

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE TREATMENT OF)
ALLOCATED-DEPOSIT TYPE DEFERRED)
ANNUITY CONTRACT FUNDS FOR)
PURPOSES OF CALCULATING THE) ORDER
SPECIAL PURPOSE APPORTIONMENT AND)
THE FRAUD ASSESSMENT FOR FISCAL)
YEAR 2004)

This matter has been opened by the Commissioner of the New Jersey Department of Banking and Insurance (“Commissioner”) pursuant to N.J.S.A. 17:1-8.1, 17:1-15e, 17:1C-19 et seq., 17:33A-1 et seq., and 17B:21-1 et seq., and all powers expressed or implied therein; and

IT APPEARING that companies regulated by the Department of Banking and Insurance (“Department”), including insurers transacting annuity business, are required to pay a special purpose apportionment (“apportionment”) pursuant to N.J.S.A. 17:1C-19 et seq., to fund the financial and regulatory responsibilities of the Department, and a “fraud assessment” (“assessment”), pursuant to N.J.S.A. 17:33A-8g, to fund the responsibilities under the Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq.; and

IT FUTHER APPEARING that the apportionment and assessment are based on net written premiums of each company; and

IT FURTHER APPEARING that the Department adopted new rules, N.J.A.C. 11:2-43, which will become effective November 1, 2004, to provide that an insurer transacting annuity business may exclude allocated deposit-type funds that have not annuitized from annuity

considerations that are subject to the apportionment and the assessment by filing with its annual statement a certification showing a breakout of those funds; and

IT FURTHER APPEARING that the new rules at N.J.A.C. 11:2-43.4 provide for a credit for amounts reported on an insurer's 2002 annual statement pursuant to that rule; and

IT FURTHER APPEARING that the Department intended to permit companies to exclude those amounts for purposes of calculating the apportionment and assessment for fiscal year ("FY") 2004 (based on the 2003 annual statement), and to permit companies to begin taking the credit pursuant to N.J.A.C. 11:2-43.4 for FY 2003 (based on the 2002 annual statement); and

IT FURTHER APPEARING that in consideration of the Department's intent that deposit-type annuity considerations may be excluded from calculation of the apportionment and assessment for FY 2004, and that the credit may be taken in accordance with N.J.A.C. 11:2-43.4 for FY 2003, and that in order to properly determine the applicable apportionment and assessment, and credits, the Department requires a breakout of those funds; and

IT FURTHER APPEARING that it is therefore reasonable and appropriate to provide that insurers seeking to exclude deposit-type deferred annuity contract funds for purposes of calculating the apportionment and assessment for FY 2004, and/or seeking a credit for amounts reported for FY 2003, file a certification of such amounts in the form of the Appendix to the Order attached hereto and made a part hereof, within 15 days of the date of this Order.

THEREFORE, it is on this 21st day of October, 2004

ORDERED that any insurer transacting annuity business that seeks to have excluded from amounts reported as "annuity considerations" in the annual statement filed pursuant to N.J.S.A. 17B:21-1 for 2003, and/or seeks a credit for amounts reported in the annual statement filed for 2002, those amounts that constitute allocated deposit-type funds, shall complete and file

the certification set forth in the Appendix, attached hereto and made a part hereof, reflecting amounts reported as of December 31, 2002 and December 31, 2003, within 15 days of the date of this Order.

10/21/04
Date

/s/ Holly C. Bakke
Holly C. Bakke
Commissioner

APPENDIX

CERTIFICATION OF ALLOCATED DEPOSIT-TYPE FUNDS
SPECIAL PURPOSE APPORTIONMENT AND FRAUD ASSESSMENT
FOR YEAR ENDED DECEMBER 31, _____

Company Name: _____ Company NAIC No. _____

- 1. Annuity Considerations (State Business Page, Line 2, Column 5) _____
- 2. Allocated Deposit-Type Deferred Annuity Contract Funds Included in Line 1 above _____
- 3. Prior Year Annuity Considerations or Immediate Annuities not included in Line 1 above or not previously included in the assessment base. _____
- 4. Dividends to Policyholders (State Business Page, Line 7.1 + Line 7.3, Column 5) _____
- 5. Net Annuity Considerations Subject to Assessment (Line 1 – Line 2 + Line 3 – Line 4) _____

CERTIFICATION

The undersigned certifies that (s)he is authorized to file this information on behalf of (Company Name) and that the information contained herein is correct to the best of his/her knowledge, information and belief.

(Signature) _____

Type or print name _____

Title _____