

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Life Insurance and Annuities Replacement

Proposed Amendments: N.J.A.C. 11: 4-2.1 and 2.2

Proposed Repeals and New Rules: N.J.A.C. 11: 4-2.3 through 2.8, Exhibits A through C

Proposed Repeal: N.J.A.C. 11: 4-2.3 through 2.8, Appendices D

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:29B-1 et seq. and 17B: 30-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number. PRN 2004-158

Submit comments by July 2, 2004 to:

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The agency proposal follows:

**Summary**

In recent years, the regulation of replacements of life insurance policies and annuity contracts has received considerable attention by the Department, the National Association of Insurance Commissioners (NAIC) and by other states. This Summary will survey this history briefly to provide background for the current proposed new rules, amendments and repeals.

On September 14, 1998, the NAIC adopted a model regulation that superceded an earlier model regulation addressing the replacement of life insurance. This 1998 model was developed to address findings of market conduct examinations and allegations made in litigation that insurers had been using misleading tactics to encourage policyholders to replace existing coverage. The 1998 model increased protection for consumers by establishing minimum standards of conduct for insurers and producers to assure that purchasers received information that would help them make a more informed decision that was in their best interest.

In November 1999, the Department proposed a new rule that would have adopted the substance of the 1998 NAIC model rule. The Department received seven comments on the proposed new rule. Generally, the commenters opposed certain provisions of the proposal and recommended that the regulations be amended in a manner that would make compliance more manageable for the industry. In making these recommendations, many commenters suggested that the Department adopt the replacement regulation that had been promulgated by the State of Iowa ("Iowa version").

Prior to the Department's 1999 proposal, the State of Iowa had proposed a replacement regulation that was originally modeled on the 1998 NAIC regulation. Upon adoption, the proposal was modified in response to public comments. The comments received in Iowa prompted the NAIC to reexamine its model replacement regulation and to promulgate a new NAIC model in 2000. The NAIC model regulation can be found at [www.naic.org](http://www.naic.org).

In light of the comments received by the Department in response to its 1999 proposal, the developments in Iowa, and the subsequent changes in the NAIC model, the Department decided that its replacement regulations should be brought into substantial conformity with the 2000 NAIC model regulation. Therefore, the Department did not adopt its 1999 proposal. The current proposal is based on the 2000 NAIC model regulation and is in substantial conformity with it.

The purposes of the proposed new rules are as follows:

1. To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities; and
2. To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions by:
  - i. Assuring that a purchaser receives information so that a decision can be made in his or her own best interest;
  - ii. Reducing the opportunity for misrepresentation and incomplete disclosures; and
  - iii. Establishing penalties for failure to comply with the requirements of this subchapter.

There are several significant differences between the provisions of the proposed new rules, amendments and repeals and the Department's existing replacement rules, found at N.J.A.C. 11:4-2. The major proposed changes, which will enhance the protections afforded to New Jersey consumers, are highlighted below.

The Department's current rules apply to the replacement of life insurance policies. The proposed amendment to N.J.A.C. 11:4-2.1 expands the scope of the current rules to include the replacement of annuities as well as life insurance policies. Also, the amendment changes the references to "agent" in the subchapter to "producer" in conformity with the provisions of the Producer Licensing Act of 2001, N.J.S.A. 17: 22A-28, et seq.

Proposed N.J.A.C. 11:4-2.1(c) 3, expands the number of transactions that are exempt from the requirements in the subchapter. The proposed expanded list of exemptions is based largely on the 2000 NAIC model regulation, with a slight variation. Specifically, N.J.A.C. 11:4-2.1(c)3, the paragraph that deals with prearranged funeral contracts, differs from the model regulation. The NAIC model exempts all group life insurance and group annuities used to fund prearranged funeral contracts. The Department's proposal

will exempt group life insurance and group annuities used to fund prearranged funeral contracts only where there is no producer involvement in the transaction. However, where a producer is involved in the transaction, there is no exemption.

Proposed N.J.A.C. 11:4-2.1(d) provides that the subchapter shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy.

Proposed N.J.A.C. 11:4-2.1(e) provides that registered contracts are to be exempted from the requirements in N.J.A.C. 11:4-2.4(a)3 and 2.6(a)2 with respect to the providing of illustrations or policy summaries. It further provides that in lieu of illustrations or policy summaries, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular should be provided on registered contracts.

N.J.A.C. 11:4-2.2 is the definitions section of the proposed new rule. It modifies certain definitions and expands upon others in the current regulation so as to clarify their meanings. The terms “affiliate,” “annuity,” “life insurance,” “insurance producer” and “registered contract” are statutorily defined terms. Most of the other definitions, including those of the terms “direct-response solicitation,” “existing policy or contract,” “financed purchase” and “sales materials” are in conformity with those in the 2000 NAIC model regulation on replacement transactions.

The Department's current definition of "replacement" includes transactions where existing policies or contracts are used to finance purchases of replacement policies only for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy. In contrast, proposed N.J.A.C. 11:4-2.2 includes under the definition of replacement any applicable transaction involving a “financed purchase.” The term,

“financed purchase,” includes any transaction that uses the values in an existing policy to pay all or any part of any premium due on a new policy.

In addition, the proposed definition of “financed purchase” creates a standard for determining whether a financed purchase was intended in any given transaction. This standard, which incorporates the NAIC standard provision, provides that, for purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company within four months before and 13 months after the effective date of the new policy, it will be deemed *prima facie* evidence of the policyholder’s intent to finance the purchase of the new policy with existing policy values.

Proposed N.J.A.C. 11:4-2.3 deals with the duties of producers. The proposed repeal and new rule eliminates certain forms currently being used and revises other forms in order to ensure that they are consistent with the Life Insurance Solicitation Regulation, N.J.A.C. 11:4-11.1. Subsection (a) requires producers who initiate applications to submit to insurers a statement, signed by both the applicant and the producer, indicating whether the applicant has existing policies or contracts. It provides that where there are no existing policies or contracts, the producer’s duties with respect to replacement are complete. If an applicant indicates to a producer initiating an application for replacement coverage that he or she has an existing policy or contract, proposed N.J.A.C. 11:4-2.3(b), unlike the Department's existing rules, requires that the producer offer to read a notice to the applicant regarding replacement coverage. The producer and the applicant are required to sign the notice attesting either that the notice was read aloud or that the applicant did not wish the notice to be read aloud. Also, the producer is required by subsection (c) to provide to the applicant the original copies of all sales materials used at the time the transaction is completed. If the sales presentation uses electronic sales materials, copies are to be provided no later than the time of the policy delivery. Subsection (d) requires producers to provide to insurers copies of the sales materials used during

the replacement transaction and to identify all electronically presented company-approved sales materials and illustrations.

Proposed N.J.A.C. 11:4-2.4(a) requires insurers involved in replacement transactions to: verify that the required forms are received and are in compliance with the subchapters; ascertain that all sales materials also comply with the subchapter and are accurate and complete; notify any other existing insurer that may be affected by the transaction within five business days and mail to that insurer within five business days of a request from that insurer information as set forth in paragraph (a)3 of that subsection; and to be able to produce records as set forth in paragraph (a)4. Furthermore, the Department's current rule requires only a 20-day "free look" period. In contrast, proposed N.J.A.C. 11:4-2.4(a)5 requires replacing insurers to provide a 30-day period within which policy or contract owners may return the policy or contract and obtain a full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, the cash surrender value provided under the policy or contract plus the fees or other charges deducted from the gross premiums or considerations or imposed under such policy or contract.

For replacement transactions in which the replacing insurer is the same as, or an affiliate of the existing insurer, proposed N.J.A.C. 11:4-2.4(b) will require that credit be given for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. Proposed N.J.A.C. 11:4-2.4(c) requires that reporting insurers maintain records in one or more of a variety of formats that accurately reproduce the actual document.

The proposed new rules establish various provisions that require insurers to supervise and monitor the activities of their producers. Proposed N.J.A.C. 11:4-2.5(a)1 places responsibility upon insurers to include replacement requirements in their training manuals. N.J.A.C. 11:4-2.5(a)2 places a new responsibility upon insurers. It requires insurers to provide producers with a written statement of the company's position

concerning the acceptability of replacements, and to provide guidance to producers regarding the appropriateness of such transactions. The remaining new paragraphs in N.J.A.C. 11:4-2.5(a) require replacing insurers who use producers to include in their system of control a system to review each transaction that a producer indicates is not in accordance with the company's position on the acceptability of replacements, procedures to verify that the requirements of this subchapter have been met, and procedures to detect replacement transactions by the existing insurers, but that have not been reported as such by the applicant or producer.

Proposed N.J.A.C. 11:4-2.5(b) further requires insurers to have the capacity to produce and make available to the Department records of each producer's replacements. These replacement records include: (1) life replacements, including finance purchases as a percentage of the producer's total annual sales of life insurance policies; (2) the number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance; (3) annuity contract replacements as a percentage of the producer's total annual annuity contract sales; (4) the number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system; and (5) replacements indexed by replacing producer and existing insurer.

Proposed N.J.A.C. 11:4-2.5(c) through (g) change the procedures used by insurers regarding how replacement transactions are to be conducted. Applicants and producers must provide signed statements indicating whether the applicant has existing policies or contracts and, if so, the notice set forth in Appendix A must also be provided. Insurers must maintain records of all replacement transactions as set forth in subsection (e) and are required to be able to produce those records if the need arises. Also, pursuant to subsection (f), insurers are required to notify the producer and applicant if there are any outstanding requirements and fulfill any such requirements which the insurer has the ability to fulfill. Subsection (g) provides that if an insurer prohibits the use of sales material that is not approved by the company, as an

alternative to complying with N.J.A.C. 11:4-2.3(d), the insurer may require compliance with the requirements set forth in paragraphs (g)1 and 2. Subsection (h) requires insurers who opt for the alternative approach set forth in subsection (g) to be able to produce records verifying their compliance with paragraph (g)2 for at least five years after the termination or expiration of the policy or contract.

Proposed N.J.A.C. 11:4-2.6(a) requires existing insurers, where a replacement is involved in a transaction, to send a letter to the policy or contract owner advising him or her of the right to receive information regarding the existing policy or contract values. Existing insurers are further required to provide applicants requesting to borrow, surrender or withdraw any policy values with a notice of the effect that release of the values will have on the non-guaranteed elements, face amount or surrender value of the policy from which the values are released.

Proposed N.J.A.C. 11:4-2.7 deals with duties of insurers with regard to direct response solicitations. Proposed subsection (a) details insurers' obligations to applicants should the applicant indicate that they do not wish to replace an existing policy, or should they fail to respond to the statement to be provided to applicants by the insurer inquiring as to whether, by applying for the proposed policy or contract, the applicant intends to replace, discontinue, or change an existing policy or contract. Subsection (b) sets forth the requirements applicable to insurers where the applicant responds to the inquiry from the insurer as to the applicant's intention with regard to an existing policy or contract by indicating that a replacement is intended.

Proposed N.J.A.C. 11:4-2.8 sets forth the penalties for violations of the replacement regulations and, consistent with the 2000 NAIC model regulation, provides examples of specific violations. Subsection (a) provides that any failure to comply with the requirements shall be considered a violation of N.J.S.A.17B:30-6. Specified examples of such violations include; deceptive or misleading information provided in sales materials, failing to ask the applicant appropriate questions, intentional incorrect recording of an answer,



advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer or advising a policy owner to write directly to the company in such a way as attempt to obscure the activity of the replacing producer or company. Subsection (b) provides that policy owners are allowed to change their mind about replacing policies, however, where the policy or contract owner of the same producer have indicated that replacement was not their intention this pattern shall be deemed *prima facie* evidence of the producer's knowledge that replacement was intended. Subsection (c) provides that insurers shall provide applicants notice in Appendix A or C where the replacement requirements have not been met. Subsection (d) provides that any violations of replacement rules may result in the revocation or suspension of a producer license or a company's certificate of authority, monetary fines and forfeiture of any commissions paid with respect to the replacement transaction.

The following current sections are proposed for repeal: N.J.A.C. 11:4-2.3 through 2.8. Subchapter Appendices A through D are also proposed for repeal. The Comparative Information Forms, Appendix D, are no longer necessary since the adoption of the life illustrations rules at N.J.A.C. 11:4-5.2. The existing appendices are being replaced by documents that reflect the proposed amendments.

The Department's proposed new rules and amendments are further summarized as follows:

Proposed N.J.A.C. 11:4-2.1 contains the purpose and scope of the subchapter.

Proposed N.J.A.C. 11:4-2.2 contains definitions of terms used throughout the subchapter.

Proposed N.J.A.C. 11:4-2.3 sets forth the duties of producers in the replacement of life insurance policies or annuities contracts.

Proposed N.J.A.C. 11:4-2.4 sets forth the duties of replacing insurers.

Proposed N.J.A.C., 11:4-2.5 sets forth the duties of insurers that use producers.

Proposed N.J.A.C. 11:4-2.6 sets forth the duties of existing insurers.

Proposed N.J.A.C. 11:4-2.7 sets forth the duties of insurers with respect to direct response solicitations.

Proposed N.J.A.C. 11:4-2.8 contains examples of violations of the subchapter and penalties that may be imposed as a result of such violations.

Proposed Appendix A is the notice regarding replacement required by N.J.A.C. 11:4-2.3 that producers must offer to read to applicants who indicate that they have existing policies or contracts. The notice is to be signed by both the applicant and the producer and is retained by the applicant.

Proposed Appendix B is the notice regarding replacement required by N.J.A.C. 11:4-2.7. It is to be sent to applicants by insurers initiating direct response solicitations when the applicants either indicated that they did not intend to replace, discontinue or change an existing policy or contract or failed to respond to the statement.

Proposed Appendix C is the notice regarding replacement required by N.J.A.C. 11:4-2.7 to be sent by an insurer to an applicant in connection with a direct response solicitation when the insurer has proposed replacement or when the applicant indicates a replacement is intended.

A 60-day comment period is provided and therefore the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

### **Social Impact**

The proposed new rules amendments and repeals will have a favorable impact on consumers in that the rules require insurers and/or producers to provide consumers with sufficient information to make a fully informed decision concerning the purchase of life insurance and annuity replacement coverage.

The proposed new rules, amendments and repeals create an affirmative obligation on insurers to monitor producers' replacement activities. Insurers and producers should be favorably impacted in that their

compliance with the additional requirements imposed by these rules will help to prevent future policyholder complaints concerning the use of misleading tactics to encourage consumers to purchase replacement coverage and better enable insurers and producers to respond to those complaints that are filed.

The proposed new rules, amendments and repeals will also enhance the Department's ability to monitor marketplace activities regarding replacements.

### **Economic Impact**

The proposed new rules, amendments and repeals will have a favorable impact on consumers in that the additional requirements imposed on insurers and producers will enable consumers to make more informed choices concerning life insurance and annuity replacement coverage that better serve their best pecuniary interest.

The proposed new rules, amendments and repeals will impose additional costs on insurers and affected producers and require them to produce, distribute and maintain certain forms and/or data concerning replacement transactions previously not required. These additional costs are necessary to safeguard consumers.

Elimination of the requirement that a comparative information form be completed and retained will have a positive impact on insurers because of associated cost savings.

### **Federal Standards Statement**

A Federal standards analysis is required when any State agency proposes to adopt, readopt, or amend State regulations that exceed any Federal standards or requirements.

A Federal standards analysis is not required because the proposed new rules, amendments and repeals are exclusively the subject of State law and are not subject to any Federal standards or requirements.

### **Jobs Impact**

The Department has determined that no jobs will be generated or lost as a consequence of the proposed new rules, amendments and repeals. The Department welcomes input on this subject from all knowledgeable commenters.

### **Agriculture Industry Impact**

The Department does not anticipate any impact on agriculture from the proposed new rules, amendments and repeals.

### **Regulatory Flexibility Analysis**

While insurers affected by the proposed new rules, amendments and repeals typically have a workforce in excess of 100 people, some producers affected by these rules may be considered small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Accordingly, a regulatory flexibility analysis is necessary because the rules impose certain reporting, record keeping and compliance requirements on these producers. Proposed N.J.A.C. 11:4-2.3 requires producers who initiate applications for life insurance policies or annuity contracts to submit certain statements and notices to the insurer concerning existing policies or contracts, and to provide the applicant with copies of certain documents. It is unlikely that producers will need outside professional services to comply with these requirements. Rather, producers using the traditional method of presentation will provide applicants with additional documents related to the replacement transaction. However, producers using electronic presentation methods will be required to give those additional documents to applicants no later than at the time of policy or contract delivery. The timing of the delivery of the replacement documents does not impose any undue burden on producers. In addition, the proposed amendments and new rules do not

establish any differing compliance or reporting requirements based on the size of or resources available to producers. The requirements are necessary for the protection of consumers in all replacement transactions involving producers. Thus, no distinction is made amongst producers based on business size. With respect to insurers, based upon the same consumer protection considerations, the proposed amendments and new rule provide no differentiation in compliance requirements based on business size. All insurers should be able to comply with the proposed new rule and amendments utilizing current staff, professional services and resources, as most of the new and revised requirements involve enhanced notification, review and recordkeeping requirements relevant to replacement transactions. The compliance costs of the proposed amendments and new rule are discussed in the Economic Impact Statement above. Proposed N.J.A.C. 11:4-2.8(a) provides that any failure to comply with the requirements of this subchapter will be considered a violation of N.J.S.A. 17B:30-6. Pursuant to N.J.S.A. 17B:30-17, violations of N.J.S.A. 17B:30-6 are subject to a penalty not to exceed \$1,000 for each violation unless the person knew or reasonably should have known he was in violation, in which case the penalty shall be not more than \$5,000 for every violation. This statute makes no provision for the imposition of reduced penalties based upon the business size of the violator. Accordingly, no such provision is made in the subchapter as proposed.

### **Smart Growth Impact**

The proposed new rules, amendments and repeals will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

**Full text** of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:4-2.3 through 2.8 and 11:4-2, Appendices A through D.

**Full text** of the proposed new rules and amendments follows (additions indicated in boldface **thus;** deletions indicated in brackets [thus]).

#### 11:4-2.1 Purpose and scope

(a) The purpose of this subchapter is:

1. To regulate the activities of insurers and [agents] **producers** with respect to the replacement of existing life insurance **and annuities; and**

2. To protect the interests of life insurance [policyowners] **and annuity purchasers** by establishing minimum standards of conduct to be observed in [the] replacement or [proposed replacement of existing life insurance] **financed purchase transactions** by:

i. Assuring that [the policyowner] **a purchaser** receives information with which a decision can be made in his or her own best interest;

ii. - iii. (No change.)

**(b) This subchapter shall apply to all replacement transactions of life insurance policies and annuities contracts issued or delivered in this State except as set forth at (c) below.**

**(c) Unless otherwise specifically included, this subchapter shall not apply to transactions involving:**

**1. Credit life insurance;**

**2. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity**

certificates marketed through direct response solicitation shall be subject to the provisions of N.J.A.C. 11:4-2.7;

3. Group life insurance and group annuities used to fund prearranged funeral contracts where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual;

4. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Commissioner;

5. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

6. Policies or contracts used to fund:

i. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

ii. A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

iii. A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

iv. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

7. Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

8. Existing life insurance that is a non-convertible term life insurance policy that shall expire in five years or less and cannot be renewed;

9. Immediate annuities that are purchased with proceeds from an existing annuity contract. Immediate annuities purchased with proceeds from an existing life insurance policy are not exempted from the requirements of this subchapter; or

10. Structured settlements.

(d) Notwithstanding (c)6 above, this subchapter shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

(e) Registered contracts shall be exempt from the requirements of N.J.A.C. 11:4-2.4(a)3 and 2.6(a)2 with respect to the providing of illustrations or policy summaries; however, in lieu of providing such illustrations of policy summaries, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be provided on such contracts.



## 11:4-2.2 Definitions

**The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.**

**"Affiliate" means the term as defined in N.J.S.A. 17:27A-1a**

**"Annuity" means the term as defined in N.J.S.A. 17B:17-5**

["Cash dividend" means the current illustrated dividend, which can be applied toward payment of the gross premium.

"Conservation" means any attempt by the existing insurer or its agent to continue existing life insurance in force when existing insurer has received a Comparative Information Form as required by N.J.A.C. 11:4-2.5(a)3iv from a replacing insurer. A conservation effort does not include routine administrative procedures like late payment reminders, late payment offers or reinstatement offers.]

**"Contract" means an annuity contract.**

["Direct-response sales" means any sale of life insurance where the insurer does not utilize an agent in the sale or delivery of the policy.]

**"Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mail, telephone, the Internet or other mass communication media.**

"Existing insurer" means the insurance company whose policy **or contract** is or [will] **shall** be changed or [terminated] **affected** in [such] a manner [as] described within the definition of "replacement".

["Existing life insurance" means any life insurance in force including life insurance under a binding or conditional receipt of a life insurance policy that is within an unconditional refund period, but excluding life insurance obtained through the exercise of a dividend option.]

**"Existing policy or contract" means an individual life insurance policy or annuity contract in force, including a policy under a binding or conditional receipt or a policy or contract, that is within an unconditional refund period.**

**"Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of, an existing policy to pay all or part of any premium due on the new policy. For the purposes of a regulatory review of an individual transaction only, if the proceeds from a withdrawal, surrender or borrowing involving the policy values of an existing policy are used to pay premiums on a new policy owned by the same policyholder and issued by the same company within four months before and 13 months after the effective date of the new policy, it will be deemed *prima facie* evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This *prima facie* standard is not intended to increase or decrease the monitoring obligations contained in N.J.A.C. 11:4-2.5(a)5.**

["Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.]

**"Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined at N.J.A.C. 11:4-5.2.**

**"Life insurance" means the term as defined at N.J.S.A. 17B: 17-3.**

**"Policy" means a life insurance policy.**

**"Policy summary" means:**

**1. For policies or contracts other than universal life policies, a written statement regarding a policy or contract that shall contain to the extent applicable, but need not be limited to, the following information;**

**i. Current death benefit;**

- ii. Annual contract premium;
- iii. Current cash surrender value;
- iv. Current dividend;
- v. Application of current dividend; and
- vi. Amount of outstanding loan;

2. For universal life policies, a written statement that shall contain at least the following information:

- i. the beginning and end date of the current report period;
- ii. the policy value at the end of the previous report period and at the end of the current report period;
- iii. the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (for example, interest, mortality, expense and riders);
- iv. the current death benefit at the end of the current report period on each life covered by the policy;
- v. the net cash surrender value of the policy as of the end of the current report period; and
- vi. the amount of outstanding loans, if any, as of the end of the current report period.

"Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance pursuant to N.J.S.A. 17:22A-28.

"Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Federal Securities Act of 1933, 15 U.S.C. §§77a et seq.

"Replacement" means [any] **a** transaction in which **a** new [life insurance] **policy or contract** is to be purchased, and it is known or should be known to the proposing [agent] **producer**, or to the proposing insurer if there is no [agent] **producer**, that by reason of [such] **the** transaction, **an** existing [life insurance] **policy or contract** has been or is to be:

1. Lapsed, forfeited, surrendered **or partially surrendered, assigned to the replacing insurer** or otherwise terminated;
2. - 4. (No change.)
5. [Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.] **Used in a financed purchase.**

"Replacing insurer" means the insurance company that **issues or proposes to issue** a new policy [which is a replacement of existing life insurance] **or contract that replaces an existing policy or contract or is a financed purchase.**

**"Sales material" means a sales illustration and any other written, printed or electronically presented information created or completed or provided by the company or producer and used in any presentation made to the policy or contract owner related to the policy or contract purchased.**

["Sales Proposal" means individualized, written sales aids of all kinds, excluding Comparative Information Forms and Policy Summaries, which are used by an insurer, agent or broker in comparing existing life insurance to proposed life insurance in order to recommend the replacement or conservation of existing life insurance. Sales aids of a generally descriptive nature, which are maintained in the insurer's advertising compliance file, shall not be considered a Sales Proposal within the meaning of this definition.]

### 11:4-2.3 Duties of producers

(a) A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the answer is "no," the producer's duties with respect to replacement are complete.

(b) If the applicant answers "yes" to the question regarding existing coverage referred to in (a) above, the producer shall present and offer to read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in subchapter Appendix A, incorporated herein by reference, or other substantially similar form approved by the Commissioner. However, no approval of the Commissioner shall be required when revisions to the notice are limited to the deletion of references not applicable to the product being sold or replaced.

1. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer, or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and shall remain with the applicant.

2. The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available, and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(c) In connection with a replacement transaction, the producer shall give to the applicant, at the time an application for a new policy or contract is completed, the original or a copy of all sales

material. With respect to electronically presented sales material, it shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

(d) Except as provided in N.J.A.C. 11:4-2.5(g), in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company-approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

#### 11:4-2.4 Duties of replacing insurers

(a) Where a replacement is involved in the transaction, the replacing insurer shall:

1. Verify that the required forms are received and are in compliance with this subchapter;
2. Ascertain that the sales material and illustrations used in the replacement meet the requirements of this subchapter and are complete and accurate for the proposed policy or contract;
3. Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement and/or accompanying statement indicating replacement (or when the replacement is identified if not indicated on the application), and mail to the insurer a copy of the available illustration and/or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;
4. Be able to produce copies of the notifications regarding replacement required in N.J.A.C. 11:4-2.3(b), indexed by producer, for at least the immediately preceding five years or until the next regular examination by the Department, whichever is later; and

5. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. Such notice may be included in Appendix A or C.

(b) Where the replacing insurer is the same as or an affiliate of the existing insurer, the replacing insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount by which the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(c) Each insurer replacing a policy or contract shall maintain records in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

#### 11:4-2.5 Duties of insurers that use producers

(a) Each insurer shall maintain a system of supervision and control to ensure compliance with the requirements of this subchapter. At a minimum, all such systems shall provide for the insurer to:

1. Inform its producers of the requirements of this subchapter and incorporate the requirements of this subchapter into all relevant producer training manuals prepared by the insurer;

**2. Provide to each producer a written statement of the company's position with respect to the acceptability of replacements that provides guidance to the producer as to the appropriateness of these transactions;**

**3. Include a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with (a)2 above;**

**4. Include procedures to verify that the requirements of this subchapter have been met;**  
**and**

**5. Include procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this subchapter may include but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.**

**(b) Each insurer shall have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall, upon request, produce and make such records available to the Department. The capacity to monitor shall include the ability to produce the following records for each producer:**

**1. Life replacements, including financed purchases, as a percentage of the producer's total annual sales of life insurance;**

**2. The number of lapses of policies by the producer as a percentage of the producer's total annual sales of life insurance;**

**3. Annuity contract replacements as a percentage of the producer's total annual annuity contract sales;**



4. The number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by (a)5 above; and

5. Replacements indexed by replacing producer and existing insurer.

(c) Each insurer shall require with, or as a part of, each application for life insurance or an annuity, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

(d) Each insurer shall require with each application for life insurance or an annuity that indicates the existence of a current policy or contract a completed notice regarding replacements as contained in Appendix A.

(e) When the applicant has existing policies or contracts, the insurer shall be able to produce copies of any sales material as required by N.J.A.C. 11:4-2.3(e), the basic illustration and any supplemental illustrations related to the specific policy or contract that was purchased, and the producer's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the purchased policy or contract.

(f) If an application fails to meet all the requirements of this subchapter, the insurer shall notify the producer and applicant of such failure and fulfill any outstanding requirements which the insurer has the ability to fulfill.

(g) If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements of N.J.A.C.11:4-2.3(d), the insurer may:

1. Require with each application a statement signed by the producer affirming that:

i. The producer used only company-approved sales material; and

ii. Copies of all sales material were left with the applicant in accordance with N.J.A.C. 11:4-2.3(c); and

2. Within 10 days of the issuance of the policy or contract:

i. Notify the applicant, either in writing or verbally by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with N.J.A.C. 11:4-2.3(c);

ii. Provide the applicant with a toll free telephone number to enable the applicant to contact company personnel involved in the compliance function if such is not the case; and

iii. Notify the applicant either in writing or verbally that it is important to retain copies of the sales material for future reference.

(h) The insurer shall be able to produce a copy of the writing or other verification of compliance with (g)2 above in the policy file for at least five years after the termination or expiration of the policy or contract.

#### 11:4-2.6 Duties of the existing insurer

(a) Where a replacement is involved in the transaction, the existing insurer shall:

1. Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years after replacement or until the conclusion of the next regular examination conducted by the Department, whichever is later;

2. Notify the policy or contract owner in writing within five business days of receipt of a notice referred to in (a)1 above that the policy or contract owner has the right to receive information regarding the existing policy or contract values, including, if available, an in force illustration, or a

policy summary if an in force illustration cannot be produced. The insurer shall send the information within five business days of receipt of the request from the policy or contract owner; and

3. Upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice advising the policy owner of the effect that the release of policy values will have on the non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separately from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

#### 11:4-2.7 Duties of insurers with respect to direct response solicitations

(a) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement, discontinuance or change is not intended, or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement as described in subchapter Appendix B, incorporated herein by reference, or other substantially similar form approved by the Commissioner.

(b) If the insurer has proposed the replacement, or if the applicant indicates a replacement is intended, and the insurer continues with the replacement, the insurer shall:

1. Provide to applicants or prospective applicants with the policy or contract a notice as described in subchapter Appendix C, incorporated herein by reference, or other substantially similar form approved by the Commissioner. In these instances the insurer may delete the references to the

producer, including the producer's signature, without having to obtain approval of the form from the Commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; and

2. Comply with the requirements of N.J.A.C. 11:4.2.4(a)2, if the applicant furnishes the names of the existing insurers, and the requirements of N.J.A.C. 11:4-2.4(a)3, (a)4 and (b).

#### 11:4-2.8 Violations and penalties

(a) Any failure to comply with the requirements of this subchapter shall be considered a violation of N.J.S.A. 17B: 30-6. Such violations include, but are not limited to:

1. Any deceptive or misleading information set forth in sales material;
2. Failing to ask the applicant when completing the application pertinent questions regarding the possibility of financing or replacement as required by this subchapter;
3. The intentional incorrect recording of an answer;
4. Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
5. Advising a policy or contract owner to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company.

(b) Policy and contract owners have the right to replace policies or contracts after indicating in, or as a part of an application for new coverage, that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed *prima facie*

evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed *prima facie* evidence of the producer's intent to violate this subchapter.

(c) Where it is determined that the requirements of this subchapter have not been met, the replacing insurer shall provide to the policy or contract owner an in force illustration, if available, or policy summary for the replacement policy, or available disclosure document for the replacement contract, and the notice regarding replacements in Appendix A or C.

(d) Any violation of this subchapter shall subject the violator to penalties that may include the revocation or suspension of a producer's license or a company's certificate of authority, monetary fines, and the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred. In addition, where the Commissioner has determined that the violation was material to the sale, the insurer or producer may be required to make restitution to the insured, restore policy or contract values, and pay interest at the current rate set forth in the New Jersey Court Rules, R. 4: 42-11, including any amount refunded in cash.

## APPENDIX A

IMPORTANT NOTICE  
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

This document must be signed by the applicant and producer, if there is one,  
and a copy given to the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on an existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of an existing policy or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your existing policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacement before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, to the insurer, or otherwise terminating your existing policy or contract?       YES       NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?       YES       NO

Please list each existing policy or contract that you contemplate replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
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- 1.
- 2.
- 3.

Make sure that you know the facts. Contact your existing company or its producer for information about the old policy or contract. (You may request that an in force illustration, policy summary or available disclosure documents be sent to you by the existing insurer.) Ask for and retain all sales material used by the producer in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because \_\_\_\_\_.

\_\_\_\_\_

I certify that the responses herein are, to the best of my knowledge, accurate:

\_\_\_\_\_  
Applicant's Signature and Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Producer's Signature and Printed Name

\_\_\_\_\_  
Date

I do not want this notice read aloud to me. \_\_\_\_\_ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or producer that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your producer to determine whether replacement or financing your purchase makes sense:

**PREMIUMS:** Are they affordable?  
 Could they change?  
 You're older. Are premiums higher for the proposed new policy?  
 How long will you have to pay premiums on the new policy? On the old policy?

**POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends.  
 Acquisition costs for the old policy may have been paid; you will incur acquisition costs for the new one.  
 What surrender charges do the policies have?  
 What expense and sales charges will you pay on the new policy?  
 Does the new policy provide more insurance coverage?

**INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.  
 You may need a medical exam for a new policy.  
 Claims on most new policies for up to the first two years can be denied based on inaccurate statements.  
 Suicide limitations may begin anew on the new coverage.

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

How are premiums for both policies being paid?  
 How will the premiums on your existing policy be affected?  
 Will a loan be deducted from death benefits?  
 What values from the old policy are being used to pay premiums?

**IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**

Will you pay surrender charges on your old contract?  
 What are the interest rate guarantees for the new contract?  
 Have you compared the contract charges or other policy expenses?

**OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**

What are the tax consequences of buying the new policy?  
 Is this a tax-free exchange? (See your tax advisor.)  
 Is there a benefit from favorable "grandfathered" treatment of the old policy under the Federal tax code?  
 Will the existing insurer be willing to modify the old policy?  
 How does the quality and financial stability of the new company compare with your existing company?



## APPENDIX B

NOTICE REGARDING REPLACEMENT:  
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one-or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy's or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure that you are making a decision that is in your best interest.

## APPENDIX C

**IMPORTANT NOTICE:  
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?  YES  NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?  YES  NO

Please list each existing policy or contract that you contemplate replacing (include the name of the insurer, the insured or annuitant and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY#	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure that you know the facts. Contact your existing company or its producer for information about the old policy or contract. You may request an in force illustration, policy summary or available disclosure documents be sent to you by the existing insurer. Ask for and retain all sales material used by the producer in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

\_\_\_\_\_

Applicant's Signature and Printed Name

Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or producer that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your producer to determine whether replacement or financing your purchase makes sense:

**PREMIUMS:** Are they affordable?  
 Could they change?  
 You're older. Are premiums higher for the proposed new policy?  
 How long will you have to pay premiums on the new policy? On the old policy?

**POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends.  
 Acquisition costs for the old policy may have been paid. You will incur costs for the new one.  
 What surrender charges do the policies have?  
 What expense and sales charges will you pay on the new policy?  
 Does the new policy provide more insurance coverage?

**INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.  
 You may need a medical exam for a new policy.  
 Claims on most new policies for up to the first two years can be denied based on inaccurate statements.  
 Suicide limitations may begin anew on the new coverage.

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

How are premiums for both policies being paid?  
 How will the premiums on your existing policy be affected?  
 Will a loan be deducted from death benefits?  
 What values from the old policy are being used to pay premiums?

**IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**

Will you pay surrender charges on your old contract?  
 What are the interest rate guarantees for the new contract?  
 Have you compared the contract charges or other policy expenses?

**OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**

What are the tax consequences of buying the new policy?  
 Is this a tax-free exchange? (See your tax advisor.)  
 Is there a benefit from favorable "grandfathered" treatment of the old policy under the Federal tax code?  
 Will the existing insurer be willing to modify the old policy?  
 How does the quality and financial stability of the new company compare with your existing company?

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