California.

5. Effect on Existing Regulations. As contemplated by the terms of Section 10506.3, this Bulletin supersedes the existing regulations for so long as the Bulletin remains in effect. It constitutes a complete set of guidelines for all forms of variable life insurance, supplementing the basic statutes pertaining to this business. Please note, however, that the Bulletin does not repeat statutory provisions. Therefore, Insurance Code Section 10506 et seq. should also be reviewed.

6. Comparison to NAIC Model Regulation. In many respects, particularly regarding individual policy form requirements, this Bulletin follows the substance of the Model Variable Life Insurance Regulation promulgated by the National Association of Insurance Commissioners (NAIC) in 1982. The Bulletin does not, however, follow the model NAIC regulation in all respects. In addition to expressly authorizing and regulating group variable life insurance, the Bulletin differs significantly from that model regulation in many other areas, such as materials to be filed when applying for variable life insurance qualification, computation of cash values for flexible premium policies, standards for investment of domestic insurers' separate account assets, and mandatory disclosures to applicants and policyholders.

Consequently, insurers which believe that their proposed variable life insurance policies or separate account operations comply with the NAIC model regulation should not automatically assume that they likewise comply with this Bulletin. They should verify compliance with the Bulletin's provisions.

7. Inquiries. Specific questions regarding this Bulletin should be referred to the Legal Division, Corporate Affairs Bureau, California Insurance Department, 45 Fremont Street, San Francisco, California 94105. Telephone: (415) 904-5665.

REQUIREMENTS FOR VARIABLE LIFE INSURANCE POLICIES AND SEPARATE ACCOUNTS

1. Definitions. As used in this Bulletin:

(a) "Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

(b) "Agent" means any person, corporation, partnership, or other legal entity which is licensed by this State as a life insurance agent.

(c) "Applicant" means in regard to individual policies, the person applying for an individual policy. In regard to group policies, it means the person applying for a group master policy and the person applying for or consenting to coverage under a group master policy.

(d) "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

(e) "Benefit base" means the amount to which the net investment return is applied.

(f) "Commissioner" means the Insurance Commissioner of this State.

(g) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other that a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than (10) percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the Commissioner that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(h) "Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as specified in subsection (r) of this Section.

(i) "General account" means all assets of the insurer other than assets in separate accounts established pursuant to Section 10506 of the Insurance Code of this State, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign insurer, whether or not for variable life insurance.

(j) "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

(k) "May" is permissive.

(l) "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

(m) "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

(n) "Person" means an individual, corporation, partnership, association, trust, or fund.

(o) "Policy" means an individual policy, a group master policy and a certificate issued under a group master policy.

(p) "Policyholder" means the owner or holder of an individual policy, the holder of a group master policy and the holder of a certificate issued thereunder.

(q) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(r) "Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

(s) "Separate account" means a separate account established under Section 10506 of the Insurance Code of this State for variable life insurance or under the corresponding section of the insurance laws of the state of domicile of a foreign insurer.

(t) "Shall" is mandatory.

(u) "Variable death benefit" means the amount of death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

(v) "Variable life insurance policy" means any individual policy, or group master policy issued only to groups referred to in Chapter 2 (commencing with Section 10200 of Part 2 of Division 2 of the Insurance Code) and individual certificates issued thereunder, which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer for such insurance as provided for in Section 10506 of the Insurance Code of this State or in the corresponding section of the insurance laws of the state of domicile of a foreign insurer.

2. <u>Qualification of Insurer to Issue Variable Life Insurance</u>.

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this State or having authority to issue variable life insurance in this State.

(a) Licensing and Approval to do Business in This State.

An insurer shall not deliver or issue for delivery in this State any variable life insurance policy unless:

(1) The insurer is licensed to do a life insurance business in this State;

(2) The insurer has obtained the written approval of the Commissioner for the issuance of variable life insurance policies in this State. The Commissioner shall grant such written approval only after he has found that:

(A) The plan of operation for the issuance of variable life insurance policies conforms to applicable provisions of this Bulletin;

(B) The general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer, are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this State; and

(C) The present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this State. The Commissioner shall consider, among other things:

(i) The history of operation and financial condition of the insurer;

(ii) The qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(iii) The applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(iv) If the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

(D) Among the factors the Commissioner may consider in determining whether an insurer's method of operation in connection with variable life insurance separate accounts, assets, investments and policies would be hazardous to policyholders are the following:

1. The amount and type of assets that are not readily marketable. Readily marketable assets are cash or assets having a readily ascertainable market value and which can be marketed before the close of the next business day.

2. Investments where ultimate loss could equal or exceed the initial amount invested.

3. The extent of borrowing to acquire investments.

(b) Filing for Approval to do Business in This State.

The Commissioner shall require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this State, file with this Department the following information for the consideration of the Commissioner in making the determination required by subsection (a)(2) of this Section. Insurers may satisfy the requirements of subsections (b)(1), (2), (3) and (4) of this Section by filing current copies of the proposed variable life insurance policy and all presently-effective prospectuses and statements of additional information as described in Section 6 of the Bulletin which pertain to the insurer's variable life insurance policy, separate account, and any investment companies or other funds or pools of assets serving as investments for the separate account.

(1) Copies of, and a general description of, all the variable life insurance policies it intends to issue;

(2) A general description of the methods of operation of the variable life insurance business of the insurer; including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

(3) With respect to any separate account maintained by an insurer for variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

(4) A description of any investment advisory services contemplated as required by Section 5(j) of this Bulletin;

(5) The statement required by subsection (f)(1) of this Section;

(6) A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy;

(7) The statements required by subsections (b)(3) and (b)(6) of Section 3;

(8) If requested by the Commissioner, a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;

(9) If requested by the Commissioner, biographical data with respect to officers and directors of the insurer, or any other persons with authority in the management of the separate account or its assets and investments, on the National Association of Insurance Commissioners Uniform Biographical Data Form;

(10) If requested by the Commissioner, a five-year actuarial projection, in such form and detail as the Commissioner may prescribe, based on reasonable and realistic assumptions described in the projection, which demonstrates that the insurer's current level of capital and surplus will be sufficient to maintain, at all times, an unimpaired combined capital and surplus of at least $10,000,000; and

(11) If requested by the Commissioner, such additional information and documentation concerning the insurer and its variable life operations, separate accounts, assets and investments as the Commissioner shall deem necessary.

(c) Standards of Suitability.

Every insurer seeking approval to enter into the variable life insurance business in this State shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

(d) Use of Sales Materials.

An insurer authorized to transact variable life insurance business in this State shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this State which is false, misleading, deceptive, or inaccurate. Variable life insurance sales material, advertising material, and descriptive literature shall be subject to the additional requirements contained in the California Code of Regulations, Title 10, Chapter 5, Subchapter 3, Article 12.7, insofar as such requirements are reasonably applicable.

(e) Requirements Applicable to Contractual Services.

Any contract with suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services which are material with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the Commissioner with any information or reports in connection with such services which the Commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with this Bulletin and any other applicable law or regulations.

(f) Reports to the Commissioner.

Any insurer authorized to transact the business of variable life insurance in this State shall submit to the Commissioner, in addition to any other materials which may be required by this Bulletin or any other applicable laws or regulations:

(1) An Annual Statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners;

(2) Prior to the use in this State any information furnished to applicants as provided for in Section 6;

(3) Prior to the use in this State the form of any of the Reports to Policyholders as provided for in Section 8; and

(4) Such additional information and documentation concerning its variable life insurance operations or its separate accounts as the Commissioner shall deem necessary.

Any material submitted to the Commissioner under this Section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the Commissioner shall require the distribution of amended material.

(g) Authority of Commissioner to Disapprove.

Any material specified in this Bulletin shall be subject to disapproval by the Commissioner if, at any time, it is found by him not to comply with the standards established in this Bulletin.

3. Insurance Policy Requirements - Policy Qualification.

The Commissioner shall not approve any variable life insurance form filed pursuant to this Bulletin, whether an individual policy, group master policy or certificate, unless it conforms to the requirements of this Section.

(a) Filing of Variable Life Insurance Policies. All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached to or be made a part of the policy, and which relate to the variable nature of the policy, shall be filed with the Commissioner and approved by him prior to delivery or issuance for delivery in this State.

(1) The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this Bulletin, the same as those otherwise applicable to other life insurance policies.

(2) The Commissioner may approve variable life insurance policies and related forms with provisions the Commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this Bulletin.

(b) Mandatory Policy Benefit and Design Requirements. Variable life insurance policies delivered or issued for delivery in this State shall comply with the following minimum requirements:

(1) Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

(2) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of Section 3[c][2] of this Bulletin).

(3) The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable life insurance policy is actuarially sound.

(4) Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

(5) Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(6) The cash value of each variable life insurance policy shall be determinable at least monthly. The method of computation of cash values and other non-forfeiture benefits, as

described either in the policy or in a statement maintained on file by the insurer and provided on request to policyholders, applicants and the Commissioner, shall be in accordance with actuarial procedures that recognize the variable nature of the policy.

(A) For scheduled premium variable life insurance policies, the method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values must at least equal the minimum values required by Section 10160 through 10167 (excluding Section 10165) of the California Insurance Code (Standard Non-forfeiture Law) for a general account policy with such premiums and benefits.

(B) For flexible premium variable life policies the method of computation must be such that the cash values are calculated consistent with the provisions of Sections 10163 through 10164.1 of the California Insurance Code. The Commissioner may prescribe such methods or standards concerning calculation of cash values as are deemed necessary in order for such calculations to comply with the requirements of this subsection.

(C) The assumed investment rate shall not exceed the maximum interest rate permitted under Sections 10163.1 and 10163.2 of the California Insurance Code. If the policy does not contain an assumed investment rate, the computation of cash value shall be based on the maximum interest rate permitted under these sections of the California Insurance Code.

(D) The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the plan at all times from the date of issue had been equal to the assumed investment rate for scheduled premium variable life insurance plans.

(7) The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the Commissioner.

(c) Mandatory Policy Provisions. Every variable life insurance policy filed for approval in this State shall contain at least the following:

(1) The cover page or pages corresponding to the cover page of each such policy shall contain:

(A) A prominent statement, in either contrasting color or in boldface type, that the amount or duration of death benefit may be variable or fixed under specified conditions;

(B) A prominent statement, in either contrasting color or in boldface type, that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

(C) A statement describing any minimum death benefit required pursuant to subsection (b)(2) of this Section;

(D) The method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

(E) To the extent permitted by state law, a captioned provision that the policyholder may return the variable life insurance policy within 10 days of receipt of the policy and receive a refund equal to the sum of (A) the difference between the premiums paid (including any policy fees or other charges and the amounts allocated to any separate accounts under the policy) and (B) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy; and

(F) Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this Bulletin.

(2)(A) For scheduled premium policies, a provision for a grace period of not less than thirty-one (31) days from the premium due date which shall provide that when the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premiums, as if the premium were paid on or before the due date.

(B) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than sixty-one (61) days after the mailing date of the Report to Policyholders required by subsection (c) of Section 8 of this Bulletin.

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than 3 times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

(3) For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash

surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(A) All overdue premiums with interest at a rate not exceeding the policy's loan interest rate in effect for the period during and after the lapse of the policy and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding the policy's loan interest rate in effect for the period during and after the lapse of the policy; or

(B) 110% of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding the policy's loan interest rate in effect for the period during and after the lapse of the policy.

(4) A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy.

(5) A provision designating the separate account to be used and stated that:

(A) The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account.

(B) The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

(6) A provision specifying what documents constitute the entire insurance contract under state law;

(7) A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties;

(8) An identification of the owner of the insurance policy;

(9) A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

(10) A statement of any conditions or requirements concerning the assignment of the policy;

(11) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

(12) A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured; provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy's issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two years from the date of issue of such increase;

(13) A provision stating that the investment policy of the separate account shall not be changed without the approval of the Insurance Commissioner of the state of domicile of the insurer, and that the approval process is on file with the Commissioner of this State;

(14) A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, partial withdrawals (except when used to pay premiums) or partial surrenders, may be deferred;

(A) For up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account; or

(B) Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical;

(15) If settlement options are provided, at least one such option shall be provided on a fixed basis only;

(16) A description of the basis for computing the cash value and the surrender value under the policy shall be included;

(17) Premiums or charges for incidental insurance benefits shall be stated separately;

(18) Any other policy provision required by this Bulletin;

(19) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation;

(20) A provision for non-forfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any non-forfeiture insurance options will not be available. Each paid-up non-forfeiture benefit option shall be such that its present value at least equals the cash surrender value provided by the policy on the effective date of the election of such benefit option. The present value shall be based on the non-forfeiture mortality and interest basis specified in the policy for determining the account value.

(d) Policy Loan Provision. Every variable life insurance policy other than term insurance policies and pure endowment policies, delivered or issued for delivery in this State shall contain provisions which are not less favorable to the policyholder than the following:

(1) A provision for policy loans after the policy or certificate has been in force for one full year, which provides the following:

(A) At least 75% of the policy cash surrender value may be borrowed;

(B) The amount borrowed shall bear interest at a rate not to exceed that permitted by state insurance law;

(C) Any indebtedness shall be deducted from the proceeds payable on death;

(D) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit;

(E) For scheduled premium policies, whenever the indebtedness exceeds the cash value plus the value of any dividends retained, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one (31) days after the date of mailing of such notice.

For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following plan processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by Section 8, subsection (c) of this Bulletin.

(F) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefits is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110% of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request;

(G) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision;

(H) No policy loan provision is required if the policy is under extended insurance non-forfeiture option;

(I) The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof;

(J) Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment, except that a stock insurer may provide the amounts for policy loans from the general account.

(e) Other Policy Provisions. The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this State:

(1) An exclusion for suicide within two years of the issue date of an individual policy or group certificate; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which result from an application of the owner subsequent to the policy's issue date;

(2) Incidental insurance benefits may be offered on a fixed or variable basis;

(3) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

(A) The amount of the dividend may be credited against premium payments;

(B) The amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

(C) The amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

(D) The amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

(E) The amount of the dividend may be deposited as a variable deposit in a separate account.

(4) A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under subsection (d) of this Section, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

(5) A provision allowing the policyholder to make partial withdrawals;

(6) Any other policy provision approved by the Commissioner.

4. Reserve Liabilities for Variable Life Insurance.

(a) Reserve liabilities for variable life insurance policies shall be established under Section 10489 et seq. of the California Insurance Code (Standard Valuation Law) in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(b) For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

(1) The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

(2) The aggregate total of the "attained age level" reserves on each variable life insurance policy. The "attained age level" reserve on each variable life insurance policy shall not be less than zero and shall equal the "residue," as described in paragraph (A), of the prior year's "attained age level" reserve on the policy, with any such "residue," increased or decreased by a payment computed on an attained age basis as described in paragraph (B) below.

(A) The "residue" of the prior year's "attained age level" reserve on each variable life insurance policy shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(B) The payment referred to in subsection (b)(2) of this Section shall be computed so that the present value of a level payment of that amount each year over the future premiums paying period of the policy is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in paragraph (A), of the prior year's "attained age level" reserve on such variable life insurance policy. If the policy is paid-up on a variable basis, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest but in no event may exceed the maximum interest rate permitted for the valuation of life insurance policies.

(3) The valuation interest rate and mortality table used in computing the two minimum reserves described in subparts (b)(1) and (b)(2) above shall conform to permissible standards for the valuation of life insurance policies. In determining such minimum reserve, the company may employ suitable approximations and estimates, including, but not limited, to groupings and averages.

(c) For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance policies. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(d) Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with the fixed aspects of variable incidental insurance benefits shall be maintained in the general account, and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

5. Separate Accounts.

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer, and by any foreign insurer unless and until its state of domicile has adopted the National Association of Insurance Commissioners (NAIC) Variable Life Insurance Model Regulation or requirements more restrictive than the NAIC Model Regulation, and further provided that either the insurer's state of domicile has implemented the NAIC Guideline accompanying Article VI, Section 3(b) of the Model Regulation, or the insurer makes an undertaking to comply with this NAIC Guideline:

(a) Establishment and Administration of Separate Accounts. An insurer issuing variable life insurance in this State shall establish one or more separate accounts pursuant to Section 10506 of the Insurance Code of this State.

(1) If no law or other regulation provides for the custody of separate accounts assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the Commissioner shall have authority to review and

approve both the terms of any such contract and the proposed custodian prior to the transfer of the custody.

(2) Such insurer shall not, without prior written approval of the Commissioner, employ in any material connection with the handling of separate account assets any person who:

(A) Within the last ten years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342 or 1343 of Title 18, United States Code; or

(B) Within the last ten years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(C) Within the last ten years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

(3) All persons with access to the cash, securities, or other assets of the separate account, shall be under bond in the amount of not less than the following amounts for each separate account:

TOTAL ASSETS		MINIMUM AMOUNT OF BOND
Under $100,000		$10,000
More Than	But Not More Than	
$100,000	$600,000	$10,000 plus 4% of assets over 100,000
600,000	1,200,000	30,000 plus 3 1/3% of assets over 600,000
1,200,000	3,200,000	50,000 plus 2 1/2% of assets over 1,200,000
3,200,000	4,450,000	100,000 plus 2% of assets over 3,200,000
4,450,000	6,450,000	125,000 plus 1 1/4% assets over 450,000
6,450,000	90,450,000	150,000 plus 5/8% of assets over 6,450,000
90,450,000	350,450,000	675,000 plus 3/8% of assets over 90,450,000
350,450,000	1,070,450,000	1,625,000 plus 3/16% assets over 350,450,000
1,070,450,000	----	3,075,000 plus 3/32% of assets over 1,070,450,000 until total bond equals 5,000,000

(b) Amounts in the Separate Account. The insurer shall maintain in such separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

(c) Investments by the Separate Account.

(1) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(A) In case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(B) Such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the Commissioner in advance.

(2) A variable life insurance separate account shall be deemed to have sufficient net investment income and readily marketable assets to meet anticipated obligations under policies funded by the account as required by Section 10506(a) of the Insurance Code of this State if, and only if, an insurer can demonstrate to the satisfaction of the Commissioner that the sum of the market value of readily marketable assets in the account at the date of valuation plus the anticipated net investment income for the calendar year following the date of valuation exceeds by at least 15% the anticipated death benefits, surrenders, withdrawals, and other such obligations payable during the same period. For the purposes of this demonstration, "readily marketable assets" has the same meaning as in Section 2(a)(2)(D)1 of this Bulletin; "net investment income" excludes capital gains and losses; and the value of the anticipated death benefits, surrenders, withdrawals and other such obligations payable during the calendar year following the date of valuation shall not be estimated at less than 10% of the market value of the account assets at the date of valuation.

If a variable life insurance separate account is divided into separate series, portfolios or other investment subdivisions, each series, portfolio or investment subdivision shall separately comply in full with this subsection.

(d) Limitations on Ownership.

(1) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such separate account in such security valued as required by these regulations, would exceed 10% of the value of the assets of the separate account. Except as provided in subsection (d)(3) of this Section, the Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous

to the public or the insurer or its policyholders in this State.

(2) No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts, in the aggregate, will own more than 10% of the total issued and outstanding voting securities of such issuer. The Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the insurer or its policyholders in this State, or jeopardize the independent operation of the issuer of such securities.

(3) Notwithstanding the percentage limitation specified in paragraph (d)(1) above, separate accounts may invest in shares of investment companies registered pursuant to the Investment Company Act of 1940, or other pools of investment assets if approved in writing by the Commissioner, provided that the investments and investment policies, valuation methods, management, service agreements, charges, standards of conduct and conflict of interest limitations of such investment companies or asset pools comply with the provisions of subsection (c) of this Section, and other applicable portions of this Bulletin and the Insurance Code of this State.

(e) Valuation of Separate Account Assets. The assets of the separate account shall be valued at least as often as variable benefits are determined, but in any event at least monthly.

(f) Separate Account Investment Policy. The investment policy of a separate account operated by a domestic insurer filed under Section 2(b)(3) of this Bulletin shall not be changed without first filing such change with the Insurance Commissioner.

(1) Any change filed pursuant to this Section shall be effective sixty (60) days after the date it was filed with the Commissioner, unless the Commissioner notifies the insurer before the end of such sixty (60) day period of his disapproval of the proposed change. At any time the Commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this Section.

(2) The Commissioner may disapprove the change if he determines that the change would be detrimental to the interests of the public or the insurer or its policyholders participating in such separate account.

(g) Charges Against Separate Account. The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

(1) Taxes or reserves for taxes attributable to investment gains and income of the separate account;

(2) Actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

(3) Actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(4) Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(5) A charge, at rate specified in the policy, for mortality and expense guarantees;

(6) Any amounts in excess of those required to be held in the separate accounts;

(7) Charges for incidental insurance benefits.

(h) Standards of Conduct. Every insurer seeking approval to enter into the variable life insurance business in this State shall adopt by formal action of its Board of Directors a written statement specifying the Standards of Conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such Standards of Conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17.j. under the Investment Company Act of 1940 and applicable rules and regulations thereunder, shall satisfy the provisions of this section.

(i) Conflicts of Interest. Rules under any provision of the Insurance Code of this State or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body, and to the officers and directors or members of any board, committee or other similar body of any investment company or pool described in subsection (d)(3) of this Section. The Board of Directors of the insurer shall be responsible for all acts concerning the separate account.

(j) Investment Advisory Services to a Separate Account. An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies, unless:

(1) The person providing such advice is registered as an investment advisor under the Investment Advice Act of 1940; or

(2) The person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

(3) The insurer has filed with the Commissioner, and continues to file annually, the following information and statements concerning the proposed advisor:

(A) The name and form of organization, state of organization, and its principal place of business;

(B) The names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment advisor be an individual, of such individual;

(C) A written Standard of Conduct complying in substance with the requirements of subsection (h) of this Section which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors, and affiliates;

(D) A statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

(*i*) Has within the last ten years been convicted of or has acknowledged commission of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of the United States Code;

(*ii*) Has permanently or temporarily been enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

(*iii*) Has been found by federal or state regulatory authorities to have willfully violated or has acknowledged willful violation of any provision of federal or state securities laws or insurance laws or of any rule or regulation under any such laws; or

(*iv*) Has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

(4) Such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty (60) days' written notice to the investment advisor.

The Commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer or the insurer's policyholders.

6. Information Furnished to Applicants.

Except as herein provided, an insurer delivering or issuing for delivery in this State any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information. Where a group policy will be non-contributory and owned by a trust for the benefit of employees and/or retirees, the information required in this Section need not be given to each prospective certificateholder.

The requirements of this Section shall be deemed to have been satisfied to the extent that a disclosure containing the information required by this Section is delivered to the applicant, either in the form of (1) a prospectus included in a registration statement which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission, together with any prospectus and any statement of additional information prepared pursuant to requirements of the Securities and Exchange Commission concerning any investment company described in subsection (d)(3) and (i)(3)(A) of Section 5 of this Bulletin, which has been declared effective; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.

(a) A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by subsections (c)(1)(E) and (c)(6) of Section 3.

(b) A statement of the investment policy of the separate account, including:

(1) A description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

(2) Any restrictions or limitations on the manner in which the operations of the separate account are intended to be conducted.

(c) A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence;

(d) A statement describing, as an approximate percentage of an annual gross premium for each year and for the life of the policy, all commissions or equivalent payments to be paid to all agents or other persons as a result of the proposed sale for each year of the policy for which such payments are to be made. As used in this subsection, "commissions" means all monies and other valuable consideration, including but not limited to prizes, bonuses paid directly or indirectly to, for, or on behalf of the selling agent as compensation for services in the sale of variable life insurance;

(e) A statement of the annual taxes, brokerage fees, and similar costs and charges, expressed as a dollar amount and as an annual percentage, levied against the separate account during the previous year;

(f) A summary of the method to be used in valuing assets held by the separate account;

(g) A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder, and the beneficiary;

(h) Illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investments experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

Any sales illustration shown or furnished in connection with the sale of variable life insurance must conform with the following requirements, except that these requirements only apply to the variable portion of policies with fixed and variable funding options. Subpart (9) of this subsection specifically pertains to variable life insurance contracts offering both fixed and variable funding options.

(1) The hypothetical interest rates used to illustrate accumulated policy values must be an annual effective gross rate after brokerage expenses and prior to any deduction for taxes, expenses and policy charges.

(2) If the illustrations of accumulated contract values are shown, then, for the highest interest rate used, one illustration must be based solely upon guarantees contained in the policy being illustrated. (For example, if the illustration includes the effect of mortality charges and administrative charges which are below the guaranteed maximums for such charges, an illustration must be prepared which involves the effect of the maximum charges.)

(3) Except for illustrations contained in a prospectus pertaining to the policy being illustrated, the pattern of premium payments used in an illustration should be the initial pattern requested by the proposed policyholder at inception or upon changes in face amount requested by the policyholder.

(4) If the illustrated policy provides for multiple investment options, the illustration may either use an asset charge which is reasonably representative, or use the asset charge of a particular option. The illustration should clearly identify the asset charge and either label it "hypothetical" or identify the option.

(5) The illustration must disclose the transaction charges which will be levied against the contract because of transactions requested in accordance with rights and privileges specified in the contract. Any charge for the exercise of a right or privilege upon which the illustration is based must be reflected in the illustrated values. The nature of any other such charges must be disclosed in a clear statement accompanying such illustrations. (For example, a charge to switch from one investment option or death benefit option to another.)

(6) A clear statement must be made, following the table of illustrated accumulated values, that use of hypothetical investment results does not in any way represent actual results or suggest that such results will be achieved, and also must indicate that the policy values which actually arise will differ from those shown whenever the actual investment results differ from the hypothetical rates illustrated. Assumptions upon which illustrations are based must be clearly disclosed.

(7) Any sales illustration to a prospective policyholder must accurately reflect the policy being presented. Misleading statements, captions or other misrepresentations are prohibited.

(8) The requested sales illustration must be printed clearly and legibly on paper. An illustration displayed on a computer screen may be used in addition to, but not as a substitute for, a paper copy.

(9) Variable life insurance contracts offering both fixed and variable funding options shall comply with the following requirements:

(A) Illustrations of the variable funding option must comply with this subsection 6(h).

(B) Illustrations of the fixed funding option must show accumulated policy values on the basis of guaranteed rates. One or more additional rates may also be shown, but such rates may not exceed current rates.

(C) A summary illustration may be given in which results from comparable illustrated and hypothetical interest rates are combined. Such summary must cross-reference to the accompanying separate illustrations of the fixed and variable funding options.

7. Applications.

Except as provided in subsection (d) herein, the application for a variable life insurance policy shall contain:

(a) A prominent statement that the death benefit may be variable or fixed under specified conditions;

(b) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

(c) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

(d) Where a group policy will be non-contributory and owned by a trust for the benefit of employees and/or retirees, (a) and (b) need not be disclosed to each prospective certificateholder in the application and the questions under (c) need not be asked of each prospective certificateholder.

8. Reports to Policyholders.

Except as provided in subsection (d) herein, any insurer delivering or issuing for delivery in this State any variable life insurance policy shall mail to each variable life insurance policyholder at his or her last known address the following reports. The requirements of this Section shall be deemed to have been satisfied by so mailing to each such policyholder the information required by this Section in the form of copies of reports, disclosures or filings submitted to the Securities and Exchange Commission.

(a) An annual statement of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to Section 3(d) under the policy. Such statement shall be furnished within thirty days after the policy anniversary date or any other specified date in each policy year. All information contained therein must be computed as of a date not more than sixty (60) days prior to the mailing of the statement. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this subsection. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (i) planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

(b) Annually, a statement or statements including:

(1) A summary of the financial statement of the separate account based on the annual statement last filed with the Commissioner;

(2) The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

(3) A list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner;

(4) Any charges, taxes and brokerage fees levied against the separate account during the previous year, each expressed as a dollar amount and as a percentage of the assets of the separate account, and the total amount expressed as a dollar amount and as a percentage;

(5) A statement of the portfolio turnover rate, as defined herein, during the preceding fiscal year of investments allocated to the separate account.

(A) The rate shall be calculated by dividing (A) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the separate account during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13, except that the average value of securities for which market quotations are not available may be based upon the value of such securities as of the end of the preceding fiscal quarters.

(B) For the purposes of this item, there shall be excluded from both the numerator and the denominator all U.S. Government securities (short-term and long-term) and all other securities whose maturities at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of redemptions of portfolio securities by call or maturity.

(C) The insurer shall show, in addition to the calculated portfolio turnover rate, both the amount of the purchases and the amount of the sales (calculated as prescribed in [B] above) and the monthly average (but not the individual monthly figures) of the value of the portfolio securities owned by the separate account during the fiscal year.

(D) The insurer may, if it wishes, make any statement or explanation with respect to any significant variations in the portfolio turnover rate during the three fiscal years next preceding;

(6) A statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account, or in the investment advisor of the separate account;

(7) The name of each broker or dealer handling portfolio transactions on behalf of the separate account in which the insurer or an affiliate has any material direct or indirect interest, and the nature of such transactions and the amount of compensation received by each such broker or dealer from business originating with the separate account during the preceding fiscal year;

(8) The names and principal occupations of each principal executive officer and each director of the insurer, and

(9) The names of all parents of the insurer and the basis of control of the insurer, and the name of any person who is known to own, of record or beneficially, 10% or more of the outstanding voting securities of the company.

(c) For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

(d) Where a group policy is non-contributory and owned by a trust for the benefit of employees and/or retirees, the reports required in this Section need not be made to each certificateholder.

9. <u>Qualifications of Agents for the Sale of Variable Life Insurance</u>.

(a) Authorization to Sell Variable Life Insurance. No person may sell or offer for sale in this State any variable life insurance policy unless such person is a life agent and has filed with the Commissioner, in a form satisfactory to the Commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable life insurance.

(b) Reports of Disciplinary Actions. Any person qualified in this State under this Section to sell or offer to sell variable life insurance shall immediately report to the Commissioner:

(1) Any suspension or revocation of his agent's license in any other state or territory of the United States;

(2) The imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

(3) Any judgement or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(c) Refusal to Qualify Agent to Sell Variable Life Insurance: Suspension, Revocation, or Nonrenewal of Qualification. The Commissioner may reject any application or suspend or revoke or refuse to renew any agent's authority under this Section to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this State. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's authority to sell or offer to sell variable life insurance.

10. <u>Severability Provision</u>.

If any provision of this Bulletin or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Bulletin and the application of such provision to other persons or circumstances shall not be affected thereby.

JOHN GARAMENDI
Insurance Commissioner