

A photograph of a red and yellow apple resting on a stack of books. Several pens and pencils are scattered on the books. The background is a soft, out-of-focus grey.

Lesson 1

Overview of Applicable Law and Regulation

Applicability

Nonforfeiture requirements for most deferred annuities are in *New York Law §4223*

- ✓ **DOES NOT** apply to variable annuities whether they are individual or group products.
- ✓ **DOES** apply to all other individual annuities.



Group Applicability

New York Law §4223 for group products is more complicated **BUT...**

If the group annuity contract meets the definition of an employee benefit plan under ERISA, *it's not* subject to §4223.

The group contract *does not* have to be subject to ERISA – *just meet ERISA's definition of an "employee benefit plan."*

This is the *"employee benefit plan exemption."*



Group Applicability

Not eligible for the employee benefit plan exemption?

§4223 will only apply if **at least one** of the following is true:

1. The certificates provide benefits under an individual retirement account; or are issued as an individual retirement annuity (other than Simplified Employee Pensions,) both as defined in section 408 of the Internal Revenue Code.

Group Applicability

2. The certificates are issued in accordance with subsection 403(b) of the IRC where the payments are derived wholly from a salary reduction agreement or an agreement to forego an increase in salary.

Group Applicability

3. The certificates are funded wholly by contributions from the certificate holder.

Group Applicability – Recap

§4223 applies if:

- ✓ Certificates are a non-SEP IRA
- ✓ Certificates are a 403(b) where contributions are indirectly from participants, or
- ✓ In some way, funded wholly by the certificate holder

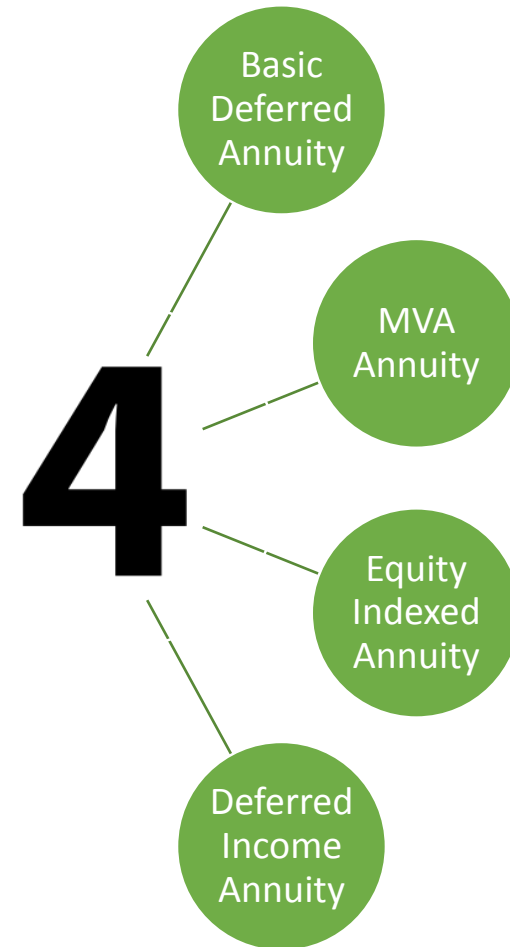


Applicability – Annuity Types



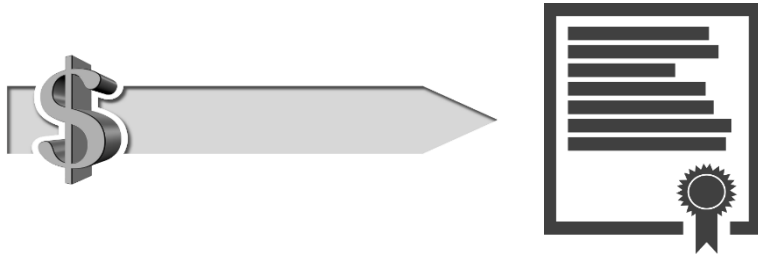
Applicability – Annuity Types

All non-variable deferred annuities.

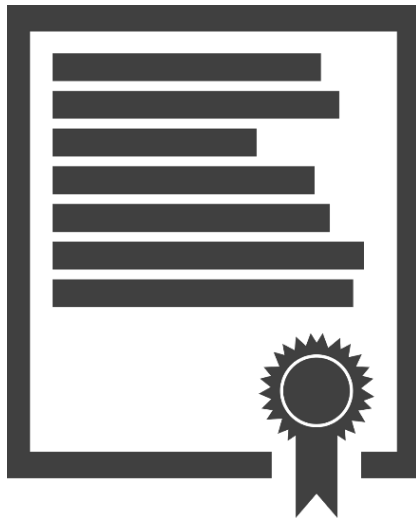


Applicability

Basic Deferred Annuity



Basic accumulation product.
Premium is added to the contract.



Contract grows with interest until:

- Contract is surrendered,
- A death benefit is paid, or
- Payout stage or annuitization

Applicability Basic Deferred Annuity



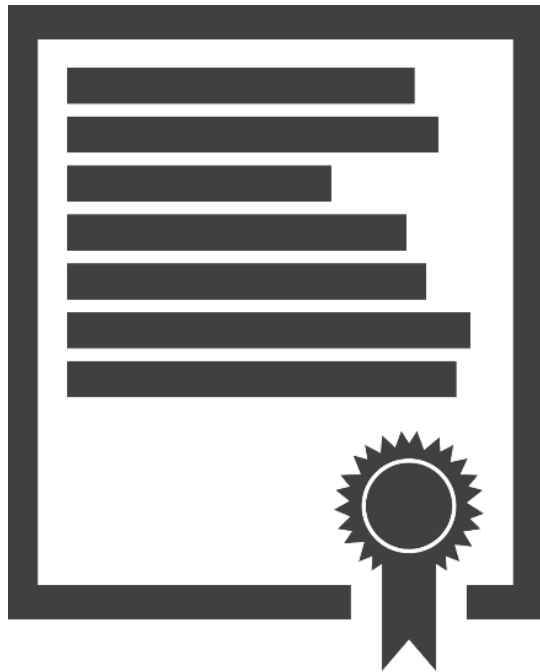
Minimum guaranteed interest rate is specified or described in the contract.

A higher rate may be declared.

The account value minus any surrender charges is available at all times.

Applicability

Market Value Adjusted Annuity



Similar to the basic annuity, but the *cash surrender value* is adjusted by a *market value adjustment*.

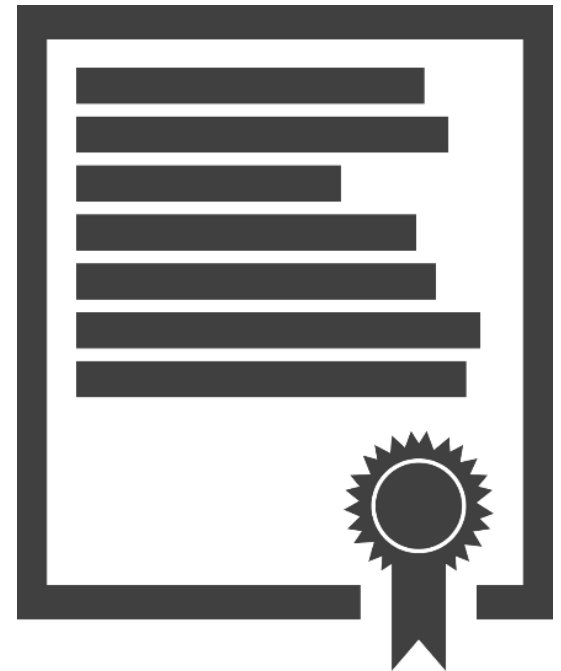


This can result in positive or negative changes to the contract value.

Sometimes called *Modified Guaranteed Annuities*.

Applicability Equity Indexed Annuity

Growth of contract is determined, in part, by the changes in an equity index or indexes.



Applicability Deferred Income Annuity

DIAs are true *income products*.

- No cash surrender benefits.
- May or may not be a death benefit.
- Premium is paid today for a fixed amount of income at a later date.



Vary significantly from the other annuities.

MVAs & NY Regulation 127

Regulation # and
an official citation

“Regulation 127” = 11 NYCRR 44 or Part 44

Regulation 127 sets forth rules and standards for an acceptable market value adjustment

These are found in Section 44.5, with examples in Section 44.10.



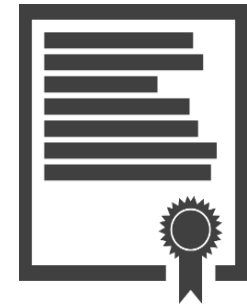
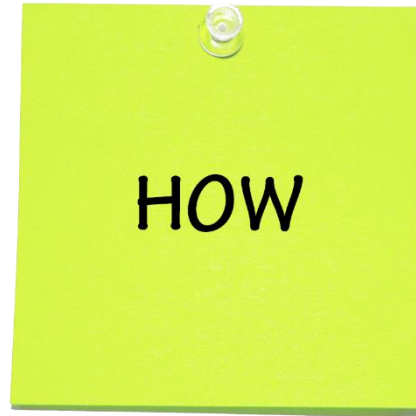
MVAs & Regulation 127

44.2 Scope of regulation.

This Part governs any market-value adjustment formula that is applied to the actual accumulation amount under a contract or a group annuity certificate subject to section 4223 of the Insurance Law before taking into account any withdrawal charge in accordance with the provisions of section 4223.

It also applies to any market-value or other adjustment of the actual accumulation amount taken as a form of withdrawal charge and limited to an amount not exceeding the maximum withdrawal charge permitted by section 4223.

Funding of Annuity Contracts



All four annuity product types can be funded by a *single premium*.

SPDAs = Single Premium Deferred Annuities

Funding of Annuity Contracts

Modified Single Premium Deferred Annuity



Additional premium payments can be made, but only for a maximum period of one year.

Funding of Annuity Contracts

Flexible Premium Deferred Annuity FPDAs



- Flexibility in the payment of premium
- Will likely be a minimum initial premium
- May also have maximums, e.g. an annual limit and/or aggregate limit

Recap

- ✓ §4223 applies to all individual fixed annuities
 - ✓ Including SPDAs, FPDAs, MVAs, EIAs, and DIAs
- ✓ Applies to some group annuity certificates *if*:
 - ✓ They're IRAs,
 - ✓ 403(b)s, or
 - ✓ other certificates funded solely by salary reduction or participant-only arrangements.
- ✓ "Employee Benefit Plan Exemption" for group certificates that meet the definition of an employee benefit plan under ERISA

Up next:

§4223 Definitions & Requirements