Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances

PROPOSED AMENDMENT

19 CSR 30-1.002 Schedules of Controlled Substances. The department is amending the purpose statement and sections (1) and (2).

PURPOSE: The department is updating the list of controlled substances to reflect statutory changes to the schedules and actions taken by the federal Drug Enforcement Administration to modify the controlled substance schedules in accordance with section 195.017, RSMo, and to correct typographical errors.

*PURPOSE: [Chapter 195, RSMo states in section 195.230, RSMo that t]**T**he Department of Health **and Senior Services** [shall] **has** prepared a list of all drugs falling within the purview of controlled substances. [Upon preparation, a copy of the list shall be filed in the Office of the Secretary of State. It also requires, in section 195.017.11, RSMo, the Department of Health to revise and republish the schedules semiannually for two years from September 28, 1971, and annually after that.]*

(1) Schedules of Controlled Substances.

(A) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name**,** or brand name designated, listed in this section. Each drug or substance has been assigned the Drug Enforcement Administration (DEA) Controlled Substances Code Number set forth opposite it.

1. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts**,** and salts of isomers, esters**,** and ethers, whenever the existence of such isomers, esters, ethers**,** and salts is possible within the specific chemical designation:

K. Betacetylmethadol 9607
L. Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-phenethyl)-4-piperidinyl)-N-phenylpropanamide) 9830
M. Beta-hydroxy-3-methylfentanyl(other name: N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide) 9831
N. Betameprodine 9608
O. Betamethadol 9609
P. Betaprodine 9611
Q. Clonitazene 9612
R. Dextromoramide 9613
S. Diampromide 9615
T. Diethylthiambutene 9616
U. Difenoxin 9168
V. Dimenoxadol 9617
W. Dimepheptanol 9618
X. Dimethylthiambutene 9619
Y. Dioxaphetyl butyrate 9621
Z. Dipipanone 9622
AA. Ethylmethylthiambutene 9623
BB. Etonitazene 9624
CC. Etoxeridine 9625
DD. Furethidine 9626
EE. Hydroxypethidine 9627
FF. Ketobemidone 9628
GG. Levomoramide 9629
HH. Levophenacylmorphan 9631
II. 3-Methylfentanyl (N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylproanamide), its optical andgeometric isomers, salts, and salts of isomers 9813
JJ. 3-Methylthiofentanyl (N-((3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-Nphenylpropanamide) 9833
KK. Morpheridine 9632
LL. MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) 9661
MM. Noracymethadol 9633
NN. Norlevorphanol 9634
OO. Normethadone 9635
PP. Norpipanone 9636
QQ. Para-fluorofentanyl(N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidinyl) propanamide 9812
RR. PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine) 9663
SS. Phenadoxone 9637
TT. Phenampromide 9638
UU. Phenomorphan 9647
VV. Phenoperidine 9641
WW. Piritramide 9642
XX. Proheptazine 9643
YY. Properidine 9644
ZZ. Propiram 9649
AAA. Racemoramide 9645
BBB. Thiofentany (N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide 9835
CCC. Tilidine 9750
DDD. Trimeperidine 9646

2. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

A. Acetorphine 9319
B. Acetyldihydrocodeine 9051
C. Benzylmorphine 9052
D. Codeine methylbromide 9070
E. Codeine-N-Oxide 9053
F. Cyprenorphine 9054
G. Desomorphine 9055
H. Dihydromorphine 9145
I. Drotebanol 9335
J. Etorphine (except hydrochloride salt) 9056
K. Heroin 9200
L. Hydromorphinol 9301
M. Methyldesorphine 9302
N. Methyldihydromorphine 9304
O. Morphine methylbromide 9305
P. Morphine methylsulfonate 9306
Q. Morphine-N-Oxide 9307
R. Myrophine 9308
S. Nicocodeine 9309
T. Nicomorphine 9312
U. Normorphine 9313
V. *[Pholcodeine]* **Pholcodine** 9314
W. Thebacon 9315

3. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (For purposes of paragraph (1)(A)3. of this rule only, the term isomer includes the optical, position, and geometric isomers.):

[A. Alpha-ethyltryptamine 7249
Some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethenamine; 3-(2-aminobutyl)indole; alpha-ET; and AET;
B. Benzylpiperazine or other name BZP 7493
C. 4-bromo-2,5-dimethoxyamphetamine 7391
Some trade or other names: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
D. 4-bromo-2,5-dimethoxyphenethylamine 7392
E. 2,5-dimethoxyamphetamine 7396
Some trade or other names: 2,5-dimethoxy-amethylphenethylamine;2,5-DMA;
F. 2,5-dimethoxy-4-ethylamphetamine 7399
Some trade or other names: DOET
G. 2,5-dimethoxy-4-(n)-propylthiophenethylamine
H. 4-methoxyamphetamine 7411
Some trade or other names: 4-methoxy-amethylphenethylamine; paramethoxyamphetamine; PMA;
I. 5-methoxy-3,4-methylenedioxy-amphetamine 7401
J. 4-methyl-2,5-dimethoxyamphetamine 7395
Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP;
K. 3,4-methylenedioxy amphetamine 7400
L. 3,4-methylenedioxymethamphetamine (MDMA) 7405
M. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha- methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,MDE and MDEA) 7404
N. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine and N-hydroxy MDA) 7402
O. 3,4,5-trimethoxy amphetamine 7390
P. Bufotenine 7433
Some trade and other names: 3-(b-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin;5-hydroxy-N, N-dimethyltryptamine;mappine;
Q. Diethyltryptamine 7434

NN. Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis 7370 plant), as well as synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of such plant, and/or synthetic substances, derivatives and their isomers, or both, with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

(I) 1 cis or trans tetrahydrocannabinol and their optical isomers;

(II) 6 cis or trans tetrahydrocannabinol and their optical isomers;

(III) 3,4 cis or trans tetrahydrocannabinol and its optical isomers; and

(IV) Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.

OO. Ethylamine analog of phencyclidine 7455
Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)-ethylamine, cyclohexamine, PCE;

PP. Pyrrolidine analog of phencyclidine 7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine PCPy, PHP;

QQ. Thiophene analog of phencyclidine 7470
Some trade or other names: 1-(1-(2-thienyl)-cyclohexyl)-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP;

RR. 1-(1-(2-thienyl)cyclohexyl) pyrrolidine 7473
Some other names: TCPy.

SS. Salvia divinorum

TT. Salvinorin A

UU. Synthetic cannabinoids: Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(I) Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Including, but not limited to:

(a) AM2201, or 1-(5-fluoropentyl)-3-(1-naphthoyl)indole 7201
(b) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole
(c) JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl)indole
(d) JWH-018, or 1-pentyl-3-(1-naphthoyl)indole 7118
(e) JWH-019, or 1-hexyl-3-(1-naphthoyl)indole 7019
(f) JWH-073, or 1-butyl-3-(1-naphthoyl)indole 7173
(g) JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl)indole 7081
(h) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole
(i) JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl)indole 7122
(j) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole
(k) JWH-200, or 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole 7200
(l) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole
(m) JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole 7398;

(II) Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

(III) Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;

(IV) Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(a) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole
(b) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole 7203
(c) JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl)indole 6250
(d) JWH-251, or 1-pentyl-3-(2 methylphenylacetyl)indole
(e) RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole 7008;

(V) Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to:

(a) CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7; 7297, 7298;

(VI) Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(a) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole 7694
(b) RCS-4, or 1-pentyl-3-(4-methoxybenzoyl)indole (SR-19 and RCS-4) 7104;

(VII) CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;

(VIII) HU-210, or (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(IX) HU-211, or Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; and

(X) Dimethylheptylpyran, or DMHP.

4. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation

which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

A. Gamma-hydroxybutyric acid and other names GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutonic acid; sodium oxybate; sodium oxybutryrate; **2010**

B. Mecloqualone 2572

C. Methaqualone 2565

5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

[A. Aminorex 1585

Some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine;

B. Cathinone (Some trade or other names: 2-amino-1-phenyl-1-propanone, alphaaminopropiophenone, 2-aminopropiophenone and norephedrone) 1235

C. Fenethylline 1503

D. Methcathinone 1585

Some trade or other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone;N-methylcathinone; methylcathinine; AL-464; AL-422; AL-463 and URI 432; its salts, optical isomers and salts of optical isomers;

E. (±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) 1590

F. N-ethylamphetamine 1475

G. N,N-dimethylamphetamine 1480

(some other names: N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine), its salts, optical isomers and salts of optical isomers.

6. A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

A. N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers 9818

B. N-(1-(2-thienyl) methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers 9834]

A. Aminorex 1585

Some trade or other names: aminoxaphen; 2- amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine;

B. N-benzylpiperazine (some other names: BZP, 1-benzylpiperzaine) 7493

C. Cathinone (Some trade or other names: 2-amino-1-phenyl-1-propanone, alphaaminopropiophenone, 2-aminopropiophenone and norephedrone) 1235

D. Fenethylline 1503

E. 3-Fluoromethcathinone 1233

F. 4-Fluoromethcathinone 1238

G. Mephedrone, or 4-methylmethcathinone 1248

H. Methcathinone 1237

Some trade or other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinine; AL-464; AL-422; AL-463 and URI 432;

I. 4-methoxymethcathinone

J. Cis-4-methylaminorex (cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) 1590

K. Methylenedioxypyrovalerone, MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone 7535

L. Methylone, or 3,4-Methylenedioxymethcathinone 7540

M. 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP

N. N-ethylamphetamine 1475

O. N,N-dimethylamphetamine 1480

(some other names: N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine)

P. Quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC) 7222

Q. Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22) 7225

R. *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA) 7012

S. *N*-(1-amino-3, 3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA) 7035

6. A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture, or preparation which contains any quantity of the following substances:

A. (1-pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole) 7144

B. [1-(5-fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5- fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole) 7011

C. *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomer (Other names: APINACA, AKB48) 7048

D. 2-(4-iodo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5) 7538

E. 2-(4-chloro-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82) 7537

F. 2-(4-bromo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36) 7536

G. 4-methyl-*N*-ethylcathinone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 4-MEC; 2-(ethylamino)-1-(4-methylphenyl)propan-1-one) 1249

H. 4-methyl-*alpha*-pyrrolidinopropiophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 4-MePPP; MePPP; 4-methyl-α-pyrrolidinopropiophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one) 7498

I. *Alpha*-pyrrolidinopentiophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: α-PVP; α-pyrrolidinovalerophenone; 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one) 7545

J. Butylone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: bk-MBDB; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one) 7541

K. Pentedrone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: α-methylaminovalerophenone; 2-(methylamino)-1-phenylpentan-1-one) 1246

L. Pentylone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: bk-MBDP; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one) 7542

M. Naphyrone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: naphthylpyrovalerone; 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one) 1258

N. *Alpha*-pyrrolidinobutiophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: α-PBP; 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one) 7546

O. *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-CHMINACA) 7031

P. *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-PINACA) 7023

Q. [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: THJ-2201) 7024

R. N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: butyryl fentanyl) 9822

S. N-[1-[2-hydroxy-2-(thiophen-2-yl) ethyl]piperidin-4-yl]-N-phenylpropionamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: beta-hydroxythiofentanyl) 9836

T. *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: acetyl fentanyl) 9821

U. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: MAB-CHMINACA; ADB-CHMINACA) 7032

7. Khat, to include all parts of the plant presently classified botanically as catha edulis, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

(B) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

1. Substances, vegetable origin**,** or chemical synthesis. Unless specifically excepted or unless listed in another schedule, Schedule II shall include any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis**:**

A. *[o]***O**pium and opiate; and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-*[devied]* **derived** butorphanol, dextrorphan, nalbuphine, nalmefene, **naloxegol,** naloxone**,** and naltrexone and their respective salts, but including the following:

*[A.]***(I)** Raw opium	9600
*[B.]***(II)** Opium extracts	9610
*[C.]***(III)** Opium fluid	9620
*[D.]***(IV)** Powdered opium	9639
*[E.]***(V)** Granulated opium	9640
*[F.]***(VI)** Tincture of opium	9630
*[G.]***(VII)** Codeine	9050
(VIII) Dihydroetorphine	**9334**
*[H.]***(IX)** Ethylmorphine	9190
*[I.]***(X)** Etorphine hydrochloride	9059
*[J.]***(XI)** Hydrocodone	9193
*[K.]***(XII)** Hydromorphone	9150
*[L.]***(XIII)** Metopon	9260
*[M.]***(XIV)** Morphine	9300
(XV) Oripavine	**9330**
*[N.]***(XVI)** Oxycodone	9143
*[O.]***(XVII)** Oxymorphone	9652
*[P.]***(XVIII)** Thebaine	9333

B. Any salt, compound, derivative**,** or preparation thereof which is chemically equivalent or identical with any of the substances referred to in **sub**paragraph (1)(B)1.**A.** of this rule shall be included in Schedule II, except that these substances shall not include the isoquinoline alkaloids of opium;

C. *[o]***O**pium poppy and poppy straw;

[coca leaves] *[9040]* **9650**

D. Coca leaves (9040) and any salt, compound, derivative**,** or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives**,** and salts of isomers and derivatives**),** and any salt, compound, derivative**,** or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include**:**

(I) *[d]***D**ecocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine *[9041]* or ecgonine *[9180 and]***; or**

(II) Ioflupane.

E. *[c]***C**oncentrate of poppy straw (the crude extract of poppy straw in either liquid, solid**,** or powder form which contains the phenanthrene alkaloids of the opium poppy)
9670

2. Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers**,** and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

[A. Alfentanil	*9737*
B. Alphaprodine	*9010*
C. Anileridine	*9020*
D. Bezitramide	*9800*
E. Bulk Dextropropoxyphene (Non-dosage Forms)	*9273*
F. Butylnitrite	*no designated number*
G. Carfentanil	*9743*
H. Dihydrocodeine	*9120*
I. Diphenoxylate	*9170*
J. Fentanyl	*9801*
K. Isomethadone	*9226*
L. Levo-alphacetylmethadol	*9220*

Some other names: levo-alphaacetylmethadol, levomethadyl acetate, LAAM 9648
M. Levomethorphan 9210
N. Levorphanol 9220
O. Metazocine 9240
P. Methadone 9250
Q. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane 9254
R. Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid 9802
S. Pethidine (Meperidine) 9230
T. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine 9232
U. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate 9233
V. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid 9234
W. Phenazocine 9715
X. Piminodine 9730
Y. Racemethorphan 9732
Z. Racemorphan 9733
AA. Remifentanil 9739
BB. Sufentanil 9740]
A. Alfentanil 9737
B. Alphaprodine 9010
C. Anileridine 9020
D. Bezitramide 9800
E. Bulk Dextropropoxyphene (Non-dosage Forms) 9273
F. Carfentanil 9743
G. Dihydrocodeine 9120
H. Diphenoxylate 9170
I. Fentanyl 9801
J. Isomethadone 9226
K. Levo-alphacetylmethadol 9220
Some other names: levo-alphaacetylmethadol, levomethadyl acetate, LAAM 9648
L. Levomethorphan 9210
M. Levorphanol 9220
N. Metazocine 9240
O. Methadone 9250
P. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane 9254
Q. Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid 9802
R. Pethidine (Meperidine) 9230
S. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine 9232
T. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate 9233
U. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid 9234
V. Phenazocine 9715
W. Piminodine 9730
X. Racemethorphan 9732
Y. Racemorphan 9733
Z. Remifentanil 9739
AA. Sufentanil 9740
BB. Tapentadol 9780
CC. Thiafentanil 9729

3. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
A. Amphetamine, its salts, optical isomers, and salts of its optical isomers 1100
B. Lisdexamfetamine, its salts, isomers, and salts of its isomers 1205
*[B.]***C.** Methamphetamine, its salts, isomers, and salts of its isomers 1105
*[C.]***D.** Phenmetrazine and its salts 1631
*[D.]***E.** Methylphenidate 1724

4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
A. Amobarbital 2125
B. Glutethimide 2550
C. Pentobarbital 2270
D. Phencyclidine 7471
E. Secobarbital 2315

5. Hallucinogenic substances:
A. Nabilone 7379
Another name for nabilone: (±)trans-3-(1, 1-dimethylheptyl)-6, 6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo(b,d) pyran-9-one.

6. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
A. Immediate precursor to amphetamine and methamphetamine:
(I) Phenylacetone 8501
Some trade or other names: phenyl-2- propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;
B. Immediate precursors to phencyclidine (PCP):
(I) 1-phenylcyclohexylamine 7460
(II) 1-piperidinocyclohexanecarbonitrile (PCC) 8603
C. Immediate precursor to fentanyl:
(I) 4-anilino-N-phenethyl-4-piperidine (ANPP) 8333

7. Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:
A. Amyl nitrite
B. Butyl nitrite.

(C) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

1. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

A. Those compounds, mixtures or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances 1405
B. Benzphetamine 1228
C. Chlorphentermine 1645
D. Clortermine 1647
E. Phendimetrazine 1615

2. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
A. Any compound, mixture or preparation containing:
(I) Amobarbital 2126
(II) Secobarbital 2316

(III) Pentobarbital 2271

or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule;

B. Any suppository dosage form containing:

(I) Amobarbital 2126

(II) Secobarbital 2316

(III) Pentobarbital 2271

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

C. Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof 2100

D. Chlorhexadol 2510

E. Embutramide 2020

*[E.]***F.** Any drug product containing gamma *[hydroxybutric]* **hydroxybutyric** acid, including its salts, isomers**,** and salts of isomer, for which an application is approved under section 505 of the Federal Food, Drug**,** and Cosmetic Act; **2012**

*[F.]***G.** Ketamine**, its salts, isomer, and salts of isomers (some other names for ketamine: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone)** 7285

*[G.]***H.** Lysergic acid 7300

*[H.]***I.** Lysergic acid amide 7310

*[I.]***J.** Methyprylon 2575

K. Perampanel, and its salts, isomers, and salts of isomers 2261

*[J.]***L.** Sulfondiethylmethane 2600

*[K.]***M.** Sulfonethylmethane 2605

*[L.]***N.** Sulfonmethane 2610

*[M.]***O.** Tiletamine and zolazepam or any salt thereof 7295

Some trade or other names for a tiletaminezolazepam combination product: Telazol.

Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6-8-dihydro-1,3,8- trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, flupyrazapon.

3. Nalorphine 9400

4. Narcotics drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

A. Not more than 1.8 grams of codeine per one hundred milliliters (100 m*[l]***L**) or not more than ninety milligrams (90 mg) per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium 9803

B. Not more than 1.8 grams of codeine per one hundred milliliters (100 m*[l]***L**) or not more than ninety milligrams (90 mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9804

[C. Not more than three hundred milligrams (300 mg) of hydrocodone per one hundred milliliters (100 ml) or not more than fifteen milligrams (15 mg) per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium 9805

D. Not more than three hundred milligrams (300 mg) of hydrocodone per one hundred milliliters (100 ml) or not more than fifteen milligrams (15 mg) per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts 9806]

*[E.]***C.** Not more than 1.8 grams of dihydrocodeine per one hundred milliliters (100 m*[l]***L**) or not more than ninety milligrams (90mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9807

*[F.]***D.** Not more than three hundred milligrams (300 mg) of ethylmorphine per one hundred milliliters (100 m*[l]***L**) or not more than fifteen milligrams (15 mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9808

*[G.]***E.** Not more than five hundred milligrams (500 mg) of opium per one hundred milliliters (100 m*[l]***L**) or per one hundred grams (100 g) or not more than twenty-five milligrams (25 mg) per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts 9809

*[H.]***F.** Not more than fifty milligrams (50 mg) of morphine per one hundred milliliters (100 m*[l]***L**) or per one hundred grams (100 g), with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9810

5. Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

A. Buprenorphine 9064

*[5.]***6.** Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation containing any quantity of the following substances, including its salts, isomers**,** and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation. DEA has assigned code 4000 for all anabolic steroids. **Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, and ethers:**

[A. Boldenone
B. Chlorotestosterone (4-Chlortestosterone)
C. Clostebol
D. Dehydrochlormethyltestosterone
E. Dihydrotestosterone (4-Dihydrotestosterone)
F. Drostanolone
G. Ethylestrenol
H. Fluoxymesterone
I. Formebulone (Formebolone)
J. Mesterolone
K. Methandienone
L. Methandranone
M. Methandriol
N. Methandrostenolone
O. Methenolone
P. Methyltestosterone
Q. Mibolerone
R. Nandrolone
S. Norethandrolone
T. Oxandrolone
U. Oxymesterone
V. Oxymetholone
W. Stanolone
X. Stanozolol
Y. Testolactone
Z. Testosterone
AA. Trenbolone

BB. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph, if that salt, ester or isomer promotes muscle growth except an anabolic steroid

which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of Health and Human Services for that administration.]

A. 3β,17β-dihydroxy-5α-androstane

B. 3α,17β-dihydroxy-5α-androstane

C. 5α-androstan-3,17-dione

D. 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene)

E. 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene)

F. 4-androstenediol (3β,17β-dihydroxy-androst-4-ene)

G. 5-androstenediol (3β,17β-dihydroxy-androst-5-ene)

H. 1-androstenedione ([5α]-androst-1-en-3,17-dione)

I. 4-androstenedione (androst-4-en-3,17-dione)

J. 5-androstenedione (androst-5-en-3,17-dione)

K. Bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one)

L. Boldenone (17β-hydroxyandrost-1,4,-diene-3-one)

M. Boldione (androstra-1,4-diene-3,17-dione)

N. Calusterone (7β,17α-dimethyl-17 β-hydroxyandrost-4-en-3-one)

O. Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one)

P. Dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one)

Q. Desoxymethyltestosterone (17α-methyl-5α-androst-2-en-17β-ol) (a.k.a. madol)

R. Dihydrotestosterone (4-Dihydrotestosterone) (s) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one)

S. Drostanolone(17β-hydroxy-2α-methyl-5α-androstan-3-one)

T. Ethylestrenol(17α-ethyl-17β-hydroxyestr-4-ene)

U. Fluoxymesterone(9-fluoro-17α-methyl-11 β,17β-dihydroxyandrost-4-en-3-one)

V. Formebulone (Formebolone) (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one)

W. Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan)

X. 13β-ethyl-17β-hydroxygon-4-en-3-one

Y. 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one)

Z. 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one)

AA. Mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one)

BB. Mesterolone(1α-methyl-17β-hydroxy-[5α]-androstan-3-one)

CC. Methandienone(17α-methyl-17β-hydroxyandrost-1,4-dien-3-one)

DD. Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene)

EE. Methasterone (2α,17α-dimethyl-5α-androstan-17β-ol-3-one)

FF. Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one)

GG. 17α-methyl-3 β,17β-dihydroxy-5α-androstane)

HH. 17α-methyl-3α,17β-dihydroxy-5α-androstane)

II. 17α-methyl-3β,17β-dihydroxyandrost-4-ene

JJ. 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one)

KK. Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one)

LL. Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9,11-trien-3-one)

MM. Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one)

NN. Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one)

OO. 17α-methyl-Δ1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. 17-α-methyl-1-testosterone)

PP. Nandrolone (17β-hydroxyestr-4-ene-3-one)

QQ. 19-nor-4-androstenediol (3β,17β-dihydroxyestr-4-ene)

RR. 19-nor-4-androstenediol (3α,17β-dihydroxyestr-4-ene)

SS. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione)

TT. 19-nor-5-androstenediol (3β,17β-dihydroxyestr-5-ene)

UU. 19-nor-5-androstenediol (3α,17β-dihydroxyestr-5-ene)

VV. 19-nor-4-androstenedione (estr-4-en-3,17-dione)

WW. 19-nor-5-androstenedione (estr-5-en-3,17-dione)

XX. Norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one)

YY. Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one)

ZZ. Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one)

AAA. Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one)

BBB. Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one)

CCC. Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one)

DDD. Oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one)

EEE. Prostanozol (17β-hydroxy-5α-androstano[3,2-c]pyrazole)

FFF. Stanolone (Δ1-dihydrotestosterone (a.k.a. 1-testosterone)(17β-hydroxy-5α-androst-1-en-3-one))

GGG. Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole)

HHH. Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one)

III. Testolactone(13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone)

JJJ. Testosterone(17β-hydroxyandrost-4-en-3-one);

KKK. Tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9, 11-trien-3-one)

LLL. Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one)

MMM. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph, if that salt, ester, or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of Health and Human Services for that administration.

6. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product 7369

(Some other names for dronabinol: (6aRtrans)- 6a,7,8,10a-tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-) - delta-9-(trans)-tetrahydrocannabinol.)

(D) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name**,** or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

1. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

A. Not more than one milligram (1mg) of difenoxin (DEA Drug Code No. *[9618]* **9168**) and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit*[;]* **9167**

B. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane) 9278

C. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol) 9752

*[C.]***D.** Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture**,** or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture**,** or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(I) Not more than two hundred milligrams (200 mg) of codeine per one hundred milliliters (100 ml) or per one hundred grams (100 g);

(II) Not more than one hundred milligrams (100 mg) of dihydrocodeine per one hundred milliliters (100 ml) or per one hundred grams (100 g); or

(III) Not more than one hundred milligrams (100 mg) of ethylmorphine per one hundred milliliters (100 ml) or per one hundred grams (100 g).

2. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation which contains any quantity of the following substances, including its salts, isomers**,** and salts of isomers whenever the existence of such salts, isomers**,** and salts of isomers is possible within the specific chemical designation:

[A. Alprazolam 2882
B. Barbital 2145
C. Bromazepam 2748
D. Camazepam 2749
E. Chloral betaine 2460
F. Chloral hydrate 2465
G. Chlordiazepoxide 2744
H. Clobazam 2751
I. Clonazepam 2737
J. Clorazepate 2768
K. Clotiazepam 2752
L. Cloxazolam 2753
M. Delorazepam 2754
N. Diazepam 2765
O. Dichloralphenazone 2467
P. Estazolam 2756
Q. Ethchlorvynol 2540
R. Ethinamate 2545
S. Ethyl loflazepate 2758
T. Fludiazepam 2759
U. Flunitrazepam 2763
V. Flurazepam 2767
W. Halazepam 2762
X. Haloxazolam 2771
Y. Ketazolam 2772
Z. Loprazolam 2773
AA. Lorazepam 2885
BB. Lormetazepam 2774
CC. Mebutamate 2800
DD. Medazepam 2836
EE. Meprobamate 2820
FF. Methohexital 2264
GG. Methylphenobarbital (Mephobarbital) 2250
HH. Midazolam 2884
II. Nimetazepam 2837
JJ. Nitrazepam 2834
KK. Nordiazepam 2838
LL. Oxazepam 2835
MM. Oxazolam 2839
NN. Paraldehyde 2585
OO. Petrichloral 2591
PP. Phenobarbital 2285
QQ. Pinazepam 2883
RR. Prazepam 2764
SS. Quazepam 2881
TT. Temazepam 2925
UU. Tetrazepam 2886
VV. Triazolam 2887
WW. Zaleplon 2781
XX. Zolpidem 2783]
A. Alfaxalone 2731
B. Alprazolam 2882
C. Barbital 2145
D. Bromazepam 2748
E. Camazepam 2749
F. Carisoprodol 8192
G. Chloral betaine 2460
H. Chloral hydrate 2465
I. Chlordiazepoxide 2744
J. Clobazam 2751
K. Clonazepam 2737
L. Clorazepate 2768
M. Clotiazepam 2752
N. Cloxazolam 2753
O. Delorazepam 2754
P. Diazepam 2765
Q. Dichloralphenazone 2467
R. Estazolam 2756
S. Ethchlorvynol 2540
T. Ethinamate 2545
U. Ethyl loflazepate 2758
V. Fludiazepam 2759
W. Flunitrazepam 2763
X. Flurazepam 2767
Y. Fospropofol 2138
Z. Halazepam 2762
AA. Haloxazolam 2771
BB. Ketazolam 2772
CC. Loprazolam 2773
DD. Lorazepam 2885
EE. Lormetazepam 2774
FF. Mebutamate 2800
GG. Medazepam 2836
HH. Meprobamate 2820
II. Methohexital 2264
JJ. Methylphenobarbital (Mephobarbital) 2250
KK. Midazolam 2884
LL. Nimetazepam 2837
MM. Nitrazepam 2834
NN. Nordiazepam 2838
OO. Oxazepam 2835
PP. Oxazolam 2839
QQ. Paraldehyde 2585
RR. Petrichloral 2591
SS. Phenobarbital 2285
TT. Pinazepam 2883
UU. Prazepam 2764
VV. Quazepam 2881
WW. Suvorexant 2223
XX. Temazepam 2925
YY. Tetrazepam 2886
ZZ. Triazolam 2887
AAA. Zaleplon 2781
BBB. Zolpidem 2783
CCC. Zopiclone 2784

3. Fenfluramine. Any material, compound, mixture**,** or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position**,** or geometric)**,** and salts of such isomers, whenever the existence of such salts, isomers**,** and salts of isomers is possible:

A. Fenfluramine 1670

4. Lorcaserin. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

A. Lorcaserin 1625

*[4.]***5.** Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers**,** and salts of isomers:

A. Cathine ((+)-norpseudoephedrine) 1230
B. Diethylpropion 1610
C. Fencamfamin *[1780]***1760**
D. Fenproporex 1575
E. Mazindol 1605
F. Mefenorex 1580
G. Modafinil 1680
H. Pemoline (including organometallic complexes and chelates thereof) 1530
I. Phentermine 1640
J. Pipradrol 1750
K. Sibutramine 1675
L. SPA (-)-1-dimethylamino-1,2-diphenylethane 1635

*[5.]***6.** Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture**,** or preparation which contains any quantity of the following substances, including its salts:

A. Pentazocine 9709
B. Butorphanol (including its optical isomers) 9720
C. Eluxadoline (5-[[[(*2S*)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl] [(*1S*)-1-(4-phenyl-1 *H*-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers 9725

*[6.]***7.** Ephedrine. Any material, compound, mixture**,** or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers**,** and salts of isomers:

A. Ephedrine or its salts, optical isomers**,** or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient.

(E) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name**,** or brand name designated, listed in this subsection.

[1. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs and their salts:

A. Buprenorphine 9064]

*[2.]***1.** Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture**,** or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture**,** or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

A. Not more than two hundred milligrams (200 mg) of codeine per one hundred milliliters (100 mL) or per one hundred grams (100 g);

B. Not more than one hundred milligrams (100 mg) of dihydrocodeine per one hundred milliliters (100 mL) or per one hundred grams (100 g);

C. Not more than one hundred milligrams (100 mg) of ethylmorphine per one hundred milliliters (100 mL) or per one hundred grams (100 g).

*[A.]***D.** Not more than two and five-tenths milligrams (2.5 mg) of diphenoxylate and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit.

*[B.]***E.** Not more than one hundred milligrams (100 mg) of opium per one hundred milliliters (100 m*[/]*/**L**) or per one hundred grams (100 g).

*[C.]***F.** Not more than five-tenths milligram (0.5 mg) of difenoxin (DEA Drug Code No. *[9618]* **9168**) and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit.

*[3.]***2.** Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture**,** or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including its salts, isomers**,** and salts of isomers:

A. Pyrovalerone 1485

3. Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers if the drug preparations are starch-based solid dose forms, if such preparations are sold over the counter without a prescription. The following drug preparations containing ephedrine and pseudoephedrine are not scheduled controlled substances:

A. Drug preparations in liquid form;

B. Drug preparations that require a prescription in order to be dispensed;

4. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

A. Ezogabine [N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester] 2779
B. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] 2746
C. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid] 2782
D. Brivaracetam ((25)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) 2710

(2) Excluded Nonnarcotic Substances. The following nonnarcotic substances which, under the Federal Food, Drug**,** and Cosmetic Act (21 U.S.C. 301) **and section 201(g)(1) of the federal Controlled Substances Act (21 U.S.C. 811(g)(1))**, may be lawfully sold over the counter without a prescription, are excluded from all schedules pursuant to section 195.015(5), RSMo.

Excluded Nonnarcotic Products

Company	Trade Name	NDC Code	Form	Controlled Substance	mg or mg/m//L
Bioline Laboratories	Theophed	00719-1945	TB	Phenobarbital	8.00
Aphena Pharma Solutions—New York, LLC	**Nasal decongestant/ inhaler/vapor**			**Levometamfetamine (l-desoxyephedrine)**	**50.00**
Goldline Laboratories	Guiaphed Elixir	00182-1377	EL	Phenobarbital	4.00
Goldline Laboratories	Tedrigen Tablets	00182-0134	TB	Phenobarbital	8.00
Hawthorne Products, Inc.	Choate's Leg Freeze		LQ	Chloral hydrate	246.67
Parke-Davis & Co.	Tedral	00071-0230	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Elixir	00071-0242	EX	Phenobarbital	40.00
Parke-Davis & Co.	Tedral S.A.	00071-0231	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Suspension	00071-0237	SU	Phenobarbital	80.00
Parmed Pharmacy	Asma-Ese	00349-2018	TB	Phenobarbital	8.10
Rondex Labs	Azma-Aids	00367-3153	TB	Phenobarbital	8.00
Smith Kline Consumer	Benzedrex	49692-0928	IN	Propylhexedrine	250.00
Sterling Drug, Inc.	Bronkolixir	00057-1004	EL	Phenobarbital	0.80
Sterling Drug, Inc.	Bronkotabs	00057-1005	TB	Phenobarbital	8.00
Vicks Chemical Co.	Vicks Inhaler	23900-0010	IN	I-Desoxyephedrine	113.00
White Hall Labs	Primatene (P-tablets)	00573-2940	TB	Phenobarbital	8.00

AUTHORITY: sections 195.015 and 195.195, RSMo 2000. Material found in this rule previously filed as 19 CSR 30-1.010. Original rule filed April 14, 2000, effective Nov. 30, 2000. Amended: Filed Jan. 31, 2003, effective July 30, 2003. Amended: Filed Sept. 30, 2016.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, Michael Boeger, Administrator, PO Box 570, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED AMENDMENT

20 CSR 400-5.100 ***Advertisements of*** **Life Insurance** *[Advertising]* ***and Annuities***. The director is amending the rule name, purpose, and sections (1)–(8), and deleting section (9).

PURPOSE: This amendment will make this rule consistent with the 2015 version of the National Association of Insurance Commissioners (NAIC) Advertisements of Life Insurance and Annuities Model Regulation #570.

PURPOSE: [These rules] ***The purpose of this rule is to*** *set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of material and relevant information in the advertising of life insurance policies and annuity contracts [and to specify the criteria by which the Missouri Department of Insurance will evaluate life insurance advertising]. This rule was adopted pursuant to the provisions of section 374.045, RSMo and [to implement]* ***effectuates and aids in the interpretation of*** *sections 375.934 and 375.936, RSMo.*

(1) Definitions *[for the Purpose of These Rules]*. **For the purpose of this rule—**

(A) **"**Advertisement**"** *[shall be]* **means** material designed to create public interest in life insurance or annuities or in an insurer or to induce the public to purchase, increase, modify, reinstate**,** or retain a policy including:

1. Printed and published material, audio-visual material**,** and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, **telemarketing scripts,** billboards and similar displays**, and the Internet or any other mass communication media**;

2. Descriptive literature and sales aids of all kinds *[issued]* **authored** by *[an]* **the** insurer**,** *[or]* **its** insurance producers**, or third parties, issued, distributed, or used by the insurer or insurance producer;** including, but not limited to, circulars, leaflets, booklets, depictions, illustrations**,** and form letters;

3. Material used for the recruitment, training**,** and education of an insurer's *[sales personnel, and]* insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate**, borrow on, replace,** or retain a policy; *[and]*

4. Prepared sales talks, presentations**,** and materials for use by *[sales personnel and]* insurance producers*[.]***;**

(B) **"**Advertisement**"** for the purpose of *[these rules]* **this rule** shall not include*[:]***—**

1. Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

2. Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate**, borrow on, replace,** or retain a policy; and

3. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance

or a booklet explaining the proposed coverage*[.]*;

(C) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements;

(D) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue;

(E) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance;

*[(C)]***(F) "**Insurer**"** *[shall include]* **means** any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, fraternal benefit society**,** and any other legal entity which is defined as an **"**insurer**"** in the insurance code of this state or issues life insurance or annuities in this state and is engaged in the advertisement of a policy*[.]*;

(G) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any underlying nonguaranteed elements are used in its calculation;

*[(D)]***(H) "**Policy**"** *[shall include]* **means** any policy, plan, certificate, **including a fraternal benefit certificate,** contract, agreement, statement of coverage, rider**,** or endorsement which provides for life insurance or annuity benefits*[.]*;

(I) "Preneed funeral contract or prearrangement" means an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services;

(J) "Registered product" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

(2) Applicability.

(A) *[These rules]* **This rule** shall apply to any life insurance or annuity advertisement intended for dissemination in this state. **In variable contracts and other registered products where disclosure requirements are established pursuant to federal regulation, this rule shall be interpreted so as to eliminate conflict with federal regulation.**

(B) **All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement.** *[Every insurer]* **Insurers** shall establish and at all times maintain a system of control over the content, form**,** and method of dissemination of all advertisements of its policies. *[All these advertisements, regardless of by whom written, created, designed or presented shall be the responsibility of the insurer.]* **A system of control shall include regular and routine notification, at least once a year, to agents, brokers, and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval.**

(3) Form and Content of Advertisements.

(A) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive as used in this rule shall be determined by the director *[of insurance]* from the overall impression that the advertisement **may be** reasonably *[may be]* expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(B) No advertisement shall use the terms **"**investment,**"** **"**investment plan,**"** **"**founder's plan,**"** **"**charter plan,**"** **"deposit,"** **"**expansion plan,**"** **"**profit,**"** **"**profits,**"** **"**profit sharing,**"** **"**interest plan,**"** **"savings,"** **"**savings plan**," "private pension plan," "retirement plan,"** or other similar terms in connection with a policy in a context or under **such** circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of *[the]* **such** policy to believe that s/he will receive, or that it is possible that s/he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(4) Disclosure Requirements.

(A) The information required to be disclosed by *[these rules]* **this rule** shall not be minimized, *[obscured]* **rendered obscure,** or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(B) No advertisement shall omit material information or use words, phrases, statements, references**,** or illustrations if this omission or the use has the capacity, tendency**,** or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable**,** or state or federal tax consequences. The fact that the policy offered is made available to **a** prospective insured for inspection prior to consummation of the sale**,** or an offer is made to refund the premium if the purchaser is not satisfied **or that the policy or contract includes a "free look" period that satisfies or exceeds regulatory requirements**, does not *[correct or]* remedy misleading statements.

(C) In the event an advertisement uses **"**non-medical,**"** **"**no medical examination required**,"** or similar terms where issue is not guaranteed, *[those]* terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition **thereto** to the effect that issuance of the policy may depend upon the answers to the health questions **set forth in the application**.

(D) An advertisement shall not use as the name or title of a life insurance policy any phrase *[which]* **that** does not include the words **"**life insurance**"** unless accompanied by other language clearly indicating it is life insurance. **An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.**

(F) An advertisement of an insurance policy marketed by *[the]* direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless that is the fact. No cost savings may be stated or implied without justification satisfactory to the director *[of insurance]* prior to use.

(G) An advertisement for a **life insurance** policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, that fact shall be prominently disclosed. **An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.**

(H) An advertisement for the types of policies described in subsections (4)(F) and (4)(G) of this rule shall not use the words "inexpensive," "low cost," or other phrase or words of similar import when the policies being marketed are guaranteed issue.

(I) Premiums.

*[(H)]***1.** An advertisement for a policy with non-level premiums

shall prominently describe the premium changes.

2. An advertisement in which the insurer describes a policy where it reserves the right to change the amount of premium during the policy term, but which does not prominently describe this feature, is deceptive and misleading and is prohibited.

3. An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

4. An advertisement that represents that a pure endowment benefit has a "profit" or "return" on the premium paid, rather than a policy benefit for which a specified premium is paid, is deceptive and misleading and is prohibited.

5. An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

6. An advertisement shall not use the term "vanish," or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

(J) Analogies between a life insurance policy's or annuity contract's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments shall be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than a life insurance policy or an annuity contract.

(K) An advertisement shall not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(L) If nonforfeiture values are shown in any advertisement, the values must be shown either for the entire amount of the basic life policy death benefit or for each one thousand dollars ($1,000) of the initial death benefit.

(M) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

(N) No insurance producer may use terms such as "financial planner," "investment adviser," "financial consultant," or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing the membership, providing that a person citing the membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation, or servicing of policies.

(O) Nonguaranteed Elements.

1. An advertisement shall not utilize or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.

2. An advertisement shall not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified in sections 375.1500 to 375.1527, RSMo, if nonguaranteed elements are illustrated, they shall be based on the insurer's current scale and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

3. Unless otherwise specified in sections 375.1500 to 375.1527, RSMo, an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing or based upon the guaranteed elements.

4. An advertisement shall not use or describe determinable elements in a manner that is misleading or has the capacity or tendency to mislead.

5. Advertisement may describe determinable elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

6. If an advertisement refers to any nonguaranteed element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

7. An advertisement shall not refer to dividends as "tax-free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

8. An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

[(I) Dividends.

1. An advertisement shall not utilize or describe dividends in a manner which is misleading or has the capacity or tendency to mislead.

2. An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends are illustrated, they must be based on the insurer's current dividend scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.

3. An advertisement shall not state or imply that illustrated dividends under a participating policy, pure endowment, or both, will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at that time and under what conditions this would occur.]

*[(J)]***(P)** An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

*[(K)]***(Q)** Testimonials**, Appraisals, Analysis,** or Endorsements by Third Parties.

1. Testimonials**, appraisals, or analysis** used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced **with sufficient completeness to avoid misleading or deceiving prospective insureds**. In using *[a]* testimonials**, appraisals, or analysis;** the insurer **or insurance producer** makes as its own all of the statements contained *[in it]* **therein,** and these statements are

subject to all the provisions of *[these rules]* **this rule**.

2. If the individual making a testimonial**, appraisal, analysis,** or *[an]* endorsement has a financial interest in the insurer or *[a]* related entity as a stockholder, director, officer, employee or otherwise**,** or receives any benefit directly or indirectly other than required union scale wages, *[this]* **that** fact shall be **prominently** disclosed in the advertisement.

3. An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association**,** or other organization unless *[that]* **such** is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled**,** or managed by the insurer**,** or receives any payment or other consideration from the insurer for making the endorsement or testimonial, *[this]* **that** fact shall be disclosed in the advertisement.

4. When a testimonial, appraisal, analysis, or endorsement refers to benefits received under a policy for a specific claim, the claim date, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of five (5) years after the discontinuance of its use.

*[(L)]***(R)** An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified.

(S) Policies Sold to Students.

1. The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university, or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

2. All advertisements including, but not limited to, informational flyers used in the solicitation of insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities shall be clearly identified as such.

3. The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school, or other educational or training institution, unless true.

*[(M)]***(T)** Introductory, Initial or Special Offers**,** and Enrollment Periods.

1. An advertisement of an individual policy or combination of these policies shall not state or imply that the policy or combination of policies is an introductory, initial or special offer**,** or that applicants will receive substantial advantages not available at a later date**,** or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not describe an enrollment period as **"**special**"** or **"**limited**"** or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

2. An advertisement shall not state or imply that only a specific number of policies will be sold**,** or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

3. An advertisement shall not offer a policy *[which]* **that** utilizes a reduced **initial** premium rate in a manner *[which]* **that** over*[-]*emphasizes the availability and the amount of the reduced initial premium. **A reduced initial or first year premium may not be described as constituting free insurance for a period of time.** When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol *[which]* **that** refers the reader to that specific portion of the advertisement *[which]* **that** contains the full rate schedule for the policy being advertised.

4. An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days *[following]* **from** the date on which the enrollment period is advertised for the first time. This rule applies to all advertising media—*[that is]* **i.e.**, mail, newspaper**s**, radio, television, magazines**,** and periodicals—by any one (1) insurer **or insurance producer**. The phrase **"**any one (1) insurer**"** includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be *[acceptable]* **accepted** by an insurer in those instances where the application has been sent to the applicant in response to *[his/her]* **his or her** request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the insurance code for group, blanket**,** or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

*[(N)]***(U)** An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group**,** or quasi-group and as such enjoy special rates, dividends**,** or underwriting privileges, unless that is the fact.

*[(O)]***(V)** An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends**,** or rates of other insurers. An advertisement shall not *[falsely or unfairly describe]* **disparage** other insurers, *[their]* **insurance producers,** policies, services**,** or methods of marketing.

*[(P)]***(W)** For individual deferred annuity products or deposit funds, the following shall apply:

1. Any illustrations or statements containing or based upon **nonguaranteed** interest *[rates higher than the guaranteed accumulation interest]* rates **shall** likewise *[shall]* set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. *[These higher]* **The nonguaranteed** interest rate*[s]* shall not be greater than those currently being credited by the company unless the *[higher]* **nonguaranteed** rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration;

2. If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it also shall disclose in close proximity **thereto** and with equal prominence, the actual relationship between the gross and net premiums;

3. If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, *[any]* **an** illustration*[s]* or statement*[s]* concerning the contract shall prominently state that cash surrender benefits are not provided*[.]***; and**

4. Any illustrations, depictions, or statements containing or based on determinable elements shall likewise set forth with equal prominence comparable illustrations, depictions, or statements containing or based on guaranteed elements.

(X) An advertisement of a life insurance policy or annuity contract that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life insurance policies and annuity contracts.

(Y) An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in subsection (1)(H) that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. The fact that a life insurance policy or annuity contract is being used to fund a preneed funeral contract or a prearrangement as defined in subsection (1)(H); and

2. The nature of the relationship among the soliciting agent

or agents, the provider of the funeral or cemetery merchandise services, the administrator and any other person.

(Z) Failure to comply with the requirements set forth in section (4) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(5) Identity of Insurer.

(A) The name of the insurer shall be clearly identified in *[each]* **all** advertisements **about the insurer or its products,** and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. **If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be stated.**

(B) An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, **a reinsurer of the insurer,** service mark, slogan, symbol**,** or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

*[(B)]***(C)** *[No advertisement shall]* **An advertisement shall not** use any combination of words, symbols**,** or physical materials *[which]* **that** by their content, phraseology, shape, color**,** or other characteristics are so similar to a combination of words, symbols**,** or physical materials used by a governmental program or agency or otherwise appear to be of **such** a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with *[that]* **a** governmental program or agency.

(D) Failure to comply with the requirements set forth in section (5) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(6) Jurisdictional Licensing and Status of Insurer.

(A) An advertisement *[which]* **that** is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(B) An advertisement may state that an insurer **or insurance producer** is licensed in *[the state where the advertisement appears]* **a particular state or states**, provided it does not exaggerate that fact or suggest or imply that competing insurers **or insurance producers** may not be so licensed.

(C) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims**,** or the merits, desirability**,** or advisability of its policy forms or kinds of plans of insurance are *[currently or have been]* recommended or endorsed by any governmental entity *[unless that is the fact]*. However, when a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorize*[d]***s** its recommendation or endorsement to be used in an advertisement.

(D) Failure to comply with the requirements set forth in section (6) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(7) Statements About the Insurer.

(A) An advertisement shall not contain statements, pictures**,** or illustrations *[which]* **that** are false or misleading**,** in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age**,** or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope*[, basis]* and extent of the recommendation **including, but not limited to, the placement of the insurer's rating in the hierarchy of the rating system cited**.

(B) Failure to comply with the requirements set forth in section (7) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(8) Enforcement Procedures.

(A) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published**,** or prepared advertisement of its individual policies and specimen copies of typical printed, published**,** or prepared advertisements of its blanket, franchise and group policies disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. This file shall be subject to inspection by the director *[or his/her lawfully appointed agents]*. All *[these]* advertisements shall be maintained in the file for a period of *[either three (3) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time]* **five (5) years after discontinuance of its use**.

(B) If the director determines that an insurer's or insurance producer's advertisement has the capacity or tendency to mislead or deceive the public, the director may require the insurer or insurance producer to submit all or any part of their advertising material for review or approval prior to use.

*[(B)]***(C)** Each insurer subject to the provisions of *[these rules]* **this rule** shall file with the director with its annual statement a certificate **of compliance** executed by an authorized officer of the insurer *[where it is stated]* **stating** that to the best of *[his/her]* **his or her** knowledge, information and belief*[,]* the advertisements *[which]* **that** were disseminated by or on behalf of the insurer in this state during the preceding statement year**,** or during the portion of *[that]* **the** year when *[these rules were]* **this rule was** in effect, complied or were made to comply in all respects with the provisions of *[these rules]* **this rule** and the insurance laws of this state as implemented and interpreted by *[these rules]* **this rule**.

[(9) Conflict With Other Rules. It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sales of life insurance and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.]

AUTHORITY: sections 374.045, ***375.141, 375.143, and 375.144, RSMo Supp. 2013, and sections*** *375.934 [and],* *375.936,* ***and 375.948,*** *RSMo 2000. This rule was previously filed as 4 CSR 190-13.020. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed July 9, 1976, effective Feb. 20, 1977. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Sept. 30, 2016.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED AMENDMENT

20 CSR 400-5.400 *[Replacement of]* **Life Insurance and Annuities *Replacement***. The director is amending the rule title, amending the purpose, deleting sections (1)–(10) and exhibit A. The director is adding new sections (1)–(9) and appendices A, B, and C.

PURPOSE: This amendment updates life insurance and annuity replacement requirements for insurers and producers in accordance with the National Association of Insurance Commissioners Life Insurance and Annuities Replacement Model Regulation #613.

PURPOSE: This rule regulates the activities of insurers, agents, and brokers with respect to the replacement of existing life insurance and annuities and protects the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions. ***This rule effectuates and aids in the interpretation of sections 375.934, 375.936, and 375.948, RSMo.***

[(1) Purpose. The purpose of this rule is to—

(A) Regulate the activities of insurers and insurance producers with respect to the replacement of existing life insurance and annuities; and

(B) Protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by—

1. Assuring that purchasers receive information with which a decision can be made in his/her own best interest;

2. Reducing the opportunity for misrepresentation and incomplete disclosures; and

3. Establishing penalties for failure to comply with requirements of this rule.

(2) Definition of Replacement. Replacement means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing insurance producer or to the proposing insurer if there is no insurance producer, that by reason of that transaction, existing life insurance or annuity has been or is to be—

(A) Lapsed, forfeited, surrendered or otherwise terminated;

(B) Converted to reduced paid-up insurance, continued as extended term insurance or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(C) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(D) Reissued with any reduction in cash value; or

(E) 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 twenty-five percent (25%) of the loan value set forth in the policy.

(3) Other Definitions.

(A) Conservation means any attempt by the existing insurer or its insurance producer to dissuade a policyowner from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers.

(B) Direct-response sales means any sale of life insurance or annuity where the insurer does not utilize an insurance producer in the sale or delivery of the policy.

(C) Existing insurer means the insurance company whose policy is or will be changed or terminated in a manner as described within the definition of replacement.

(D) Existing life insurance or annuity means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period.

(E) Policy summary or ledger statement as defined by section 376.704, RSMo.

(F) Registered contract means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in separate account or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

(G) Replacing insurer means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

(4) Exemptions. Unless otherwise specifically included, this rule shall not apply to transactions involving—

(A) Credit life insurance;

(B) Group life insurance or group annuities;

(C) An application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege is being exercised;

(D) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(E) Transactions where the replacing insurer and the existing insurer are the same or are subsidiaries or affiliates under common ownership or control; provided, however, insurance producers proposing replacement shall comply with the requirements of subsection (5)(A);

(F) Registered contracts shall be exempt from the requirements of paragraphs (7)(B)2. and 3. requiring provision of policy summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu of it; and

(G) Policies issued in connection with a pension, profit sharing and individual retirement account or other benefit plan qualifying for tax deductibility of premium.

(5) Duties of Insurance Producers.

(A) Each insurance producer who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application—

1. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

2. A signed statement as to whether the insurance producer knows replacement is or may be involved in the transaction.

(B) Where a replacement is involved, the insurance producer shall—

1. Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" in the form as described in Exhibit A, included herein, or other substantially similar form approved by the director. The notice shall be signed by both the applicant and the insurance producer and left with the applicant;

2. Obtain with or as part of each application a list of all existing life insurance or annuity to be replaced, or both, and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

3. Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant; and

4. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to paragraph (5)(B)1.

(C) Each insurance producer who uses written or printed communications in a conversation shall leave with the applicant the original or a copy of the materials used.

(6) Duties of All Insurers. Each shall—

(A) Inform its field representatives or other personnel responsible for compliance with this rule of the requirements of this rule; and

(B) Require with or as a part of each completed application for life insurance or annuity, a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

(7) Duties of Insurers That Use Insurance Producers. Each insurer that uses an insurance producer in a life insurance or annuity sale shall—

(A) With or as part of each completed application for life insurance or annuity, require a statement signed by the insurance producer as to whether s/he knows replacement is or may be involved in the transaction;

(B) Where a replacement is involved—

1. Require from the insurance producer with the application for life insurance or annuity—1) a list of all of the applicant's existing life insurance or annuity to be replaced and 2) a copy of the replacement notice provided the applicant pursuant to paragraph (5)(B)1. The existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

2. Send to each existing insurer a written communication advising of the replacement of proposed replacement and the identification information obtained pursuant to paragraph (7)(B)1. and a policy summary or ledger statement containing policy data on the proposed life insurance or annuity. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within five (5) working days of the date the application is received in the replacing insurer's home or regional office or the date the proposed policy or contract is issued, whichever is sooner; and

3. Each existing insurer or the insurer's insurance producer, that undertakes a conversation, within twenty (20) days from the date the written communication plus the materials required in paragraphs (7)(B)1. and 2. is received by the existing insurer, shall furnish the policyowner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy annuity, or both. All information in the policy summary or ledger statement relating to premiums, cash values, death benefits and dividends shall be computed from the current policy year of the existing life insurance. The policy summary shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions and may include any other information that is not in violation of any rule or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries;

(C) As the replacing insurer, maintain evidence of the "Notice Regarding Replace-ment," the policy summary, the contract summary and any ledger statements used and a replacement register, cross-indexed, by replacing insurance producer and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries or ledger statements used in any conversation. Evidence that all requirements were met shall be maintained for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is earlier; and

(D) As the replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty (20) days commencing from the date of delivery of the policy.

(8) Duties of Insurers With Respect to Direct- Response Sales.

(A) If in the solicitation of a direct response sale, the insurer did not propose the replacement and a replacement is involved, the insurer shall send to the applicant with the policy a replacement notice as described in Exhibit B, or other substantially similar form approved by the director.

(B) If the insurer proposed the replacement, it shall—

1. Provide to applicants or prospective applicants with or as a part of the application a replacement notice as described in Exhibit B, included herein, or other substantially similar form approved by the director;

2. Request from the applicant with or as part of the application, a list of all existing life insurance or annuity to be replaced and properly identified by name of insurer and insured; and

3. Comply with the requirements of paragraph (7)(B)2., if the applicant furnishes the names of the existing insurers and the requirements of subsection (7)(C), except that it need not maintain a replacement register.

(9) Penalties.

(A) Any insurer, insurance producer, representative, officer or employee of that insurer failing to comply with the requirements of this rule shall be subject to those penalties as may be appropriate under the insurance laws.

(B) Patterns of action by policyowners who purchase replacing policies from the same insurance producer, after indicating on the application that replacement is not included, shall be deemed prima facie evidence of the insurance producer's knowledge that replacement was intended in connection with the sale of those policies and the patterns of action shall be deemed prima facie evidence of the insurance producer's intent to violate this rule.

(C) This regulation does not prohibit the use of additional material other than that which is required that is not in violation of the rule or any other statute or rule.

(10) Severability. If any section or portion of a section of this rule or the applicability of it to any person or circumstance, is held invalid by a court, the remainder of this rule or the applicability of that provision to other persons, shall not be affected.

Exhibit A
Replacement Notice
Replacing Your Life Insurance Policy or Annuity?

Are you thinking about buying a new policy and discontinuing or changing an existing policy? 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 policy and the proposed policy.

Make sure you understand the facts. Ask the company or insurance producer that sold you your existing policy to provide you with a policy summary statement.

The reverse side contains a check list of some of the items you should consider in making your decision. TAKE TIME TO READ IT.

Do not let one insurance producer or insurer prevent you from obtaining information from another insurance producer or insurer which may be to your advantage.

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

We are required to notify your existing company that you may be replacing their policy.

_____	_____	_____	_____
Applicant's Signature	*Date*	*Insurance Producer's Signature*	*Date*

_____	_____
_____	_____
_____	_____
Applicant's Name and Address (printed)	*Insurance Producer's Name, Address, Telephone Number and License Number (printed)*

ORIGINAL TO APPLICANT
COPY TO REPLACING INSURER—COPY TO REPLACED INSURER

ITEMS TO CONSIDER

1. *If the policy coverages are basically similar, premiums for a new policy may be higher because rates increase as your age increases.*
2. *Cash values and dividends, if any, may grow slower under a new policy initially because of the initial costs of issuing a policy.*
3. *Your present insurance company may be able to make a change on terms which may be more favorable than if you replace existing insurance with new insurance.*
4. *If you borrow against an existing policy to pay premiums on a new policy, death benefits payable under your existing policy will be reduced by the amount of any unpaid loan, including unpaid interest.*
5. *Current interest rates are not guaranteed. Guaranteed interest rates are usually considerably lower than current rates. What rates are guaranteed?*
6. *Are premiums guaranteed or subject to change—up or down?*
7. *Participating policies pay dividends that may materially reduce the cost of insurance over the life of the contract. Dividends, however, are not guaranteed.*
8. *CAUTION, you are urged not to take action to terminate, assign or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you; and*

REMEMBER, you have twenty (20) days following receipt to examine the contents of any individual life insurance policy or annuity. If you are not satisfied with it for any reason, you have the right to return it to the insurer at its home or branch office, or to the insurance producer through whom it was purchased, for a full refund of premium.

EXHIBIT B
(Name, address and telephone number of the insurance company)
Important Notice Regarding Replacement
of Life Insurance

You have indicated that you intend to replace an existing life insurance policy or policies in connection with the purchase of our life insurance policy. As a result, we are required to send you this notice. Please read it carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and your existing insurance coverage.

You may want to contact your existing life insurance company or its insurance producer for additional information and advice or discuss your purchase with other advisors. The information you receive should be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Under your existing policy, the period of time during which the issuing company could [contest the policy because of a material misrepresentation or omission concerning the medical information requested in your application, or] deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.*

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

* * * * * *

(Additional paragraph if a twenty (20)-day money-back guarantee is provided by the insurer.)

After we have issued your policy, you will have twenty (20) days from the date the new policy is received by you to notify us you are cancelling the policy issued on your application and you will receive back all payments you made to us.

* * * * * *

You are urged not to take action to terminate or alter your existing life insurance coverage until you have been issued the new policy, examined it and found it acceptable to you.

* * * * * *

**Use bracketed language only when the application asks health questions.]*

(1) Purpose and Scope.

(A) The purpose of this rule is—

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. It will—

A. Assure that purchasers receive information with which a decision can be made in his or her own best interest; and

B. Reduce the opportunity for misrepresentation and incomplete disclosure.

(B) Unless otherwise specifically included, this rule 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 in group life insurance or a group annuity. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of section (7) of this rule;

3. Group life insurance or annuities used to fund prearranged funeral contracts;

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 new policy or contract filed with and approved by the director; or, when a term conversion privilege is exercised among corporate affiliates;

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

6. (Reserved)

A. Policies or contracts used to fund 1) an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); 2) 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; 3) a governmental or church plan defined in Section 414, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; or 4) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

B. Notwithstanding subparagraph (1)(B)6.A., this rule 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 (2) 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 in group life insurance or a group annuity;

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 will expire in five (5) years or less and cannot be renewed; or

9. Structured settlements.

(C) Registered contracts shall be exempt from the requirements of paragraph (5)(A)2. and subsection (6)(B) of this rule with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

(2) Definitions.

(A) "Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet, or other mass communication media.

(B) "Existing insurer" means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

(C) "Existing contract" means an annuity contract (contract) in force, including a contract under a binding or conditional receipt or a contract that is within an unconditional refund period.

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

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

(F) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance or annuity contract over a period of years as defined in section 375.1503, RSMo.

(G) "Policy summary," for the purposes of this rule—

1. For policies or contracts other than universal life policies, means a written statement regarding a policy or contract that shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan;

2. For universal life policies, means a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense, and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

(H) "Producer," for the purpose of this rule, shall be defined to include agents, brokers, and producers.

(I) "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

(J) "Registered contract" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

(K) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing 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. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

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

(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 answered "yes" to the question regarding existing coverage referred to in subsection (3)(A), the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix A, included herein, or other substantially similar form. 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 left with the applicant.

(C) 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.

(D) In connection with a replacement transaction the producer shall leave with 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.

(E) Except as provided in subsection (5)(C), 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.

(F) Failure to comply with the requirements set forth in section (3) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(4) Duties of Insurers that Use Producers. Each insurer shall—

(A) Maintain a system of supervision and control to insure compliance with the requirements of this rule that shall include at least the following:

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

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

3. A system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with paragraph (4)(A)2. above;

4. Procedures to confirm that the requirements of this rule have been met; and

5. 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 rule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring;

(B) Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the department. The capacity to monitor shall include the ability to produce records for each producer's—

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

2. 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. 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 paragraph (4)(A)5.; and

5. Replacements, indexed by replacing producer and existing insurer;

(C) Require with, or as a part of, each application for life insurance or an annuity, a signed statement by both the applicant and the producer as to whether the applicant has existing policies or contracts;

(D) Require with each application for life insurance or an annuity that indicates an existing policy or contract, a completed notice regarding replacements as contained in Appendix A, included herein;

(E) When the applicant has existing policies or contracts, each insurer shall be able to produce copies of any sales material required by subsection (3)(E), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the producer's and applicant's signed statements with respect to financing and replacement for at least five (5) years after the termination or expiration of the proposed policy or contract;

(F) Ascertain that the sales material and illustrations required by subsection (3)(E) of this rule meet the requirements of this rule and are complete and accurate for the proposed policy or contract;

(G) If an application does not meet the requirements of this rule, notify the producer and applicant and fulfill the outstanding requirements;

(H) Maintains records in paper, photograph, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document; and

(I) Failure to comply with the requirements set forth in section (4) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(5) Duties of Replacing Insurers that Use Producers.

(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 rule;

2. Notify any other existing insurer that may be affected by the proposed replacement within five (5) business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five (5) business days of a request from an existing insurer;

3. Be able to produce copies of the notification regarding replacement required in subsection (3)(B), indexed by producer, for at least five (5) years or until the next regular examination by the insurance department of a company's state of domicile, whichever is later; and

4. Provide to the policy or contract owner notice of the right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or consideration 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 consideration or imposed under such policy or contract. Such notice may be included in Appendix A or C, included herein.

(B) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, 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 the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(C) If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to subsection (3)(E), the insurer may—

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

A. Represents that the producer used only company-approved sales material; and

B. States that copies of all sales material were left with the applicant in accordance with subsection (3)(D); and

2. Within ten (10) days of the issuance of the policy or contract—

A. Notify the applicant by sending a letter or by verbal communication with the applicant 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 subsection (3)(D);

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

C. Stress the importance of retaining copies of the sales material for future reference; and

3. Be able to produce a copy of the letter or other verification in the policy file for at least five (5) years after the termination or expiration of the policy or contract.

(D) Failure to comply with the requirements set forth in section (5) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(6) Duties of the Existing Insurer. Where a replacement is involved in the transaction, the existing insurer shall—

(A) Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five (5) years;

(B) Send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary, if an in force illustration cannot be produced within five (5) business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five (5) business days of receipt of the request from the policy or contract owner;

(C) Upon receipt of a request to borrow, surrender, or withdraw any policy values, send a notice advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount, or surrender value of the policy from which the values are released. The notice shall be sent separate 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; and

(D) Failure to comply with the requirements set forth in section (6) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(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 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 in Appendix B, included herein, or other substantially similar form approved by the director.

(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 Appendix C, included herein, or other substantially similar form approved by the director. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the director. 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 paragraph (5)(A)2., if the applicant furnishes the names of the existing insurers, and the

requirements of paragraphs (5)(A)3., (5)(A)4., and subsection (5)(B).

(C) Failure to comply with the requirements set forth in section (7) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(8) Violations.

(A) Any failure to comply with this rule shall be considered a violation of the Unfair Trade Practice Act, sections 375.930 to 375.948, RSMo, as more fully set forth in this rule. Examples of violations include:

1. Any deceptive or misleading information set forth in sales material;

2. Failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;

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 existing life insurance policies or annuity contracts after indicating in, or as a part of, an application for new coverage that replacement is not their intention; however, patterns of inaccurate recordations of the expression of intention regarding replacement 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 rule.

(C) Where it is determined that the requirements of this rule 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 appropriate notice regarding replacements in Appendix A or C, included herein.

(9) Severability. If any section or portion of a section of this rule, or its applicability to any person or circumstances, is held invalid by a court, the remainder of this rule, or the applicability of its provisions to other persons, shall not be affected.

APPENDIX A

IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES
This document must be signed by the applicant and the producer, if there is one, and a copy left with 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 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 policy or contract 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 or contract to pay all or part of any premium or payment due on the new policy or contract. 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 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 or contract and may reduce the amount paid upon the death of the insured or annuitant.

We want you to understand the effects of replacements 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, 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

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating 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 you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary, or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent 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 agent 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 agent 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?

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 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 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 policy or contract involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy or contract values, including accumulated dividends, of an existing policy or contract, to pay all or part of any premium or payment due on the new policy or contract. 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 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 or contract and may reduce the amount paid upon the death of the insured or annuitant.

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 you are contemplating replacing (include the name of the insurer, the insured, 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 you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary, or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent 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 agent 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 agent 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 (2) 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?

*AUTHORITY: sections 374.045 and **375.143, RSMo Supp. 2013, and sections 375.934,** 375.936, **and 375.948,** RSMo 2000. This rule was previously filed as 4 CSR 190-13.060. Original rule filed Jan. 5, 1970, effective Jan. 15, 1970. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 30, 2016.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED RESCISSION

20 CSR 400-5.410 Disclosure of Material Facts in Annuity Sales. This rule provided standards for the disclosure of certain information about annuity contracts to protect consumers and foster consumer education. The rule specified material information which must be disclosed and the method for disclosing it in connection with the offer and sale of annuity contracts. The goal of this regulation was to ensure that purchasers of annuity contracts understand certain basic features of an annuity contract. This rule was based upon the Annuity Disclosure Model Regulation, adopted by the National Association of Insurance Commissioners in 1998. The rule was a minimum standard, but was not a substitute for complete disclosure of material facts prior to sale as required by law.

PURPOSE: This rule is being rescinded because proposed rule 20 CSR 400-5.800 Annuity Disclosure, is replacing the language contained in this rule.

AUTHORITY: sections 374.040, 374.045, 375.013, 375.936(4) and 375.936(6), RSMo 2000 and 375.144, RSMo Supp. 2005. Original rule filed July 14, 2006, effective Jan. 30, 2007. Rescinded: Filed Sept. 30, 2016.

PUBLIC COST: The proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: The proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED RULE

20 CSR 400-5.800 Annuity Disclosure

PURPOSE: This rule effectuates and aids in the interpretation of sections 375.141.1(8), 375.143, and 375.936(4), (6), and (7), RSMo. The purpose of this rule is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. This rule specifies the minimum information which must be disclosed, the method for disclosing it, and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of this rule is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts. This rule implements the National Association of Insurance Commissioners (NAIC) Annuity Disclosure Guideline Regulation #245.

(1) Applicability and Scope. This rule applies to all group and individual annuity contracts and certificates except—

(A) Immediate and deferred annuities that contain no non-guaranteed elements;

(B) *(Reserved)*

1. Annuities used to fund—

A. An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

B. 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;

C. A governmental or church plan defined in Section 414 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

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

2. Notwithstanding paragraph (1)(B)1., the rule shall apply to annuities used to fund a 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 insurance company has been notified that plan participants may choose from among two (2) or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

(C) Non-registered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.);

(D) *(Reserved)*

1. Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with section (3) of this rule shall be required after January 1, 2014, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.

2. Notwithstanding paragraph (1)(D)1., the delivery of the

Buyer's Guide is required in sales of variable annuities, and when appropriate, in sales of other registered products.

3. Nothing in this rule shall limit the director's ability to enforce the provisions of this rule or to require additional disclosure;

(E) Structured settlement annuities.

(2) Definitions. For the purposes of this rule—

(A) "Buyer's Guide" means the National Association of Insurance Commissioners' (NAIC) approved *Annuity Buyer's Guide*, included herein as Appendix A. A current version of the NAIC *Annuity Buyer's Guide*, available on the NAIC website, www.naic.org, is an acceptable substitute;

(B) "Contract owner" means the owner named in the annuity contract or certificate holder in the case of a group annuity contract;

(C) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, and/or charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements;

(D) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity;"

(E) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these, that are guaranteed or have determinable elements at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed;

(F) "Illustration" means a personalized presentation or depiction prepared for and provided to an individual consumer that includes non-guaranteed elements of an annuity contract over a period of years. A sample illustration is included herein as Appendix B;

(G) "Market Value Adjustment" or "MVA" feature is a positive or negative adjustment that may be applied to the account value and/or cash value of the annuity upon withdrawal, surrender, contract annuitization, or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization, or death benefit payment occurs at a time other than on a specified guaranteed benefit date;

(H) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation;

(I) "Registered product" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933;

(J) "Structured settlement annuity" means a "qualified funding asset" as defined in Section 130(d) of the *Internal Revenue Code* or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

(3) Standards for the Disclosure Document and Buyer's Guide.

(A) *(Reserved)*

1. Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall at or before the time of application be given both the disclosure document described in subsection (3)(B) of this rule and the Buyer's Guide, if any.

2. Where the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer's Guide no later than five (5) business days after the completed application is received by the insurer.

A. With respect to an application received as a result of a direct solicitation through the mail—

(I) Providing a Buyer's Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than five (5) business days after receipt of the application;

(II) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five (5) business days after receipt of the application.

B. With respect to an application received via the Internet—

(I) Taking reasonable steps to make the Buyer's Guide available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than five (5) business days after receipt of the application;

(II) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the disclosure document be provided no later than five (5) business days after receipt of the application.

C. A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurance department of the state for a free annuity Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity Buyer's Guide.

D. Where the Buyer's Guide and disclosure document are not provided at or before the time of application, a free look period of no less than fifteen (15) days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

(B) At a minimum, the following information shall be included in the disclosure document required to be provided under this rule:

1. The generic name of the contract, the company product name, if different, and form number, and the fact that it is an annuity;

2. The insurer's legal name, physical address, website address, and telephone number;

3. A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate:

A. The guaranteed, and non-guaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread, and an explanation of how they operate;

B. An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined, specifying any bonus or introductory portion, the duration of the rate, and the fact that rates may change from time to time and are not guaranteed;

C. Periodic income options both on a guaranteed and non-guaranteed basis;

D. Any value reductions caused by withdrawals from or surrender of the contract;

E. How values in the contract can be accessed;

F. The death benefit, if available, and how it will be calculated;

G. A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

H. Impact of any rider, including, but not limited to, a guaranteed living benefit or long-term care rider;

4. Specific dollar amount or percentage charges and fees shall

be listed with an explanation of how they apply; and

5. Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

(C) Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed, however, insurers' definitions of terms defined in this rule may not deviate from the definitions in this rule.

(D) Failure to comply with the requirements set forth in section (3) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(4) Standards for Annuity Illustrations.

(A) An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this section and—

1. Clearly labeled as an illustration;

2. Includes a statement referring consumers to the disclosure document and Buyer's Guide provided to them in connection with their purchase for additional information about their annuity; and

3. Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of illustrations.

(B) An illustration furnished an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(C) The illustration shall not be provided unless accompanied by the disclosure document referenced in section (3) of this rule.

(D) When using an illustration, the illustration shall not—

1. Describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;

2. State or imply that the payment or amount of non-guaranteed elements is guaranteed; or

3. Be incomplete.

(E) Costs and fees of any type shall be individually noted and explained.

(F) An illustration shall conform to the following requirements:

1. The illustration shall be labeled with the date on which it was prepared;

2. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled "page 4 of 7 pages");

3. The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;

4. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the contract is assumed to have been in force;

5. The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;

6. Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features, and whether or not they are included in the illustration;

7. Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled guaranteed;

8. The non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements. Additionally, non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

9. In determining the non-guaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three (3) different scenarios: one (1) to reflect historical performance of the index for the most recent ten (10) calendar years; one (1) to reflect the historical performance of the index for the continuous period of ten (10) calendar years out of the last twenty (20) calendar years that would result in the least index value growth (the "low scenario"); one (1) to reflect the historical performance of the index for the continuous period of ten (10) calendar years out of the last twenty (20) calendar years that would result in the most index value growth (the "high scenario"). The following requirements apply:

A. The most recent ten (10) calendar years and the last twenty (20) calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three (3) months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;

B. If any index utilized in determination of an account value has not been in existence for at least ten (10) calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one (1) indexed or fixed declared rate account, and one (1) or more of those indexes has not been in existence for at least ten (10) calendar years, the allocation to such indexed account(s) shall be assumed to be zero;

C. If any index utilized in determination of an account value has been in existence for at least ten (10) calendar years but less than twenty (20) calendar years, the ten (10) calendar year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

D. The non-guaranteed element(s), such as caps, spreads, participation rates, or other interest crediting adjustments, used in calculating the non-guaranteed index-based interest rate shall be no more favorable than the corresponding current element(s);

E. If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account—

(I) The allocation used in the illustration shall be the same for all three (3) scenarios; and

(II) The ten (10) calendar year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option;

F. The geometric mean annual effective rate of the account value growth over the ten (10) calendar year period shall be shown for each scenario;

G. If the most recent ten (10) calendar year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subsection (4)(H), the most recent ten (10) calendar year historical period experience of the index shall be used for each subsequent ten (10) calendar year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

H. The low and high scenarios: 1) need not show surrender values (if different than account values); 2) shall not extend beyond ten (10) calendar years (and therefore are not subject to the requirements of subsection (4)(H) beyond subparagraph (4)(H)1.A.; and 3) may be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the ten (10) calendar year period for the low scenario, the high scenario and the most recent ten (10) calendar year scenario; and

I. The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an

adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

10. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page 1 for guaranteed elements");

11. The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;

12. The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest, and application of any market value adjustment, as applicable;

13. Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

14. Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that—

A. The benefits and values are not guaranteed;

B. The assumptions on which they are based are subject to change by the insurer; and

C. Actual results may be higher or lower;

15. Illustrations based on non-guaranteed credited interest and non-guaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and non-guaranteed participation rates, caps, or spreads for fixed indexed annuities;

16. The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

17. Illustrations shall be concise and easy to read;

18. Key terms shall be defined and then used consistently throughout the illustration;

19. Illustrations shall not depict values beyond the maximum annuitization age or date;

20. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; and

21. Illustrations shall show both annuity income rates per one thousand dollars ($1000.00) and the dollar amounts of the periodic income payable.

(G) An annuity illustration shall include a narrative summary that includes the following unless there is provided at the same time in a disclosure document:

1. A brief description of any contract features, riders or options, guaranteed and/or nonguaranteed, shown in the basic illustration and the impact each may have on the benefits and values of the contract;

2. A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact each has on the benefits and values of the contract;

3. Identification and a brief definition of column headings and key terms used in the illustration;

4. A statement containing in substance the following:

A. For other than fixed indexed annuities—

(I) This illustration assumes the annuity's current nonguaranteed elements will not change. It is likely that they will change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees;

(II) The values in this illustration are *not* guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information;

B. For fixed indexed annuities—

(I) This illustration assumes the index will repeat historical performance and that the annuity's current non-guaranteed elements, such as caps, spreads, participation rates, or other interest crediting adjustments, will not change. It is likely that the index *will not* repeat historical performance, the non-guaranteed elements *will* change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees;

(II) The values in this illustration are *not* guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information; and

5. Additional explanations as follows:

A. Minimum guarantees shall be clearly explained;

B. The effect on contract values of contract surrender prior to maturity shall be explained;

C. Any conditions on the payment of bonuses shall be explained;

D. For annuities sold as an IRA, qualified plan, or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;

E. For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur; and

F. A brief description of the types of annuity income options available shall be explained, including:

(I) The earliest or only maturity date for annuitization (as the term is defined in the contract);

(II) For contracts with an optional maturity date, the periodic income amount for at least one (1) of the annuity income options available based on the guaranteed rates in the contract, at the later of age seventy (70) or ten (10) years after issue, but in no case later than the maximum annuitization age or date in the contract;

(III) For contracts with a fixed maturity date, the periodic income amount for at least one (1) of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and

(IV) The periodic income amount based on the currently available periodic income rates for the annuity income option in part (4)(G)5.F.(II) or part (4)(G)5.F.(III), if desired.

(H) Following the narrative summary, an illustration shall include a numeric summary which shall include at minimum, numeric values at the following durations:

1. *(Reserved)*

A. First ten (10) contract years; or

B. Surrender charge period if longer than ten (10) years, including any renewal surrender charge period(s);

2. Every tenth contract year up to the later of thirty (30) years or age seventy (70); and

3. *(Reserved)*

A. Required annuitization age; or

B. Required annuitization date.

(I) If the annuity contains a MVA, the following provisions apply to the illustration:

1. The MVA shall be referred to as such throughout the illustration;

2. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;

3. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;

4. A statement, containing in substance the following, shall be included:

A. When you make a withdrawal the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you

receive;

5. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the MVA;

6. The illustrative effect of the MVA shall be shown under at least one (1) positive and one (1) negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of a MVA;

7. Actual MVA floors and ceilings as listed in the contract shall be illustrated; and

8. If the MVA has significant characteristics not addressed by paragraphs (4)(I)1.–(4)(I)6., the effect of such characteristics shall be shown in the illustration.

(J) A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time in a disclosure document:

1. An explanation, in simple terms, of the elements used to determine the index-based interest, including, but not limited to, the following elements:

A. The Index(es) which will be used to determine the index-based interest;

B. The Indexing Method – such as point-to-point, daily averaging, monthly averaging;

C. The Index Term – the period over which indexed-based interest is calculated;

D. The Participation Rate, if applicable;

E. The Cap, if applicable; and

F. The Spread, if applicable;

2. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;

3. The narrative shall include a brief description of the frequency with which the company can re-set the elements used to determine the index-based credits, including the participation rate, the cap, and the spread, if applicable; and

4. If the product allows the contract holder to make allocations to declared-rate segment, then the narrative shall include a brief description of—

A. Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and

B. Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

(K) A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:

1. The assumed growth rate of the index in accordance with paragraph (4)(F)9.;

2. The assumed values for the participation rate, cap, and spread, if applicable; and

3. The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with paragraph (4)(F)9.

(L) If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that non-substantive changes, including, but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1035 of the *Internal Revenue Code*, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.

(M) Failure to comply with the requirements set forth in section (4) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(5) Report to Contract Owners. For annuities in the payout period that include non-guaranteed elements, and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

(A) The beginning and end date of the current report period;

(B) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(C) The total amounts, if any, that have been credited, charged to the contract value, or paid during the current report period; and

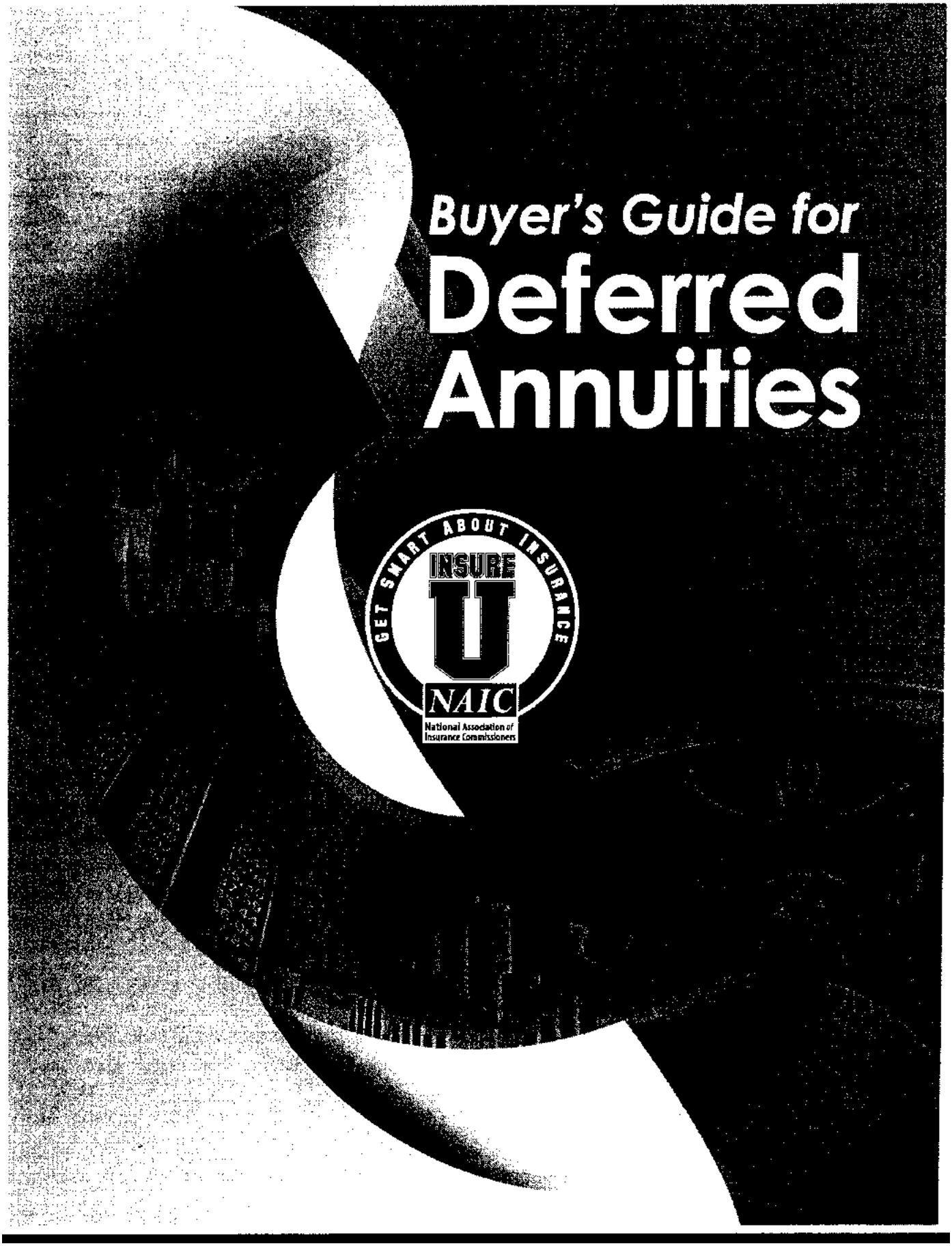
(D) The amount of outstanding loans, if any, as of the end of the current report period.

(E) Failure to comply with the requirements set forth in section (5) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(6) Separability. If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

(7) Recordkeeping. Insurers or insurance producers shall maintain or be able to make available to the director records of the information collected from the consumer and other information provided in the disclosure statement (including illustrations) for not less than three (3) years after the contract is delivered by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer. Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document.

APPENDIX A


Buyer's Guide for
Deferred
Annuities
GET SMART ABOUT INSURANCE
INSURE
U
NAIC
National Association of
Insurance Commissioners

Prepared by the

NAIC

National Association of Insurance Commissioners

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers.

This guide does not endorse any company or policy.

Reprinted by
the Missouri
Department of
Insurance,
Financial
Institutions and
Professional
Registration

NAIC Buyer's Guide for Deferred Annuities

It's important that you understand how annuities can be different from each other so you can choose the type of annuity that's best for you. The purpose of this Buyer's Guide is to help you do that. This Buyer's Guide isn't meant to offer legal, financial, or tax advice. You may want to consult independent advisors that specialize in these areas.

This Buyer's Guide is about deferred annuities in general and some of their most common features. It's not about any particular annuity product. The annuity you select may have unique features this Guide doesn't describe. It's important for you to carefully read the material you're given or ask your annuity salesperson, especially if you're interested in a particular annuity or specific annuity features.

This Buyer's Guide includes questions you should ask the insurance company or the annuity salesperson (the agent, producer, broker, or advisor). Be sure you're satisfied with the answers before you buy an annuity.

Revised 2013

NAIC Executive Office
444 North Capitol Street, NW
Suite 701
Washington, DC 20001-1509
202.471.3990

NAIC Central Office
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197
816.842.3600

NAIC Capital Markets &
Investment Analysis Office
48 Wall Street, 6th Floor
New York, NY 10005-2906
212.398.9000

Table of Contents

Buyer's Guide for Deferred Annuities

What Is an Annuity?

An annuity is a contract with an insurance company. All annuities have one feature in common, and it makes annuities different from other financial products. ***With an annuity, the insurance company promises to pay you income on a regular basis for a period of time you choose***—including the rest of your life.

When Annuities Start to Make Income Payments

Some annuities begin paying income to you soon after you buy it (an **immediate** annuity). Others begin at some later date you choose (a **deferred** annuity).

How Deferred Annuities Are Alike

What Is an Annuity?

There are ways that *most* deferred annuities are alike.

- They have an **accumulation** period and a **payout** period. During the accumulation period, the value of your annuity changes based on the type of annuity. During the payout period, the annuity makes income payments to you.
- They offer a basic death benefit. If you die during the accumulation period, a deferred annuity with a basic death benefit pays some or all of the annuity's value to your survivors (called beneficiaries) either in one payment or multiple payments over time. The amount is usually the greater of the annuity account value or the minimum guaranteed surrender value. If you die after you begin to receive income payments (**annuitize**), your chosen survivors may not receive anything ***unless***: 1) your annuity guarantees to pay out at least as much as you paid into the annuity, or 2) you chose a payout option that continues to make payments after your death. For an extra cost, you may be able to choose enhanced death benefits that increase the value of the basic death benefit.
- You usually have to pay a charge (called a **surrender** or **withdrawal charge**) if you take some or all of your money out too early (usually before a set time period ends). Some annuities may not charge if you withdraw small amounts (for example, 10% or less of the account value) each year.
- Any money your annuity earns is **tax deferred.** That means you won't pay income tax on earnings until you take them out of the annuity.
- You can add features (called **riders**) to many annuities, usually at an extra cost.
- An annuity salesperson must be licensed by your state insurance department. A person selling a variable annuity also must be registered with FINRA[1] as a representative of a broker/dealer that's a FINRA member. In some states, the state securities department also must license a person selling a variable annuity.

Sources of Information

Contract: *The legal document between you and the insurance company that binds both of you to the terms of the agreement.*

Disclosure: *A document that describes the key features of your annuity, including what is guaranteed and what isn't, and your annuity's fees and charges. If you buy a variable annuity, you'll receive a prospectus that includes detailed information about investment objectives, risks, charges, and expenses.*

Illustration: *A personalized document that shows how your annuity features might work. Ask what is guaranteed and what isn't and what assumptions were made to create the illustration.*

1. FINRA (Financial Industry Regulatory Authority) regulates the companies and salespeople who sell variable annuities.

- Insurance companies sell annuities. You want to buy from an insurance company that's financially sound. There are various ways you can research an insurance company's financial strength. You can visit the insurance company's website or ask your annuity salesperson for more information. You also can review an insurance company's rating from an independent rating agency. Four main firms currently rate insurance companies. They are A.M. Best Company, Standard and Poor's Corporation, Moody's Investors Service, and Fitch Ratings. Your insurance department may have more information about insurance companies. An easy way to find contact information for your insurance department is to visit *www.naic.org* and click on **"States and Jurisdictions Map."**

- Insurance companies usually pay the annuity salesperson after the sale, but the payment doesn't reduce the amount you pay into the annuity. You can ask your salesperson how they earn money from the sale.

How Deferred Annuities Are Different

There are differences among deferred annuities. Some of the differences are:

- Whether you pay for the annuity with one or more than one payment (called a **premium**).

- The types and amounts of the **fees**, **charges**, and **adjustments**. While almost all annuities have *some* fees and charges that could reduce your account value, the types and amounts can be different among annuities. ***Read the Fees, Charges, and Adjustments section in this Buyer's Guide for more information.***

- Whether the annuity is a **fixed** annuity or a **variable** annuity. How the value of an annuity changes is different depending on whether the annuity is fixed or variable.

  Fixed annuities guarantee your money will earn at least a minimum interest rate. Fixed annuities may earn interest at a rate higher than the minimum but only the minimum rate is guaranteed. The insurance company sets the rates.

  Fixed indexed annuities are a type of fixed annuity that earns interest based on changes in a market index, which measures how the market or part of the market performs. The interest rate is guaranteed to never be less than zero, even if the market goes down.

  Variable annuities earn investment returns based on the performance of the investment portfolios, known as "subaccounts," where you choose to put your money. The return earned in a variable annuity isn't guaranteed. The value of the subaccounts you choose could go up or down. If they go up, you could make money. But, if the value of these subaccounts goes down, you could lose money. Also, income payments to you could be less than you expected.

- Some annuities offer a **premium bonus**, which usually is a lump sum amount the insurance company adds to your annuity when you buy it or when you add money. It's usually a set percentage of the amount you put into the annuity. Other annuities offer an **interest bonus**, which is an amount the insurance company adds to your annuity when you earn interest. It's usually a set percentage of the interest earned. You may not be able to withdraw some or all of your premium bonus for a set period of time. ***Also, you could lose the bonus if you take some or all of the money out of your annuity within a set period of time.***

How Does the Value of a Deferred Annuity Change?

Fixed Annuities

Money in a fixed deferred annuity earns interest at a rate the insurer sets. The rate is **fixed** (won't change) for some period, usually a year. After that rate period ends, the insurance company will set another fixed interest rate for the next rate period. ***That rate could be higher or lower than the earlier rate.***

Fixed deferred annuities *do* have a guaranteed minimum interest rate—the lowest rate the annuity can earn. It's stated in your contract and disclosure and can't change as long as you own the annuity. Ask about:

- The ***initial interest*** rate – What is the rate? How long until it will change?
- The ***renewal interest*** rate – When will it be announced? How will the insurance company tell you what the new rate will be?

Fixed Deferred Indexed Formulas

Annual Point-to-Point – *Change in index calculated using two dates one year apart.*

Multi-Year Point-to-Point – *Change in index calculated using two dates more than one year apart.*

Monthly or Daily Averaging – *Change in index calculated using multiple dates (one day of every month for monthly averaging, every day the market is open for daily averaging). The average of these values is compared with the index value at the start of the index term.*

Monthly Point-to-Point – *Change in index calculated for each month during the index term. Each monthly change is limited to the "cap rate" for positive changes, but not when the change is negative. At the end of the index term, all monthly changes (positive and negative) are added. If the result is positive, interest is added to the annuity. If the result is negative or zero, no interest (0%) is added.*

Fixed Indexed Annuities

Money in a fixed indexed annuity earns interest based on changes in an index. Some indexes are measures of how the overall financial markets perform (such as the S&P 500 Index or Dow Jones Industrial Average) during a set period of time (called the **index term**). Others measure how a specific financial market performs (such as the Nasdaq) during the term. The insurance company uses a formula to determine how a change in the index affects the amount of interest to add to your annuity at the ***end of each index term***. Once interest is added to your annuity for an index term, those earnings usually are locked in and changes in the index in the next index term don't affect them. If you take money from an indexed annuity before an index term ends, ***the annuity may not add all of the index-linked interest for that term to your account.***

Insurance companies use different formulas to calculate the interest to add to your annuity. They look at changes in the index over a period of time. See the box "***Fixed Deferred Indexed Formulas***" that describes how changes in an index are used to calculate interest.

The formulas insurance companies use often mean that interest added to your annuity is based on only ***part*** of a change in an index over a set period of time. **Participation rates, cap rates,** and **spread rates** (sometimes called margin or asset fees) all are terms that describe ways the amount of interest added to your annuity may not reflect the full change in the index. But ***if the index goes down over that period, zero interest is added to your annuity.*** Then your annuity value won't go down as long as you don't withdraw the money.

When you buy an indexed annuity, you aren't investing directly in the market or the index. Some indexed annuities offer you more than one index choice. Many indexed annuities also offer the choice to put part of your money in a fixed interest rate account, with a rate that won't change for a set period.

Variable Annuities

Money in a variable annuity earns a return based on the performance of the investment portfolios, known as "**subaccounts,**" where you choose to put your money. Your investment choices likely will include subaccounts with different types and levels of risk. Your choices will affect the return you earn on your annuity. Subaccounts usually have no guaranteed return, but you may have a choice to put some money in a fixed interest rate account, with a rate that won't change for a set period.

The value of your annuity can change every day as the subaccounts' values change. If the subaccounts' values increase, your annuity earns money. But ***there's no guarantee that the values of the subaccounts will increase. If the subaccounts' values go down, you may end up with less money in your annuity than you paid into it.***

An insurer may offer several versions of a variable deferred annuity product. The different versions usually are identified as **share classes**. The key differences between the versions are the fees you'll pay every year you own the annuity. The rules that apply if you take money out of the annuity also may be different. Read the prospectus carefully. Ask the annuity salesperson to explain the differences among the versions.

How Insurers Determine Indexed Interest

Participation Rate – *Determines how much of the increase in the index is used to calculate index-linked interest. A participation rate usually is for a set period. The period can be from one year to the entire term. Some companies guarantee the rate can never be lower (higher) than a set minimum (maximum). Participation rates are often less than 100%, particularly when there's no cap rate.*

Cap Rate – *Typically, the maximum rate of interest the annuity will earn during the index term. Some annuities guarantee that the cap rate will never be lower (higher) than a set minimum (maximum). Companies often use a cap rate, especially if the participation rate is 100%.*

Spread Rate – *A set percentage the insurer subtracts from any change in the index. Also called a "margin or asset fee." Companies may use this instead of or in addition to a participation or cap rate.*

What Other Information Should You Consider?

Fees, Charges, and Adjustments

Fees and charges reduce the value of your annuity. They help cover the insurer's costs to sell and manage the annuity and pay benefits. The insurer may subtract these costs directly from your annuity's value. Most annuities have fees and charges but they can be different for different annuities. Read the contract and disclosure or prospectus carefully and ask the annuity salesperson to describe these costs.

A **surrender** or **withdrawal charge** is a charge if you take part or all of the money out of your annuity during a set period of time. The charge is a percentage of the amount you take out of the annuity. The percentage usually goes down each year until the surrender charge period ends. Look at the contract and the disclosure or prospectus for details about the charge. Also look for any waivers for events (such as a death) or the right to take out a small amount (usually up to 10%) each year without paying the charge. If you take all of your money out of an annuity, you've surrendered it and no longer have any right to future income payments.

Some annuities have a **Market Value Adjustment (MVA).** An MVA could increase or decrease your annuity's account value, cash surrender value, and/or death benefit value if you withdraw money from your account. In general, if interest rates are *lower* when you

withdraw money than they were when you bought the annuity, the MVA could *increase* the amount you could take from your annuity. If interest rates are *higher* than when you bought the annuity, the MVA could *reduce* the amount you could take from your annuity. Every MVA calculation is different. Check your contract and disclosure or prospectus for details.

How Annuities Make Payments

How Annuities Make Payments

Annuitize

At some future time, you can choose to **annuitize** your annuity and start to receive guaranteed fixed income payments for life or a period of time you choose. After payments begin, you can't take any other money out of the annuity. You also usually can't change the amount of your payments. For more information, see *"Payout Options"* in this Buyer's Guide. If you die before the payment period ends, your survivors may not receive any payments, depending on the payout option you choose.

Full Withdrawal

You can withdraw the cash surrender value of the annuity in a lump sum payment and end your annuity. ***You'll likely pay a charge to do this if it's during the surrender charge period.*** If you withdraw your annuity's cash surrender value, your annuity is cancelled. Once that happens, you can't start or continue to receive regular income payments from the annuity.

Partial Withdrawal

You may be able to withdraw *some* of the money from the annuity's cash surrender value without ending the annuity. Most annuities with surrender charges let you take out a certain amount (usually up to 10%) each year without paying surrender charges on that amount. Check your contract and disclosure or prospectus. Ask your annuity salesperson about other ways you can take money from the annuity without paying charges.

Living Benefits for Fixed Annuities

Some fixed annuities, especially fixed indexed annuities, offer a **guaranteed living benefits** rider, usually at an extra cost. A common type is called a guaranteed lifetime withdrawal benefit that guarantees to make income payments you can't outlive. While you get payments, the money still in your annuity continues to earn interest. You can choose to stop and restart the payments or you might be able to take extra money from your annuity. Even if the payments reduce the annuity's value to zero at some point, you'll continue to get payments for the rest of your life. If you die while receiving payments, your survivors may get some or all of the money left in your annuity.

Annuity Fees and Charges

Contract fee – *A flat dollar amount or percentage charged once or annually.*

Percentage of purchase payment – *A front-end sales load or other charge deducted from each premium paid. The percentage may vary over time.*

Premium tax – *A tax some states charge on annuities. The insurer may subtract the amount of the tax when you pay your premium, when you withdraw your contract value, when you start to receive income payments, or when it pays a death benefit to your beneficiary.*

Transaction fee – *A charge for certain transactions, such as transfers or withdrawals.*

* * *

Mortality and expense (M&E) risk charge – *A fee charged on **variable annuities.** It's a percentage of the account value invested in subaccounts.*

Underlying fund charges – *Fees and charges on a **variable** annuity's subaccounts; may include an investment management fee, distribution and service (12b-1) fees, and other fees.*

Living Benefits for Variable Annuities

Variable annuities may offer a benefit at an extra cost that guarantees you a minimum account value, a minimum lifetime income, or minimum withdrawal amounts regardless of how your subaccounts perform. See *"Variable Annuity Living Benefit Options"* at right. Check your contract and disclosure or prospectus or ask your annuity salesperson about these options.

How Annuities Are Taxed

Ask a tax professional about your individual situation. The information below is general and should not be considered tax advice.

Current federal law gives annuities special tax treatment. Income tax on annuities is deferred. That means you aren't taxed on any interest or investment returns while your money is in the annuity. This isn't the same as tax-free. You'll pay ordinary income tax when you take a withdrawal, receive an income stream, or receive each annuity payment. When you die, your survivors will typically owe income taxes on any death benefit they receive from an annuity.

There are other ways to save that offer tax advantages, including Individual Retirement Accounts (IRAs). You can buy an annuity to fund an IRA, ***but you also can fund your IRA other ways and get the same tax advantages.*** When you take a withdrawal or receive payments, you'll pay ordinary income tax on all of the money you receive (not just the interest or the investment return). You also may have to pay a 10% tax penalty if you withdraw money before you're age 59½.

Finding an Annuity That's Right for You

An annuity salesperson who suggests an annuity must choose one that they think is right for you, based on information from you. They need complete information about your life and financial situation to make a suitable recommendation. Expect a salesperson to ask about your age; your financial situation (assets, debts, income, tax status, how you plan to pay for the annuity); your tolerance for risk; your financial objectives and experience; your family circumstances; and how you plan to use the annuity. If you aren't comfortable with the annuity, ask your annuity salesperson to explain why they recommended it. Don't buy an annuity you don't understand or that doesn't seem right for you.

Variable Annuity Living Benefit Options

Guaranteed Minimum Accumulation Benefit (GMAB) – *Guarantees your account value will equal some percentage (typically 100%) of premiums less withdrawals, at a set future date (for example, at maturity). If your annuity is worth less than the guaranteed amount at that date, your insurance company will add the difference.*

Guaranteed Minimum Income Benefit (GMIB) – *Guarantees a minimum lifetime income. You usually must choose this benefit when you buy the annuity and must annuitize to use the benefit. There may be a waiting period before you can annuitize using this benefit.*

Guaranteed Lifetime Withdrawal Benefit (GLWB) – *Guarantees you can make withdrawals for the rest of your life, up to a set maximum percentage each year.*

Payout Options

You'll have a choice about how to receive income payments. These choices usually include:

- *For your lifetime*
- *For the longer of your lifetime or your spouse's lifetime*
- *For a set time period*
- *For the longer of your lifetime or a set time period*

Within each annuity, the insurer *may* guarantee some values but not others. Some guarantees may be only for a year or less while others could be longer. Ask about risks and decide if you can accept them. For example, it's possible you won't get all of your money back *or* the return on your annuity may be lower than you expected. It's also possible you won't be able to withdraw money you need from your annuity without paying fees *or* the annuity payments may not be as much as you need to reach your goals. These risks vary with the type of annuity you buy. All product guarantees depend on the insurance company's financial strength and claims-paying ability.

Finding the Annuity for You

Questions You Should Ask

- Do I understand the risks of an annuity? Am I comfortable with them?
- How will this annuity help me meet my overall financial objectives and time horizon?
- Will I use the annuity for a long-term goal such as retirement? If so, how could I achieve that goal if the income from the annuity isn't as much as I expected it to be?
- What features and benefits in the annuity, other than tax deferral, make it appropriate for me?
- Does my annuity offer a guaranteed minimum interest rate? If so, what is it?
- If the annuity includes riders, do I understand how they work?
- Am I taking full advantage of all of my other tax-deferred opportunities, such as 401(k)s, 403(b)s, and IRAs?
- Do I understand all of the annuity's fees, charges, and adjustments?
- Is there a limit on how much I can take out of my annuity each year without paying a surrender charge? Is there a limit on the *total* amount I can withdraw during the surrender charge period?
- Do I intend to keep my money in the annuity long enough to avoid paying any surrender charges?
- Have I consulted a tax advisor and/or considered how buying an annuity will affect my tax liability?
- How do I make sure my chosen survivors (beneficiaries) will receive any payment from my annuity if I die?

If you don't know the answers or have other questions, ask your annuity salesperson for help.

When You Receive Your Annuity Contract

When you receive your annuity contract, carefully review it. Be sure it matches your understanding. Also, read the disclosure or prospectus and other materials from the insurance company. Ask your annuity salesperson to explain anything you don't understand. In many states, a law gives you a set number of days (usually 10 to 30 days) to change your mind about buying an annuity after you receive it. This often is called a **free look** or **right to return** period. Your contract and disclosure or prospectus should prominently state your free look period. If you decide during that time that you don't want the annuity, you can contact the insurance company and return the contract. Depending on the state, you'll either get back all of your money or your current account value.

APPENDIX B

Annuity Illustration Example
[The following illustration is an example only
And does not reflect specific characteristics of any actual product for sale by any company]

ABC Life Insurance Company
Company Product Name
Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)
An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy
(Contact us at Policyownerservice@ABCLife.com or 555-555-5555)

Sex: Male	Initial Premium Payment: $100,000.00
Age at Issue: 54	Planned Annual Premium Payments: None
Annuitant: John Doe	Tax Status: Nonqualified
Oldest Age at Which Annuity Payments Can Begin: 95	Withdrawals: None Illustrated

Initial Interest Guarantee Period	5 Years
Initial Guaranteed Interest Crediting Rates	
First Year (reflects first year only interest bonus credit of 0.75%):	4.15%
Remainder of Initial Interest Guarantee Period:	3.40%
Market Value Adjustment Period:	5 Years
Minimum Guaranteed Interest Rate after Initial Interest Guarantee Period *:	3%

* After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

Annuity Income Options and Illustrated Monthly Income Values

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

Annuity income options include the following:
- Periodic payments for Annuitant's life
- Periodic payments for Annuitant's life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant's life with payments continuing for the life of a survivor annuitant

Illustrated Annuity Income Option: Monthly payments for annuitant's life with payments guaranteed for 10-year period.
Assumed Age When Payments Start: 70

	Account Value	Monthly Annuity Income Rate/$1,000 of Account Value *	Monthly Annuity Income
Based on Rates Guaranteed in the Contract	$164,798	$5.00	$823.99
Based on Rates Currently Offered by the Company	$171,976	$6.50	$1,117.84

* If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.

Annuity Disclosure Model Regulation

ABC Life Insurance Company

Company Product Name

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

Contact us at Policyownerservice@ABCLife.com or 555-555-5555

		Values Based on Guaranteed Rates				Values Based on Assumption that Initial Guaranteed Rates Continue		
Contract Year/Age	Premium Payment	Interest Crediting Rate	Account Value	Cash Surrender Value Before MVA	Minimum Cash Surrender Value After MVA	Interest Crediting Rate	Account Value	Cash Surrender Value Before and After MVA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 / 55	$ 100,000	4.15%	$ 104,150	$ 95,818	$ 92,000	4.15%	$ 104,150	$ 95,818
2 / 56	0	3.40%	107,691	100,153	93,000	3.40%	107,691	100,153
3 / 57	0	3.40%	111,353	104,671	95,614	3.40%	111,353	104,671
4 / 58	0	3.40%	115,139	109,382	98,482	3.40%	115,139	109,382
5 / 59	0	3.40%	119,053	114,291	114,291	3.40%	119,053	114,291
6 / 60	0	3.00%	122,625	118,946	118,946	3.40%	123,101	119,408
7 / 61	0	3.00%	126,304	123,778	123,778	3.40%	127,287	124,741
8 / 62	0	3.00%	130,093	130,093	130,093	3.40%	131,614	131,614
9 / 63	0	3.00%	133,996	133,996	133,996	3.40%	136,089	136,089
10 / 64	0	3.00%	138,015	138,015	138,015	3.40%	140,716	140,716
11 / 65	0	3.00%	142,156	142,156	142,156	3.40%	145,501	145,501
16 / 70	0	3.00%	164,798	164,798	164,798	3.40%	171,976	171,976
21 / 75	0	3.00%	191,046	191,046	191,046	3.40%	203,268	203,268
26 / 80	0	3.00%	221,474	221,474	221,474	3.40%	240,255	240,255
31 / 85	0	3.00%	256,749	256,749	256,749	3.40%	283,972	283,972
36 / 90	0	3.00%	297,643	297,643	297,643	3.40%	335,643	335,643
41 / 95	0	3.00%	345,050	345,050	345,050	3.40%	396,717	396,717

For column descriptions, turn to page 245-17

Column Descriptions

(1) **Ages** shown are measured from the Annuitant's age at issue

(2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown

Values Based on Guaranteed Rates

(3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.

(4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant's death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.

(5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

Years Measured from Premium Payment:	1	2	3	4	5	6	7	8+
Surrender Charges:	8%	7%	6%	5%	4%	3%	2%	0%

(6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your initial guaranteed interest rate, the MVA will DECREASE the amount you receive. Page 4 of this illustration provides additional information concerning the MVA.

Values Based on Assumption that Initial Guaranteed Rates Continue

(7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period.
After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.

(8) **Account Value** is calculated the same way as column (4).

(9) **Cash Surrender Value Before and After MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

Important Note: This illustration assumes you will take **no** withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustration.

The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.

Annuity Disclosure Model Regulation

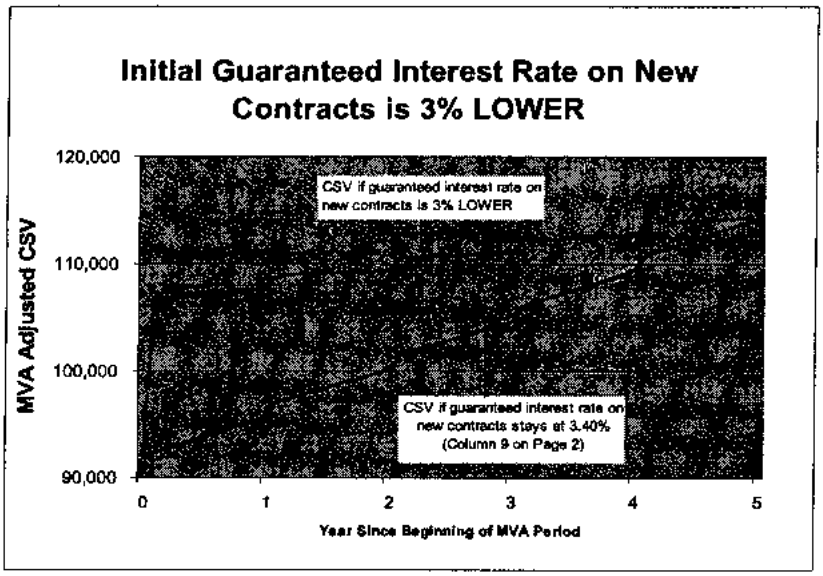
MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

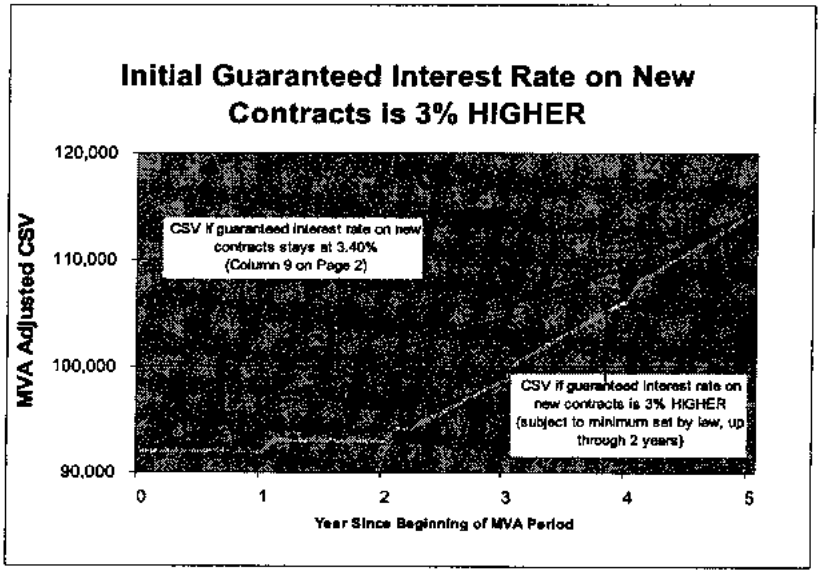
The graphs below shows MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on page 2 ($100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

Graph #1 shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (green line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

Graph #2 shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on Page 2), which in this scenario limits the decrease for the first 2 years (yellow line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.





AUTHORITY: sections 374.045, 375.141, and 375.143, RSMo Supp. 2013, and sections 375.934, 375.936, and 375.948, RSMo 2000. Original rule filed Sept. 30, 2016.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED RULE

20 CSR 400-5.900 Suitability in Annuity Transactions

PURPOSE: The purpose of the rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule. This rule implements the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation #275. This rule identifies and defines conduct that constitutes unfair trade practices under the Unfair Trade Practice Act, sections 375.930–375.948, RSMo, and effectuates and aids in the interpretation of sections 375.141.1(8) and 375.143, RSMo, with respect to the demonstration of incompetence, untrustworthiness, financial irresponsibility, and customer suitability in the offer, sale, or exchange of annuity products.

(1) Scope. This rule shall apply to any recommendation to purchase, exchange, or replace an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase, exchange, or replacement recommended.

(2) Exemptions. Unless otherwise specifically included, this rule shall not apply to transactions involving—

(A) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this rule;

(B) Contracts used to fund—

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

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the *Internal Revenue Code* (IRC), as amended, if established or maintained by an employer;

3. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government, or tax exempt organization under Section 457 of the IRC;

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

5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6. Formal prepaid funeral contracts.

(3) Definitions.

(A) "Annuity" means an annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

(B) "Continuing education credit" or "CE credit" means one (1) continuing education credit in accordance with section 375.020, RSMo.

(C) "Continuing education provider" or "CE provider" means an individual or entity that is approved to offer continuing education courses pursuant to section 375.020, RSMo.

(D) "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(E) "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

(F) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities.

(G) "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange, or replacement of an annuity in accordance with that advice.

(H) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing 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. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

(I) "Suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. Age;

2. Annual income;

3. Financial situation and needs, including the financial resources used for the funding of the annuity;

4. Financial experience;

5. Financial objectives;

6. Intended use of the annuity;

7. Financial time horizon;

8. Existing assets, including investment and life insurance holdings;

9. Liquidity needs;

10. Liquid net worth;

11. Risk tolerance; and

12. Tax status.

(J) "Tangible net benefit" means that the transaction will demonstrably improve the financial position of the consumer.

(4) Duties of Insurers and of Insurance Producers.

(A) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the

consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

1. The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk. The requirements of this rule are intended to supplement and do not replace any disclosure requirements in other rules or statutes;

2. The consumer would receive a tangible net benefit from the transaction;

3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

4. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether—

A. The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees, investment advisory fees, charges for riders, and similar product enhancements;

B. The consumer would benefit from product enhancements and improvements, and specifically, whether the consumer would receive a tangible net benefit from the transaction; and

C. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding thirty-six (36) months.

(B) Prior to the execution of a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

(C) Except as permitted under subsection (4)(D), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information and that the consumer would receive a tangible net benefit.

(D) (Reserved)

1. Except as provided under paragraph (4)(D)2. of this rule, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subsections (4)(A) or (4)(C) of this rule related to any annuity transaction if—

A. No recommendation is made;

B. A recommendation was made and was later found to have been unknowingly prepared based on materially inaccurate information provided by the consumer;

C. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

D. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

2. An insurer's issuance of an annuity subject to paragraph (4)(D)1. of this rule shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(E) An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale—

1. Make a record of any recommendation subject to subsection (4)(A) of this rule;

2. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

3. Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

(F) (Reserved)

1. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this rule, including, but not limited to, the following:

A. The insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of this rule and shall incorporate the requirements of this rule into relevant insurance producer training manuals;

B. The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of section (5) of this rule;

C. The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its insurance producers;

D. The insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

E. The insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters, and programs of internal monitoring. Nothing in subparagraph (4)(F)1.E. prevents an insurer from complying with subparagraph (4)(F)1.E. by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

F. The insurer shall annually provide a report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

2. (Reserved)

A. Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph (4)(F)1. of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section (6) of this rule regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph (4)(F)2.B. of this rule.

B. An insurer's supervision system under paragraph (4)(F)1. of this rule shall include supervision of contractual performance under subsection (4)(F) of this rule. This includes, but is not limited to, the following:

(I) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(II) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

3. An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

(G) An insurance producer shall not dissuade, or attempt to dissuade, a consumer from—

1. Truthfully responding to an insurer's request for confirmation of suitability information;

2. Filing a complaint; or

3. Cooperating with the investigation of a complaint.

(H) (Reserved)

1. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under this rule. This subsection applies to FINRA broker-dealer sales of annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the director's ability to enforce (including investigate) the provisions of this rule.

2. For paragraph (4)(H)1. of this rule to apply, an insurer shall—

A. Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

B. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

(I) Failure to comply with the requirements set forth in section (4) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(5) Insurance Producer Training.

(A) An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(B) (Reserved)

1. (Reserved)

A. An insurance producer who engages in the sale of annuity products shall complete a one- (1-) time four (4) credit training course approved by the director and provided by a director-approved education provider.

B. Insurance producers who hold a life insurance line of authority on the effective date of this rule and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this rule. Individuals who obtain a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

2. The minimum length of the training required under subsection (5)(B) of this rule shall be sufficient to qualify for at least four (4) CE credits, but may be longer.

3. The training required under subsection (5)(B) of this rule shall include information on the following topics:

A. The types of annuities and various classifications of annuities;

B. Identification of the parties to an annuity;

C. How product specific annuity contract features affect consumers;

D. The application of income taxation of qualified and nonqualified annuities;

E. The primary uses of annuities; and

F. Appropriate sales practices, replacement, and disclosure requirements.

4. Providers of courses intended to comply with subsection (5)(B) of this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

5. A provider of an annuity training course intended to comply with subsection (5)(B) of this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to insurance producer continuing education courses as set forth in section 375.020, RSMo.

6. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with section 375.020, RSMo.

7. Providers of annuity training shall comply with the reporting requirements in accordance with section 375.020, RSMo.

8. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

9. An insurer shall verify that an insurance producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by director-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(C) Failure to comply with the requirements set forth in section (5) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(6) Recordkeeping.

(A) Insurers, general agents, independent agencies, and insurance producers shall maintain or be able to make available to the director records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for a period of not less than three (3) years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

(B) Records required to be maintained by this rule may be maintained in paper, photographic, micro-process, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document.

AUTHORITY: sections 375.020, 374.045, 375.141, 375.143, and 375.144, RSMo Supp. 2013, and sections 375.934, 375.936, and 375.948, RSMo 2000. Original rule filed Sept. 30, 2016.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 13—Health Insurance Rates

PROPOSED RULE

20 CSR 400-13.100 Health Insurance Rates

PURPOSE: This rule prescribes the form and content of the rate

information required to be submitted to the Missouri Department of Insurance, Financial Institutions and Professional Registration and sets forth the standards of review applicable to such filings.

(1) Scope. This rule is applicable to rates for health benefit plans that are subject to section 376.465.7, RSMo.

(2) Definitions. As used in this rule, the following terms mean:

(A) "Director," means the Director of the Department of Insurance, Financial Institutions and Professional Registration or the director's designee;

(B) "Health benefit plan," means those health benefit plans described under section 376.465.7, RSMo, and shall include student health plans;

(C) "Rate," means the amount of money a health carrier charges as a condition of providing coverage under a health benefit plan;

(D) "Rate filing," means a submission through SERFF that contains rates and rate filing justifications as well as other documents required by this rule and that assist the director in making determinations consistent with 45 CFR 154.215 and section 376.465, RSMo;

(E) "Rate filing justification," means actuarial data and other related information provided by a health carrier that supports the use of the proposed rate;

(F) "Student health plan," means a type of health coverage maintained pursuant to an agreement between an institution of higher education and a health carrier under which coverage is provided in connection with enrollment as a student at that institution of higher education, regardless of how the coverage is underwritten or issued;

(G) "System for Electronic Rate and Form Filing" or "SERFF," means the web-based interface system used for the submission of rate filings and form filings.

(3) All rates, rate filings, rate filing justifications, and any communication or notices filed under this rule shall be submitted through SERFF.

(4) All rate filings must conform to the requirements of 20 CSR 100-9.100.

(5) All proposed rates and rate filings for health benefit plans to be delivered, issued for delivery, continued, or renewed on or after January 1, 2018, shall contain the following:

(A) Rates for each health benefit plan including all variations based on age, rating area, and tobacco use, in an Excel spreadsheet, or other format as allowed by the director;

(B) Identification of all policy forms to which the rate filing will apply, including SERFF tracking number, policy form number, and plan identification number. A rate filing shall be made separately and apart from a policy form filing;

(C) The total number of in-force policies or certificates to which the rate filing will apply;

(D) The rate filing justification as described in section (6) of this rule; and

(E) Any other data or information that provides a sufficient basis for the director to determine if the proposed rates are reasonable and to complete the review under the standards outlined in 45 CFR Part 154.

(6) A health carrier shall submit a rate filing justification as follows.

(A) Part 1 of the rate filing justification shall be submitted on a form and in the manner prescribed by 45 CFR 154.215(d). Part 1 shall include the following data and information:

1. Historical and projected claims experience;

2. Trend projections related to utilization and service or unit cost;

3. Any claims assumptions related to benefit changes;

4. Allocation of the overall rates to claims and non-claims costs;

5. Per enrollee per month allocation of current and projected premium; and

6. Three- (3-) year history of rates for the product associated with the rate filing.

(B) Part 2 of the rate filing justification shall contain a brief, non-technical, consumer-oriented explanation of the proposed rates contained in Part 1 and any modifications contained therein. This explanation shall include a simple and brief narrative describing the data, information, and assumptions the health carrier used to develop the rate. Part 2 shall include, but not be limited to, the following:

1. An explanation of the most significant factors underlying a rate increase or decrease, where applicable, including a brief description of the relevant claims and non-claims expense increases reported in Part 1; and

2. A brief description of the overall experience of the policy, including historical and projected expenses and loss ratios.

(C) Part 3 of the rate justification shall contain an actuarial memorandum that contains the reasoning and assumptions supporting the data and information contained in Part 1 of the rate justification. The actuarial memorandum shall be submitted by a qualified actuary who represents the health carrier and who is a member of the American Academy of Actuaries.

1. A health carrier may submit a public version of Part 3 that redacts properly designated trade secrets or proprietary information. This redacted document shall be clearly denoted as the Part 3 Public Version. The health carrier may only redact information that is trade secret or proprietary under Missouri law. The Part 3 Public Version shall be submitted in SERFF as a document separate from other rate information.

2. If a health carrier submits a Part 3 Public Version, the health carrier must also submit an un-redacted version. This un-redacted version shall contain all of the required data and information with no redactions. The un-redacted version shall be clearly denoted as the Part 3 Confidential Version and submitted in SERFF as a document separate from other rate information.

(7) Any trade secret information included as a part of the rate filing justification must be designated as such by the health carrier and shall be subject to the provisions of sections 417.450-417.467, RSMo, and 20 CSR 10-2.400. All data and information contained within a rate filing or rate filing justification that is not clearly designated as either trade secret or proprietary under Missouri law, filed under this rule, will be open to the public.

(8) A health carrier shall submit rates and rate filing justifications, as outlined in this rule, to the Centers for Medicare and Medicaid Services on the same date it submits the information to the director, consistent with the requirements of 45 CFR Part 154.

(9) The director shall designate annual filing deadlines and posting dates, not inconsistent with the requirements of 45 CFR Part 154. The designation of annual filing deadlines may be announced through a bulletin or other electronic means as determined by the director.

(10) All proposed rates shall be posted, in summary form, at a uniform time on the department's website.

(11) The department shall allow the submission of public comments regarding proposed rates in written form, submitted to the department by mail or in an electronic format.

(12) A rate shall be determined to be unreasonable if the rate is excessive, inadequate, unfairly discriminatory, or unjustified.

(A) A rate is excessive if it is unreasonably high for the coverage provided under the health benefit plan.

(B) A rate is inadequate if it is unreasonably low for the coverage provided under the health benefit plan or the use of such rates endangers the solvency of the health carrier using the rate.

(C) A rate is unfairly discriminatory when a health carrier makes or permits differences in rates between individuals of the same class or of essentially the same risk when such differences are not permissible pursuant to section 375.936, RSMo, or when differences in rates do not reasonably correspond to differences in expected costs.

(D) A rate is unjustified if the heath carrier provides a rate justification that is incomplete or otherwise does not provide a sufficient basis upon which the reasonableness of a rate can be determined.

(13) The director's review of rates shall, at a minimum, consider the following:

(A) The reasonableness of the assumptions used by the health carrier to develop the proposed rate increase and the validity of the historical data underlying the assumptions;

(B) The health carrier's data related to past projections and actual experience;

(C) The reasonableness of assumptions used by the health carrier to estimate the rate impact of the federal risk adjustment program under 42 U.S.C. Section 18063; and

(D) The health carrier's data related to implementation and ongoing utilization of a market-wide single risk pool, essential health benefits, actuarial values, and other market standards or rules established under state or federal law.

(14) The director's review of rates may consider the following, to the extent the director believes any to be applicable to the rate filing under review:

(A) Medical cost trend changes by major service categories;

(B) Impact of changes in utilization of services by major service categories;

(C) Impact of cost-sharing changes by major service categories, including actuarial values;

(D) Impact of changes in benefits, including essential health benefits and non-essential health benefits;

(E) Impact of changes in enrollee risk profile and pricing, including rating limitations for age and tobacco use under 42 U.S.C. Section 300gg;

(F) Impact of over- and under-estimation of medical trends in the previous three (3) years on the current premium rate;

(G) Impact of changes in reserve needs;

(H) Impact of changes in administrative costs related to programs that improve health care quality;

(I) Impact of changes in other administrative costs;

(J) Impact of changes in applicable taxes and licensing or regulatory fees;

(K) Medical loss ratio;

(L) The health carrier's capital and surplus;

(M) The impacts of geographic factors and variations;

(N) The impact of changes within a single risk pool to all products or plans within the risk pool; and

(O) The impact of risk adjustment payments and charges.

(15) Pursuant to section 376.465.10(4), RSMo, written notice of the director's determination that proposed rates are reasonable or unreasonable shall be provided within sixty (60) days after a complete rate submission to the director. This sixty- (60-) day time frame may be extended pursuant to a mutual agreement between the director and the health carrier.

(A) Proposed rates that are determined to be reasonable will be considered final and the filing will be closed upon the same date as the director's notice.

(B) Proposed rates that are determined to be unreasonable will be considered open for amendment by the carrier pursuant to section (16) of this rule.

(16) Pursuant to section 376.465.11, RSMo, after receiving written notice from the director that a proposed rate is unreasonable, if a health carrier elects to amend proposed rates or request reconsideration of the director's determination, the carrier shall notify the director and submit any amendments or additions to the rate filing or rate filing justification within thirty (30) days after the date the carrier receives written notice of the director's determination. The thirty- (30-) day time frame may be extended pursuant to a mutual agreement between the director and the health carrier.

(A) If a health carrier chooses to file an amended rate, it shall file the amended rate and a rate filing justification supporting the amended rate.

(B) If a health carrier chooses to request reconsideration, it shall notify the director, in writing, of its request for reconsideration and may submit any additional rate filing justification that it believes further supports the proposed rate. The director shall review such information and make a determination as to whether the proposed rate is reasonable or unreasonable.

(17) When a health carrier receives written notice that a proposed rate is unreasonable and the health carrier decides to implement the proposed rate notwithstanding the director's determination, the health carrier shall notify the director of its decision to use the rate within thirty (30) days after receiving notice of the director's determination. The director shall make the determination that the rate is unreasonable publicly available on the department's website at the same time as final rates are posted on the department's website.

AUTHORITY: section 374.045, RSMo Supp. 2013, and section 376.465, CCS HCS SS SCS SBS 865 and 866, Second Regular Session, Ninety-eighth General Assembly 2016. Original rule filed Oct. 3, 2016.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Amy V. Hoyt, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days of publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m., Friday, December 2, 2016, at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri.*

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.145 Standards of Commercial Honor and Principles of Trade in Life, Annuity, and Long-Term Care Insurance Sales. The division is amending subsection (1)(A).

PURPOSE: This amendment clarifies the standard to which producers are held with regard to the exchange or replacement of variable life, annuity, or long-term care products.

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Producers, in the conduct of variable life, annuity, and long-term care insurance business, shall observe high standards of commercial honor and just and equitable principles of trade. Implicit in a producer's relationship with customers is the fundamental responsibility of fair dealing. Practices that violate this responsibility of fair dealing include, but are not limited to, the following:

1. Inducing an exchange or replacement of variable life, annuity, or long-term care insurance contract with *[insignificant]* **no tangible net** benefit to the consumer, but for the purpose of accumulating commissions by the producer; and

2. Causing the execution of transactions that are not authorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon; and

*AUTHORITY: sections 374.040[,] and 375.013, RSMo 2000, and sections 374.045, 375.143, and 376.309.6, RSMo Supp. [2007] **2013**. Emergency rule filed April 14, 2005, effective April 26, 2005, expired Jan. 1, 2006. Original rule filed Sept. 30, 2005, effective March 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008. Amended: Filed Sept. 30, 2016.*

PUBLIC COST: The proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: The proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.146 Recommendations of *[Annuities or]* **Variable Life Insurance to Customers (Suitability)**. The division is amending the title, purpose, section (1), removing section (2), and renumbering thereafter.

PURPOSE: This amendment makes this rule only applicable to the offer, sale, or exchange of variable life contracts. The department is amending this rule by removing all language that relates to annuity recommendations. The department's proposed rule, 20 CSR 400-5.900 Suitability in Annuity Transactions, is replacing the language contained in this rule.

*PURPOSE: This rule [implements the requirements] **effectuates and aids in the interpretation** of section[s] 375.141.1(8) [and 375.143], RSMo, with respect to the codification of professional standards of conduct in the recommendation of [annuities and] variable life insurance contracts. Failure to meet these standards [would] constitutes the demonstration of incompetence, untrustworthiness, or financial irresponsibility of producers in the offer, sale, or exchange of [annuities and] variable life contracts.*

(1) The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

[(A) Variable Annuities and Variable Life Insurance.]

*[1.]***(A)** In recommending to an individual customer the purchase, sale, or exchange of any variable life *[or variable annuity]* product, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other investment holdings and as to his financial situation and needs.

*[2.]***(B)** Prior to the execution of a variable life *[or variable annuity]* transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

*[A.]***1.** The customer's financial status, including annual income, financial situation and needs, and existing assets;

*[B.]***2.** The customer's tax status;

*[C.]***3.** The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

*[D.]***4.** The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

*[E.]***5.** Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

[3. No producer shall recommend to any customer the purchase or exchange of any deferred variable annuity, unless the producer has a reasonable basis to believe:

A. That the transaction is suitable in accordance with this rule and, in particular, that there is a reasonable basis to believe that—

(I) The customer has been informed, in general terms, of various features of deferred variable annuities, such as the potential surrender period and surrender charge; potential tax penalty if the customer sells or redeems deferred variable annuities before reaching the age of fifty-nine and one half (59½); mortality and expense fees; investment advisory fees; potential charges for and features of riders; the benefit and investment components of deferred variable annuities; and market risk;

(II) The customer would benefit from certain features of deferred variable annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(III) The particular deferred variable annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase or exchange of the deferred variable annuity, and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by this rule; and

B. In the case of an exchange of a deferred variable annuity, the exchange also is consistent with the suitability determination required by subparagraph (1)(A)3.A. of this rule, taking into consideration whether—

(I) The customer would incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, investment advisory fees, or charges for riders and similar product enhancements);

(II) The customer would benefit from product enhancements and improvements; and

(III) The customer's account has had another deferred annuity exchange within the preceding thirty-six (36) months.]

*[4.]***(C)** Interpretation of subsection (1)(A) of this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the Financial Industry Regulatory Authority (FINRA) or its predecessor **or successor** organizations.

[(B) Indexed Annuities.

1. In recommending to an individual customer the purchase, sale, or exchange of a indexed annuity, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his or her insurance and investment holdings and as to his or her current and reasonably anticipated financial situation and needs.

2. Prior to the execution of an indexed annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

D. The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

3. No producer shall recommend to any customer the purchase or exchange of a deferred indexed annuity unless the producer has a reasonable basis to believe:

A. That the transaction is suitable in accordance with this rule and, in particular, that there is a reasonable basis to believe that—

(I) The customer has been informed, in general terms, of various features of deferred indexed annuities, such as the potential surrender period and surrender charge; potential tax penalty if a customer sells or redeems deferred indexed annuities before reaching the age of fifty-nine and one half (59½); mortality and expense fees; potential charges for and features of riders; the benefit and accumulation components of deferred indexed annuities; and market risk;

(II) The particular deferred indexed annuity as a whole, the underlying accumulation provisions and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by this rule; and

B. In the case of an exchange of a deferred indexed annuity, the exchange also is consistent with the suitability determination required by subparagraph (1)(B)3.A. of this rule, taking into consideration whether—

(I) The customer would incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, investment advisory fees, or charges for riders and similar product enhancements);

(II) The customer would benefit from product enhancements and improvements; and

(III) The customer's account has had another deferred indexed annuity exchange within the preceding thirty-six (36) months.

(C) Fixed Annuities.

1. In recommending to an individual customer the purchase, sale, or exchange of a fixed annuity, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his or her insurance and investment holdings and as to his or her current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a fixed annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

D. The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

(2) The standards of conduct in this rule shall not apply to the following:

(A) Unless a producer is making a recommendation to an individual plan participant, any annuity used to fund—

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

2. Any tax-qualified, employer sponsored retirement or benefit plan that meets the requirements of Internal Revenue Code, Sections 401(a), 401(k), 403(b), 408(k), or 408(p);

3. Any government or church plan that meets the requirements of Internal Revenue Code, Section 414;

4. Any government or church welfare benefit plan, or any deferred compensation plan of a state or local government or tax exempt organization, that meets the requirements of Internal Revenue Code, Section 457; or

5. Any nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; or

(B) Any annuity transaction used to fund settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.]

*[(3)]***(2)** Record Keeping. The determinations required by this rule shall be documented by the producer recommending the transaction.

*[(4)]***(3)** No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: [sections 374.040, 374.045, and 375.013, RSMo 2000 and sections 375.143 and 376.309.6, RSMo Supp. 2007] ***sections 374.045, 375.141, and 375.143, RSMo Supp. 2013, and section 375.013, RSMo 2000****. Original rule filed July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008. Amended: Filed Sept. 30, 2016.*

PUBLIC COST: The proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: The proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED AMENDMENT

20 CSR 700-1.147 Reasonable Supervision in Variable Life *[and Variable Annuity]* **Sales**. The department is amending the title, purpose, and sections (1) and (3).

PURPOSE: This amendment makes this rule only applicable to the offer, sale, or exchange of variable life products. This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the demonstration of incompetence, untrustworthiness, or financial irresponsibility by producers in the offer, sale, or exchange of variable life products. The department is amending this rule by removing all language that relates to annuity recommendations. The department's proposed rule, 20 CSR 400-5.900 Suitability in Annuity Transactions, is replacing the language contained in this rule.

PURPOSE: This rule [implements the requirements] ***effectuates and aids in the interpretation*** *of section[s] 375.141.1(8) [and 375.143], RSMo, with respect to the demonstration of incompetence, untrustworthiness, or financial irresponsibility by producers in the offer, sale, or exchange of variable life [and variable annuity] products.*

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Individual Producers. Each individual producer licensed to sell variable life *[and variable annuity]* products shall be supervised by a member of the Financial Industry Regulatory Authority (FINRA), which member shall also be licensed as a business entity producer with the director (supervising member)*[.]***;**

(B) Supervising Members.

1. Supervisory system.

A. Each supervising member shall establish and maintain a system to supervise the activities of each individual producer that is reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable FINRA rules. Final responsibility for proper supervision shall rest with the supervising member. A supervising member's supervisory system shall provide, at a minimum, for the following:

(I) The establishment and maintenance of written procedures as required by paragraphs (1)(B)2. and 3. of this rule;

(II) The designation, where applicable, of an appropriately qualified and registered FINRA principal(s) with authority to carry out the supervisory responsibilities of the supervising member for variable life *[and variable annuity products]* **producers**;

(III) The designation of an office of supervisory jurisdiction (OSJ) of each location that meets the definition contained in FINRA Rule *[3010(g)(2), effective January 31, 2005]* **3110(f), effective July 31, 2015**. The supervising member shall also designate such other OSJs as it determines to be necessary in order to supervise its producers and employees in accordance with the standards set forth in this rule, taking into consideration the following factors:

(a) Whether the individual producers or employees engage in retail sales or other activities involving regular conduct with public customers;

(b) Whether a substantial number of individual producers conduct sales activities at, or are otherwise supervised from, such location;

(c) Whether the location is geographically distant from another OSJ of the supervising member;

(d) Whether the individual producers are geographically dispersed; and

(e) Whether the investment or insurance activities at such location are diverse and/or complex;

(IV) The designation of one **(1)** or more appropriately qualified and registered FINRA principal(s) in each OSJ, including the main office, and one **(1)** or more appropriately FINRA qualified and licensed producers in each non-OSJ branch office (as defined in FINRA Rule *[3010(g)(1), effective January 31, 2005]* **3110(f), effective July 31, 2015**) with authority to carry out the supervisory responsibilities assigned to that office by the supervising member;

(V) The assignment of each individual producer to an appropriately FINRA qualified and licensed producer who shall be responsible for supervising that person's activities;

(VI) Reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities;

(VII) The participation of each producer, either individually or collectively, no less than annually, in an interview or meeting conducted by persons designated by the supervising member at which compliance matters relevant to the activities of the individual producer(s) are discussed. Such interview or meeting may occur in conjunction with the discussion of other matters and may be conducted at a central or regional location or at the individual producer's place of business.

2. Written procedures.

A. Each supervising member shall establish, maintain, and enforce written procedures to supervise the variable life *[and variable annuity]* business in which it engages and to supervise the activities of individual producers that are reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable FINRA rules.

B. The supervising member's written supervisory procedures shall set forth the supervisory system established by the supervising member pursuant to subparagraph (1)(B)1.A. above, and shall include the titles, registration/licensure status and locations of the required supervisory personnel and the responsibilities of each supervisory person as these relate to the types of business engaged in, applicable insurance laws and regulations, applicable federal securities laws and regulations, and applicable FINRA rules. The supervising member shall maintain on an internal record the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective. Such record shall be preserved by the supervising member for a period of not less than three (3) years, the first two (2) years in an easily accessible place.

C. A copy of a supervising member's written supervisory procedures, or the relevant portions thereof, shall be kept and maintained in each OSJ and at each location where supervisory activities are conducted on behalf of the supervising member. Each supervising member shall amend its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable state insurance laws and regulations, applicable federal securities laws and regulations, and applicable FINRA rules, and as changes

occur in its supervisory system, and each supervising member shall be responsible for communicating amendments to the individual producers it supervises.

3. Internal inspections.

A. Each supervising member shall conduct a review, at least annually, of the businesses in which it engages, which review shall be reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable state insurance laws, applicable federal securities laws and regulations, and with applicable FINRA rules. Each supervising member shall review the activities of each office, which shall include the periodic examination of customer accounts, to detect and prevent irregularities or abuses.

(I) Each supervising member shall inspect at least annually every office of supervisory jurisdiction and any branch office that supervises one **(1)** or more non-branch locations.

(II) Each supervising member shall inspect at least every three (3) years every branch office that does not supervise one **(1)** or more non-branch locations. In establishing how often to inspect each non-supervisory branch office, the firm shall consider whether the nature and complexity of the variable life *[and variable annuity]* sales activities for which the location is responsible, the volume of business done, and the number of individual producers assigned to the location require the non-supervisory branch office to be inspected more frequently than every three (3) years. If a supervising member establishes a more frequent inspection cycle, the supervising member must ensure that at least every three (3) years, the inspection requirements enumerated in subparagraph (1)(B)3.B. have been met. The non-supervisory branch office examination cycle, an explanation of the factors the supervising member used in determining the frequency of the examinations in the cycle, and the manner in which a supervising member will comply with subparagraph (1)(B)3.B. if using more frequent inspections than every three (3) years, shall be set forth in the supervising member's written supervisory and inspection procedures.

(III) Each supervising member shall inspect on a regular periodic schedule every non-branch location. In establishing such schedule, the firm shall consider the nature and complexity of the variable life *[and variable annuities]* activities for which the location is responsible and the nature and extent of contact with customers. The schedule and an explanation regarding how the supervising member determined the frequency of the examination schedule shall be set forth in the supervising member's written supervisory and inspection procedures.

(IV) Each supervising member shall retain a written record of the dates upon which each review and inspection is conducted.

B. An office inspection and review by a supervising member pursuant to subparagraph (1)(B)3.A. must be reduced to a written report and kept on file by the supervising member for a minimum of three (3) years, unless the inspection is being conducted pursuant to part (1)(B)3.A.(III) and the regular periodic schedule is longer than a three- (3-)*[-]* year cycle, in which case the report must be kept on file at least until the next inspection report has been written. The written inspection report must also include, without limitation, the testing and verification of the supervising member's policies and procedures, including supervisory policies and procedures in the following areas:

(I) Safeguarding of customer funds *[and annuities]*;

(II) Maintaining of books and records;

(III) Supervision of customer accounts serviced by branch office managers;

(IV) Transmittal of funds between customers and individual producers;

(V) Validation of customer address changes; and

(VI) Validation of changes in customer account information.

If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in the written inspection report and document in the report that supervisory policies and procedures for such activities must be in place before the supervising member can engage in them.

C. An office inspection by a supervising member pursuant to subparagraph (1)(B)3.A. may not be conducted by the branch office manager or any person within that office who has supervisory responsibilities or by any individual who is supervised by such person(s). However, if a supervising member is so limited in size and resources that it cannot comply with this limitation (e.g., a supervising member with only one (1) office or a supervising member has a business model where small or single-person offices report directly to an office of supervisory jurisdiction manager who is also considered the office's branch office manager), the supervising member may have a principal who has the requisite knowledge to conduct an office inspection perform the inspections. The supervising member, however, must document in the office inspection reports the factors it has relied upon in determining that it is so limited in size and resources that it has no other alternative than to comply in this manner. A supervising member must have in place procedures that are reasonably designed to provide heightened office inspections if the person conducting the inspection reports to the branch office manager's supervisor or works in an office supervised by the branch manager's supervisor and the branch office manager generates twenty percent (20%) or more of the revenue of the business units supervised by the branch office manager's supervisor. For the purposes of this paragraph only, the term "heightened inspection" shall mean those inspection procedures that are designed to avoid conflicts of interest that serve to undermine complete and effective inspection because of the economic, commercial, or financial interests that the branch manager's supervisor holds in the associated persons and businesses being inspected. In addition, for the purpose of this paragraph only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the branch office or branch office manager shall be attributed as revenue generated by the business units supervised by the branch office manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve- (12-)*[-]* month basis.

4. Review of transactions and correspondence.

A. Supervision of individual producers. Each supervising member shall establish procedures for the review and endorsement by a FINRA qualified principal in writing, on an internal record, of all transactions and for the review by a registered principal of incoming and outgoing written and electronic correspondence of its individual producers with the public relating to the variable life *[or variable annuities]* business of such supervising member. Such procedures should be in writing and be designed to reasonably supervise each individual producer. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the director upon request.

B. Review of correspondence. Each supervising member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its variable life *[or variable annuities]* business, including procedures to review incoming, written correspondence directed to individual producers and related to the supervising member's variable life *[or variable annuities]* business to properly identify and handle customer complaints and to ensure that customer funds and variable life *[and variable annuities]* **business** are handled in accordance with supervising member's procedures. Where such procedures for the review of correspondence do not require review of all correspondence prior to use or distribution, they must include provision for the education and training of associated persons as to the supervising member's procedures governing correspondence, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented

and adhered to.

C. Each supervising member shall retain correspondence of producers relating to its variable life *[and variable annuity]* business in accordance with Rules 17a-3 and 17a-4 under the Securities and Exchange Act of 1934. The names of the persons who prepared outgoing correspondence and who reviewed the correspondence shall be ascertainable from the retained records and the retained records shall be readily available to the director, upon request.

5. Qualifications investigated.

A. Each supervising member shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications, and experience of any individual producer prior to assisting in the application of such person for a variable life *[or variable annuity]* line with the department.

B. Where an applicant for license has previously been licensed with the department, the supervising member shall review a copy of the Uniform Termination Notice of Securities Industry Registration (Form U-5) filed with the FINRA by such person's most recent previous FINRA member employer, together with any amendments thereto that may have been filed pursuant to Article V, Section 3 of the FINRA's By-Laws. The supervising member shall review the Form U-5 as required by this rule no later than sixty (60) days following the filing of the application for license or demonstrate to the department that it has made reasonable efforts to comply with the requirement. In conducting its review of the Form U-5 and any amendments thereto, a supervising member shall take such action as may be deemed appropriate.

6. Supervisory control system.

A. General requirements.

(I) Each supervising member shall designate and specifically identify one (1) or more principals who shall establish, maintain, and enforce a system of supervisory control policies and procedures that*[:]*—

(a) Test and verify that the supervising member's supervisory procedures are reasonably designed with respect to its activities and the activities of its employees, to achieve compliance with applicable state insurance laws and regulations, applicable federal securities laws and regulations, and with applicable FINRA rules; and

(b) Create additional or amend supervisory procedures where the need is identified by such testing and verification.

(II) The designated principal or principals must submit to the supervising member's senior management no less than annually, a report detailing each supervising member's system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

(III) The establishment, maintenance, and enforcement of written supervisory control policies and procedures pursuant to part (1)(B)6.A.(I) shall include:

(a) Procedures that are reasonably designed to review and supervise the customer account activity conducted by the supervising member's branch office managers, sales managers, regional or district sales managers, or any person performing a similar supervisory function.

I. A person who is either senior to, or otherwise independent of, the producing manager must perform such supervisory reviews. For purposes of this rule, an "otherwise independent" person: may not report either directly or indirectly to the producing manager under review; must be situated in an office other than the office of the producing manager; must not otherwise have supervisory responsibility over the activity being reviewed (including not being directly compensated based in whole or in part on the revenues accruing for those activities); and must alternate such review responsibility with another qualified person every two (2) years or less.

II. If a supervising member is so limited in size and resources that there is no qualified person senior to, or otherwise independent of, the producing manager to conduct the reviews pursuant to **item** (1)(B)6.A.(II)(a)I. above (e.g., a supervising member has only one (1) office or an insufficient number of qualified personnel who can conduct reviews on a two- (2-)*[-]* year rotation), the reviews may be conducted by a principal who is sufficiently knowledgeable of the supervising member's supervisory control procedures, provided that the reviews are in compliance with **item** (1)(B)6.A.(II)(a)I. to the extent practicable.

III. A supervising member relying on **item** (1)(B)6.A.(II)(a)II. above must document in its supervisory control procedures the factors used to determine that complete compliance with all of the provisions of **item** (1)(B)6.A.(II)(a)I. is not possible and that the required supervisory systems and procedures in place with respect to any producing manager comply with the provisions of **item** (1)(B)6.A.(II)(a)I. above to the extent practicable*[.]***;**

(b) Procedures that are reasonably designed to review and monitor the following activities:

I. All transmittals of funds (e.g., wires or checks, etc.) from customers to third party accounts (i.e., a transmittal that would result in a change of beneficial ownership); from customer accounts to outside entities (e.g., banks, investment companies, etc.); from customer accounts to locations other than a customer's primary residence (e.g., post office box, "in care of" accounts, alternate address, etc.); and between customers and registered representatives, including the hand-delivery of checks;

II. Customer changes of address and the validation of such changes of address; and

III. Customer changes of investment objectives and the validation of such changes of investment objectives*[.]***;**

(c) The policies and procedures established pursuant to subpart (1)(B)6.A.(II)(b) must include a means or method of customer confirmation, notification, or follow-up that can be documented. If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in its written supervisory control policies and procedures and document in those policies and procedures that additional supervisory policies and procedures for such activities must be in place before the supervising member can engage in them; and

(d) Procedures that are reasonably designed to provide heightened supervision over the activities of each producing manager who is responsible for generating twenty percent (20%) or more of the revenue of the business units supervised by the producing manager's supervisor. For the purposes of this part only, the term "heightened supervision" shall mean those supervisory procedures that evidence supervisory activities that are designed to avoid conflicts of interest that serve to undermine complete and effective supervision because of the economic, commercial, or financial interests that the supervisor holds in the associated persons and businesses being supervised. In addition, for the purpose of this part only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the producing manager or the producing manager's office shall be attributed as revenue generated by the business units supervised by the producing manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve- (12-)*[-]* month basis.

(3) Interpretation of this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the FINRA or its predecessor **or successor** organizations. Any person in compliance with substantially similar requirements of the FINRA shall be deemed to be in compliance with the provisions of this rule.

AUTHORITY: [sections 374.040, 374.045, and 375.013, RSMo 2000 and sections 375.143 and 376.309.6, RSMo Supp. 2007] ***sections 374.045, 375.141, and 375.143, RSMo Supp. 2013, and section 375.013, RSMo 2000****. Original rule filed*

July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008. Amended: Filed Sept. 30, 2016.

PUBLIC COST: The proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: The proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

PROPOSED RESCISSION

20 CSR 700-1.148 Reasonable Supervision in Indexed and Fixed Annuity Sales. This rule aided in the interpretation of section 375.141.1(8), RSMo, with respect to the demonstration of incompetence, untrustworthiness, or financial irresponsibility by producers in the offer, sale, or exchange of indexed or fixed annuity products.

PURPOSE: This rule is being rescinded because proposed rule 20 CSR 400-5.900 Suitability in Annuity Transactions, is replacing the language contained in this rule.

AUTHORITY: section 374.045, RSMo 2000 and sections 375.141 and 375.143, RSMo Supp. 2007. Original rule filed April 30, 2008, effective Dec. 30, 2008. Rescinded: Filed Sept. 30, 2016.

PUBLIC COST: The proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: The proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Tamara W. Kopp, Receivership Counsel, Director's Office, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*