



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

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

**20 CSR 400-5.100 Advertisements of Life
Insurance and Annuities**

PURPOSE: 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. This rule was adopted pursuant to the provisions of section 374.045, RSMo and effectuates and aids in the interpretation of sections 375.934 and 375.936, RSMo.

(1) Definitions. For the purpose of this rule—

(A) “Advertisement” 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 authored by the insurer, 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 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;

4. Prepared sales talks, presentations, and materials for use by insurance producers;

(B) “Advertisement” for the purpose of 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 of 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;

(F) “Insurer” 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;

(H) “Policy” 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” shall have the same meaning as set forth in section 436.405.1(8), RSMo.

(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) 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 pur-

suant 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. 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. 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 from the overall impression that the advertisement may be reasonably 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,” “preneed contract,” “preneed funeral contract,” “prearrangement”, 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 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 this rule shall not be minimized, 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 remedy misleading statements.

(C) In the event an advertisement uses “non-medical,” “no medical examination required,” or similar terms where issue is not guaranteed, 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 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.

(E) An advertisement shall prominently describe the type of policy advertised.

(F) An advertisement of an insurance policy marketed by 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 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.

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,” “financial counseling,” “seller,” “preneed seller,” or “preneed agent” 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.

(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.

(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 testimonials, appraisals, or analysis; the insurer or insurance producer makes as its own all of the statements contained therein, and these statements are subject to all the provisions of this rule.

2. If the individual making a testimonial, appraisal, analysis, or endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, 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 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, 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.

(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.

(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 that utilizes a reduced initial premium rate in a manner that overemphasizes 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 that refers the reader to that specific portion of the advertisement 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 from the date on which the enrollment period is advertised for the first time. This rule applies to all advertising media—i.e., mail, newspapers, 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 accepted by an insurer in those instances where the application has been sent to the applicant in response to 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.

(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.

(V) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not disparage other insurers, insurance producers, policies, services, or methods of marketing.

(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 shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. The nonguaranteed interest rate shall not be greater than those currently being credited by the company unless the 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, an illustration or statement 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)(I) that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. Whether or not the insurance producer is or may be also acting on behalf of the preneed seller and/or the preneed provider; and

2. The nature of the relationship among the soliciting agent or agents, the licensed preneed seller, the licensed preneed provider, the provider of the funeral or cemetery merchandise services, the administrator and any other person; and

3. Clearly state how and to whom the proceeds of the life insurance will be paid and if the insurance proceeds are to be paid to either the insurance producer or the insurance producer's employer or entity with which the insurance producer has a contractual relationship because that producer or entity is also a licensed preneed seller or preneed provider; and

4. The fact that the insurance policy is not a preneed contract and that if the consumer wishes to make arrangements for final disposition that a separate preneed contract is required.

(Z) Failure to comply with the require-

ments 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 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.

(C) An advertisement shall not use any combination of words, symbols, or physical materials 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 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 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 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 recommended or endorsed by any governmental entity. However, when a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes 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 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 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. All advertisements shall be maintained in the file for a period of 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.

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

AUTHORITY: sections 374.045, 375.141, 375.143, 375.144, 375.934, 375.936, and 375.948, RSMo 2016. 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, effective March 30, 2017.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008; 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001; 375.143, RSMo 2007; 375.144, RSMo 2005; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.948, RSMo 1959, amended 1978, 1991.*

20 CSR 400-5.200 Deceptive Practices or Misrepresentations in the Solicitation of Life Insurance

PURPOSE: This rule describes those statements which will be considered to be deceptive practices or misrepresentations in the solicitation of life insurance. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements and defines sections 375.930–375.948, 376.500, 376.590 and 376.673, RSMo.

(1) No insurance company shall deliver or issue in this state or permit its insurance producers or officers to deliver or promise to issue or deliver in this state its own stock or other stock or securities as an inducement to the purchase of insurance. No corporation or any of its insurance producers, officers or employees shall agree to sell, offer to sell, or give or offer, directly or indirectly, in any manner whatsoever any share of stock, securities or bonds as an inducement to the purchase of insurance.

(2) The practices and representations enumerated and listed in this rule are deemed to violate those sections of the Missouri Insurance Code set out in this rule and violations of same by companies or their insurance producers shall subject the violators to the penalties now contained in section 375.930, RSMo. Violations of same will consist of any of the following statements:

(A) Statements of policy titles indicating or implying that the policyholder will participate in the distribution of earnings or surplus other than earnings or surplus attributable, by reasonable and nondiscriminatory standards, to the participating policies of the company and allocated to the policyholder on reasonable and nondiscriminatory standards;

(B) Statements or illustrations implying that a proposed policyholder will be entitled to share in any part of surplus earnings attributable to nonparticipating business or to other classes of participating business;

(C) Statements or illustrations setting forth the dividend scale of other companies (or a dividend scale of the company for a plan of insurance no longer being offered or for a plan of insurance other than the plan being offered to the proposed policyholder) with the implication that these statements or illustrations serve as some sort of a guideline as to what the proposed policyholder might expect to receive under the proposed policy;

(D) Statements or representations or the use of any documents (either in the form of a copy of a board resolution, certificate of participation or in any other manner whatsoever) in conjunction with the solicitation or issuance of a life insurance policy which purport that the policyholder will or might reasonably expect to receive any valuable consideration or inducement whatever, not specified in the policy contract of insurance;

(E) Statements which do not clearly inform one that dividends are not, and cannot be, guaranteed;

(F) Statements which purport or imply that accumulated dividends will be sufficient, after an unreasonably short period of time, to require no further cash outlay for the payment of premiums;

(G) Statements which purport or imply that the anticipated annual dividend will equal or exceed the annual premium due under the policy, except in those cases where the company's current rate manual so reflects;

(H) Statements indicating or implying that the policyholder will receive some preferential or discriminatory advantage or benefit not available to persons who purchase insurance from the company at future dates or under other circumstances;

(I) Statements or representations purporting that only a limited number of policies will be issued on a particular form (however true the statements might be) since those statements imply preferential treatment;

(J) References to the investment nature of a policy which state or imply that a life insurance policy possesses investment features other than those arising from the cash, loan or maturity value or the settlement options available thereunder;

(K) Statements which tend to lead the prospect to believe that the insurance producer is dealing in other than a life insurance contract or that life insurance is incidental to the purchase of the contract;

(L) Statements which tend to lead the prospect to believe that s/he is purchasing stock of the insurance company or that s/he is acquiring any right or benefit which corresponds to a right or benefit enjoyed by a stockholder of the company;

(M) References to premiums as deposits in a manner as to lead the proposed policyholder to believe that they create a fund which is withdrawable without reference to the cash surrender or loan provisions of the policy or the use of any passbook savings record or any other device which leads or would tend to lead the policyholder to believe or gain the impression that the contract represents a savings plan;

(N) Statements or representations that any part of premium payment, advance premium payment or of dividends will be placed in a segregated fund for the benefit of the insureds (except for those variable contracts which might be issued pursuant to section 376.309, RSMo);

(O) Statements which tend to lead a prospect to believe or infer that each policyholder is given the right to purchase or allocate a specific number of policies;

(P) The use of comparative selling in a manner which might lead a prospect to believe that the company's experience under a particular plan will be as successful as the experience achieved under a similar plan by reference to a particular company; and

(Q) Any comparison of the policies or contracts of any such insurer(s), shall be deemed to be an incomplete comparison, if it does not compare in detail the gross premiums and gross premiums less any dividend or other reduction allowed by the insurer(s), at the date of the comparison and the increase in



any cash values and all the benefits provided by each of those policies or contracts for a period of twenty (20) years. The omission from any comparison of any benefit or value provided in any such policies or contracts or of any differences as to amount or period of payment of premiums shall constitute the comparison an incomplete comparison.

(3) With respect to life insurance policies providing for the payment of a series of pure endowments maturing periodically during the premium paying period of the policy companies are prohibited from—

(A) Using any detachable coupons, certificates or passbooks or any other device which tends to emphasize the periodic pure endowment benefits or which tend to create the impression that the pure endowments represent interest earnings or anything other than benefits which have been purchased by part of the policyholder's premium payments;

(B) Offering pure endowment benefits which do not have fixed maturity dates or the payment of which is made contingent upon the payment of any premium becoming due on or after their maturity dates; or

(C) Expressing pure endowment benefits in any manner other than in dollar amounts such as by expressing them as percentages of other quantities or in other ways.

(4) Each insurer shall notify each of its insurance producers of the contents of this rule.

AUTHORITY: sections 374.045, 375.930, 375.948, 376.500, 376.590 and 376.673, RSMo 2000. This rule was previously filed as 4 CSR 190-13.030. This version of rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.930, RSMo 1959, amended 1978, 1991; 375.948, RSMo 1959, amended 1978, 1991; 376.500, RSMo 1939, amended 1965; 376.590, RSMo 1939; and 376.673, RSMo 1967.*

20 CSR 400-5.300 Solicitation of Insurance on Military Installations in Missouri

PURPOSE: This rule clarifies by whom insurance on military installations may be solicited. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements sections 375.012-375.158, RSMo.

(1) Army regulation No. 210-8, effective February 15, 1973 and Air Force regulation No. 211-16, dated March 31, 1972, relate to

solicitation on military installations; local rules implement the rules referred to here.

(2) Solicitation of insurance on military installations or bases in Missouri shall only be done by authorized insurance producers duly licensed by the Missouri Department of Insurance and the policy and application forms used by these insurance producers must be approved by the Missouri Department of Insurance.

AUTHORITY: sections 374.045, RSMo 2000, and 375.012-375.158, RSMo 2000, Supp 2001 and Supp. 2002. This rule was previously filed as 4 CSR 190-13.050. Original rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.012-375.158, see Missouri Revised Statutes.*

20 CSR 400-5.305 Scope and Definitions for Military Sales Practices Regulation

PURPOSE: This rule sets out the scope of the military sales practices regulation in 20 CSR 400-5.305 to 20 CSR 400-5.310 and provides definitions to aid in the interpretation of the rules.

(1) Applicability of Rules. The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 are based upon the Military Sales Practices Model Regulation adopted by the National Association of Insurance Commissioners (NAIC), published July 2007, fulfilling the intent of the Military Personnel Financial Services Act, Pub. L. No. 109-290, section 3(1)(C) (2006).

(A) The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 apply to insurers soliciting, offering to sell or selling any life or annuity product, except those described in subsection (1)(B), to a member of the United States Armed Forces, wherever located. The rules shall be read together with Chapter 536, RSMo.

(B) The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 shall not apply to solicitations or sales involving:

1. Credit insurance;
2. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
3. An application to the existing insurer

that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

4. Individual stand-alone health policies, including disability income policies;

5. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.;

6. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

7. Contracts used to fund:

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

B. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer and there is no in-person, face-to-face solicitation of individuals by an insurance producer;

C. 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, if there is no in-person, face-to-face solicitation of individuals by an insurance producer;

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

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

F. Prearranged funeral contracts.

(C) The rules in 20 CSR 400-5.305 to 20 CSR 400-5.310 shall not apply to:

1. General advertisements, direct mail and Internet marketing; and

2. Telephone marketing, provided the caller explicitly and conspicuously discloses that the call concerns life insurance and makes no statement that avoids the clear and unequivocal statement that life insurance is the subject matter of the solicitation.

3. Nothing in this subsection shall be construed to exclude an insurer or insurance producer from 20 CSR 400-5.305 to 20 CSR 400-5.310 in any in-person, face-to-face meeting established as a result of the marketing that is exempt under this paragraph.



(D) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DoD INSTALLATIONS or successor directive.

(2) Definitions. As used in rules 20 CSR 400-5.305 to 20 CSR 400-5.310 the following terms shall mean:

(A) “Active duty,” full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one (31) calendar days;

(B) “Department of Defense (DoD) Personnel,” all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense;

(C) “Door to door,” a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment;

(D) “General advertisement,” an advertisement having as its sole purpose the promotion of the reader’s or viewer’s interest in the concept of insurance, or the promotion of the insurer or the insurance producer;

(E) “Insurable needs,” the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant’s estate and/or survivors or dependents;

(F) “Insurer,” an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities;

(G) “Insurance producer,” a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities;

(H) “Known” or “Knowingly,” depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

1. Is a service member; or

2. Is a service member with a pay grade of E-4 or below;

(I) “Life insurance,” insurance coverage

on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities;

(J) “Military installation,” any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters;

(K) “MyPay,” a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms;

(L) “Other military survivor benefits,” includes the following, but is not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents’ Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits;

(M) “Service member,” any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces;

(N) “SGLI,” Servicemembers’ Group Life Insurance;

(O) “Side fund,” a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;

2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

3. A premium deposit fund which:

A. Contains only premiums paid in advance which accumulate at interest;

B. Imposes no penalty for withdrawal;

C. Does not permit funding beyond future required premiums;

D. Is not marketed or intended as an investment; and

E. Does not carry a commission, either paid or calculated;

(P) “Specific appointment,” a prearranged appointment agreed upon by both parties and definite as to place and time;

(Q) “United States Armed Forces,” all components of the Army, Navy, Air Force,

Marine Corps, and Coast Guard; and

(R) “VGLI,” Veterans’ Group Life Insurance.

AUTHORITY: sections 374.045, 375.934, and 375.936, RSMo 2000 and section 375.144, RSMo Supp. 2007.* Original rule filed Nov. 9, 2007, effective June 30, 2008.

**Original authority:* 374.045, RSMo 1967, amended 1993, 1995; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.144, RSMo 2005.

20 CSR 400-5.310 Deceptive or Unfair Military Sales Practices

PURPOSE: This rule describes specific acts and practices that constitute deceptive or unfair trade practices and is based upon the Military Sales Practices Model Regulation adopted by the NAIC during July 2007. The specific prohibitions are not intended to be an all-inclusive list of conduct which might violate sections 375.144 or 375.934, RSMo, but rather provide clear notice to insurers and insurance producers of conduct that would constitute a deceptive or unfair trade practice.

(1) Unfair Trade Practices on a Military Installation.

(A) Untrue, Deceptive or Misleading Representations. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser;

2. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary;

3. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours;

4. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation;

5. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s



designee;

6. Posting unauthorized bulletins, notices or advertisements;

7. Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885; or

8. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the Department of Defense (DoD) or any branch of the Armed Forces.

(B) Rebate or other Consideration or Inducement not in Contract. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member when committed on a military installation by an insurer or insurance producer constitute unfair trade practices under section 375.936(9), RSMo:

1. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members; or

2. Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

(2) Unfair Trade Practices Regardless of Location.

(A) Untrue, Deceptive or Misleading Representations Concerning Banking. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar Internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form;

2. Knowingly receiving funds from a

service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

A. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. section 4301 et seq. and the regulations promulgated thereunder; and

B. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums;

3. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in paragraph (2)(A)2.; or

4. Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship as defined in paragraph (2)(A)2.

(B) Rebate or other Consideration or Inducement not in Contract. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(9), RSMo:

1. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel;

2. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member;

3. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited; or

4. Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing

disposable income to purchase life insurance.

(C) Untrue, Deceptive or Misleading Representations Concerning Source, Sponsorship, Approval or Affiliation. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS); or

2. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

(D) Untrue, Deceptive or Misleading Representations Concerning Premiums, Costs or Investment Returns. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid; or



2. Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product “costs nothing” or is “free.”

(E) Untrue, Deceptive or Misleading Representations Concerning Servicemembers’ Group Life Insurance (SGLI) or Veterans’ Group Life Insurance (VGLI). The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive;

2. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive; or

3. Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member’s separation from the United States Armed Forces.

(F) Omission of Material Disclosures. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance;

2. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser;

3. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance;

4. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the “Military Personnel Financial Services Protection Act,” Pub. L. No.

109-290, p.16; or

5. Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

A. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

B. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of sections 375.1500 to 375.1527, RSMo shall be deemed sufficient to meet this requirement for a written disclosure.

(G) Omission of Facts Concerning Suitability. The following acts or practices in connection with the solicitation, offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

1. Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable;

2. Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant’s SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant’s insurable needs for life insurance;

3. Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

A. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

B. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule

will be provided for at least each policy year from one to ten (1–10) and for every fifth policy year thereafter ending at age one hundred (100), policy maturity or final expiration; and

C. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due;

4. Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance; or

5. Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured’s death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

AUTHORITY: sections 374.045, 375.934, and 375.936, RSMo 2000 and section 375.144, RSMo Supp. 2007. Original rule filed Nov. 9, 2007, effective June 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.144, RSMo 2005.*

20 CSR 400-5.400 Replacement of Life Insurance and Annuities

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 transaction.

(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 Replacement," 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.



AUTHORITY: sections 374.045 and 375.936, RSMo 2000. This rule was previously filed as 4 CSR 190-13.060. Original rule filed Jan. 5, 1970, effective Jan. 15, 1970. Amended: Filed June 21, 1970, effective July 1, 1970. Amended: Filed Feb. 18, 1972, effective Feb. 28, 1972. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Dec. 23, 1975, effective Jan. 2, 1976. Rescinded and readopted: Filed March 15, 1979, effective Sept. 14, 1979. Rescinded: Filed July 3, 1985, effective Oct. 25, 1985. Rescinded and readopted: Filed Aug. 12, 1983, effective Dec. 12, 1983. Amended: Filed July 12, 2002, effective Feb. 28, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991.*

Op. Atty. Gen. No. 23, Fink (5-5-71). *Subsection 3 of the Division of Insurance's regulation 3.11 (now 4 CSR 190-13.060(1)), which defines "replacement of life insurance" is in compliance with section 374.045(1), (3), RSMo (1969) because such regulation is reasonably related to section 375.936(5), RSMo (1969).*

20 CSR 400-5.410 Disclosure of Material Facts in Annuity Sales
(Rescinded March 30, 2017)

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, effective March 30, 2017.

20 CSR 400-5.500 Life Insurance Sold to College Students

PURPOSE: This rule explains the practice which must be followed by insurance producers who sell or present plans of life insurance to college students. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements section 375.936, RSMo.

(1) The rule and procedures following will apply to all insurers, and insurance producers who sell or present plans of college life insurance to undergraduates and graduate students throughout Missouri:

(A) If the applicant is a minor and executes a promissory note for the payment of any part of the premiums, the note must be cosigned by the applicant's parent, legal guardian or adult spouse;

(B) The application form for the coverages must recite the terms of any promissory note

executed in connection with the coverages, showing the amount of the note, the balance due, the payment provisions and any credit to reflect the down payment, the down payment being required by this rule;

(C) If a note is taken to finance less than the full first year premium, the balance must be paid by the applicant at the time the application is taken;

(D) Down payments shall be made in cash or by check and may not be paid or advanced by the producing insurance producer;

(E) A copy of the note must be attached to the policy at the time of delivery. Delivery must be in person by a company representative. In the event that personal delivery is for good reason impractical, delivery may be made by use of United States certified mail, return receipt requested and delivery to addressee only;

(F) Upon delivery, a policy receipt or acceptance form must be executed which recites that—

1. The policy has been issued as represented; and

2. The insured acknowledges and understands the provisions and obligations of the financial indebtedness that s/he has incurred;

(G) The receipt or acceptance form mentioned in subsection (1)(F) shall be registered by a number corresponding to the policy number in the home office; the forms shall not be distributed to field representatives or insurance producers but are to be furnished from and by the home office when sending the policy to the producing insurance producer;

(H) If the promissory note of the insured is sold or discounted to a third party by either the company or the insurance producer, the transferor must inform the insured of the sale or transfer within thirty (30) days of same. The notice may invite questions as to whether the terms and conditions for payment are modified, but if applicable, must explain that the policy is security for payment for the note;

(I) Whenever insurance of this type replaces existing life insurance, either wholly or partially, 20 CSR 400-5.400 must be strictly observed;

(J) Insurance producers or field representatives of the company who are licensed by this state to represent the company as licensed life insurance producers may not represent, refer to or hold themselves out to the public under any special title or as representatives of any special policy or company unless they identify themselves as licensed insurance producers. No person other than a licensed insurance producer shall participate in the transaction, solicitation or effectuation of life insurance with respect to college students in this state;

(K) Any insured may cancel his/her obliga-

tions under the policy of insurance or the promissory note connected with the policy of insurance within fourteen (14) days from the delivery of the policy; a provision advising the insured of same shall be placed in the notices now required by subsection (1)(F) of this rule. Upon the cancellation, the insured shall be entitled to a full refund of premium paid; and

(L) Notwithstanding the provisions of subsection (1)(K) of this rule, if the Department of Insurance determines, after a prompt and fair investigation, that the company or its insurance producers have violated this rule or materially misrepresented the contract, the policy issued will be cancelled, the applicant released from all obligations and a total refund made of partial or down payments.

(2) The following practices are deemed deceptive and misleading and, if proven after the hearing required by section 375.940, RSMo, shall subject the insurer to the penalties provided by law: Violations by insurance producers listed in this rule shall subject them to the penalties now contained in section 375.141, RSMo.

(A) Telling or informing an applicant, either directly or indirectly, that s/he will receive the first or other year of insurance free of charge;

(B) Representing that the cash or surrender value of the policy actually sold is greater than it is; or

(C) Making any other untrue or misleading representation about the coverage or the terms and condition for payment for the coverage.

AUTHORITY: sections 374.045 and 375.936, RSMo 2000. This rule was previously filed as 4 CSR 190-13.070. Original rule filed Jan. 2, 1970, effective Jan. 15, 1970. Amended: Filed June 12, 1970, effective July 1, 1970. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991.*

20 CSR 400-5.600 Missouri Life and Health Insurance Guaranty Association

PURPOSE: This rule sets forth the forms required by section 376.756, RSMo for use in connection with the sale of policies or contracts which either are or are not covered by the Missouri Life and Health Insurance Guaranty Fund.



(1) Effective May 31, 1989 no insurer may deliver a policy or contract described in section 376.717.2, RSMo, to a policy or contract holder unless a copy of the notice set out in Appendix One is given to the policy or contract holder before or at the time of delivery.

If the policy or contract is excluded under section 376.717.3, RSMo, the notice set out in Appendix One, which is included herein, does not need to be delivered to the policy or contract holder.

(2) No insurer or insurance producer may deliver a contract or policy described in section 376.717.2, RSMo, and excluded under section 376.717.3, RSMo, from coverage under the provisions of sections 376.715—376.758, RSMo, unless the insurer or insurance producer, prior to or at the time of delivery, gives the policy or contract holder a copy of the notice set out in Appendix Two, included herein.



**APPENDIX ONE
NOTICE OF PROTECTION PROVIDED BY
MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION**

This notice provides a *brief summary* of the Missouri Life and Health Insurance Guaranty Association (“the Association”) and the protection it provides for policyholders. This safety net was created under Missouri law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that your life, annuity, or health insurance company becomes financially unable to meet its obligations and is taken over by its insurance department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with Missouri law, with funding from assessments paid by other insurance companies.

The basic protections provided by the Association are as follows:

- Life Insurance
 - \$300,000 in death benefits
 - \$100,000 in cash surrender and withdrawal values
- Health Insurance
 - \$500,000 in hospital, medical, and surgical insurance benefits
 - \$300,000 in disability insurance benefits
 - \$300,000 in long-term care insurance benefits
 - \$100,000 in other types of health insurance benefits
- Annuities
 - \$250,000 in withdrawal and cash values

The maximum amount of protection for each individual, regardless of the number of policies or contracts, is as follows:

- \$300,000 in aggregate for all types of coverage listed above, with the exception of basic hospital, medical, and surgical insurance or major medical insurance
- \$500,000 in aggregate for basic hospital, medical, and surgical insurance or major medical insurance
- \$5,000,000 to one policy owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also various residency requirements and other limitations under Missouri law.

To learn more about the above protections, as well as protections relating to group contracts or retirement plans, please visit the Association’s website at www.mo-iga.org, or contact:

Missouri Life and Health
Insurance Guaranty Association
994 Diamond Ridge, Suite 102
Jefferson City, Missouri 65109
Ph.: 573-634-8455
Fax: 573-634-8488

Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Ph.: 573-522-6115

Insurance companies and agents are not allowed by Missouri law to use the existence of the Association or its coverage to encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and Missouri law, then Missouri law will control.

**APPENDIX TWO
NOTICE**

This policy or contract is not covered by the Missouri Life and Health Insurance Guaranty Association. If the company providing this policy or contract is unable to meet its obligation by reason of insolvency or financial impairment, the fund(s) of the Missouri Life and Health Insurance Guaranty Association will not be available to protect the policy or contract holder or his/her beneficiaries, payees, or assignees.



AUTHORITY: section 374.045.1(2), RSMo Supp. 2013, and section 376.756, RSMo 2000. This rule was previously filed as 4 CSR 190-13.290. Original rule filed Sept. 6, 1988, effective April 1, 1989. Amended: Filed Dec. 1, 1989, effective May 1, 1990. Emergency amendment filed April 30, 1990, effective May 10, 1990, expired Aug. 7, 1990. Amended: Filed April 30, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed July 29, 2005, effective Feb. 28, 2006. Amended: Filed Oct. 10, 2013, effective April 30, 2014. Amended: Filed Jan. 22, 2016, effective Aug. 30, 2016.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008 and 376.756, RSMo 1988.*

20 CSR 400-5.700 Accident and Sickness Insurance Advertising

PURPOSE: This rule effectuates or aids in the interpretation of and carries out the provisions of sections 354.460, 375.936, 376.405, 376.777, 376.850—376.890 and 379.922, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Responsibility of Insurer.

(A) These rules shall apply to any accident and sickness insurance advertisement, as that term is defined in this rule, intended for presentation, distribution, dissemination or other advertising use in this state, when this use is made either directly or indirectly by or on behalf of that insurer.

(B) Every insurer 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. The insurer whose policies are so advertised shall be deemed responsible for all these advertisements, regardless of by whom written, created, presented or distributed.

(C) Each health service corporation

licensed under Chapter 354, RSMo shall be considered within the full scope of this rule and consider itself an insurer issuing policies when doing any advertising as defined in this rule.

(2) Definitions.

(A) An advertisement for the purpose of these rules shall include:

1. Printed or published material, audiovisual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays;

2. Descriptive literature and sales aids of all kinds issued by an insurer, insurance producer for presentation to members of the insurance buying public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices of all kinds as defined in this rule; and

3. Prepared sales talks, presentations and material for use by insurance producers whether prepared by the insurer or the insurance producer.

(B) Exception for the purpose of these rules shall mean any provision in a policy where coverage for a specified hazard is entirely eliminated; it is a statement of risk not assumed under the policy.

(C) Institutional advertisement for the purpose of these rules shall mean an advertisement having as its sole purpose and presentation the promotion of the reader's interest in the concept of accident and sickness insurance or the promotion of the insurer as a name in the field of accident and sickness insurance.

(D) Insurer for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society, health maintenance organization, health service corporation, prepaid dental plan and any other legal entity which is regulated as an insurer in this state and is engaged in the advertisement of itself or a policy as policy is defined in this rule.

(E) Invitation to contract for the purpose of these rules shall mean any advertisement which is neither clearly an invitation to inquire nor clearly an institutional advertisement.

(F) Invitation to inquire for the purpose of these rules shall mean an advertisement having as its objective the creation of a desire to inquire further about the product and which is limited to a brief description of the loss for which the benefit is payable and which may contain the dollar amount of benefit payable or the period of time during which the benefit

is payable, or both. The advertisement shall not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall conspicuously contain a provision substantially as follows: "For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the policy may be continued in force, see your insurance producer or write the company."

(G) Lead-generating device, for the purpose of these rules, shall mean any communication directed to the public which, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of a policy.

(H) Limitation for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

(I) Policy for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits or medical, surgical or hospital expense benefits, whether, on an indemnity, reimbursement, health service or prepaid basis, except when issued in connection with another type of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts.

(J) Reduction for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable had the reductions not been used.

(3) Method of Disclosure of Required Information. All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which this information relates or under appropriate captions of such prominence that it shall not be minimized, obscured or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(4) Form and Content of Advertisements.

(A) The format and content of an advertisement of an accident or sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an



advertisement has a capacity or tendency to mislead or deceive shall be determined by the director of insurance from the basic overall impressions that the advertisement may create reasonably upon those persons of average education and intelligence for that segment of the public to which it appears on its face to be directed.

(B) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used.

(5) Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(A) Deceptive words, phrases or illustrations are prohibited.

1. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of this information or use of these words, phrases, statements, references or illustrations 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 or premium payable. 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 does not remedy misleading statements or omissions of pertinent fact. No advertisements may employ devices which create undue fear or anxiety in the minds of its readers judged by the standards in section (4).

2. Policies advertised as Medicare supplements or as providing additional benefits not provided by Medicare or similar government programs must not create any illusion of greater coverage or undue anxiety in the minds of those purchasing the coverage than is actually provided. Any advertisement is unacceptable which—

A. Exaggerates the gaps in Medicare coverage;

B. Promotes fear of dependence upon relatives or charity;

C. Implies that long periods of sickness or hospital stays are common among the elderly;

D. Does not explain the manner in which any advertised policy is supplemental to Medicare coverage or fails to disclose the exact benefits it is designed to supplement;

E. Describes the inpatient hospital coverage of Medicare as “hospital Medicare” or “Medicare Part A” when the policy does not supplement the nonhospital or the psychiatric hospital benefits of Medicare Part A

(phrases to the effect of the “inhospitable portion of Medicare Part A” are acceptable);

F. Fails to clearly describe the operation of the part(s) of Medicare which the policy is designed to supplement; and

G. Describes those Medicare benefits not supplemented by the policy in a way as to minimize their importance relative to the Medicare benefits which are supplemented.

3. No advertisement shall contain or use words or phrases such as, “all”, “full”, “complete”, “comprehensive”, “unlimited”, “up to”, “as high as”, “this policy will help pay your hospital and surgical bills”, “this policy will help fill some of the gaps that Medicare and your present insurance leave out”, “this policy will help to replace your income” (when used to express loss of time benefits) or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

4. An advertisement shall not contain descriptions of a policy limitation, exception or reduction worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even preexisting conditions are covered after two years.” Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions fairly and accurately shall describe the negative features of these limitations, exceptions and reductions of the policy offered.

5. No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as “tax free,” “extra cash,” “extra income,” “extra pay” or substantially similar words or phrases in a manner which has the capacity, tendency or effect of misleading the public into believing that the policy advertised, in some way, will enable them to make a profit from being hospitalized.

6. No advertisement of a hospital or other similar facility confinement benefit shall advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily *pro rata* basis relating to the number of days of confinement unless the statements of these monthly or weekly benefit amounts are followed immediately by equally prominent statements of the benefit payable on a daily basis. For example, either of the following statements is acceptable: “\$1000 a month at (\$33.33 per day)” or “\$33.33 per day (\$1000 per month).” When the policy contains a limit on the number of days of coverage provided, this limit must appear in the advertisement.

7. No advertisement of a policy covering only one (1) disease or a list of specified diseases shall imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

8. An advertisement for a policy providing benefits for specified illnesses only, such as cancer or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be substantially as follows: “THIS IS A LIMITED POLICY,” “THIS IS A CANCER POLICY ONLY,” “THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY.”

9. An advertisement which is also an invitation to join an association, trust or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signatures for each application; provided, however, that a separate and distinct application which requires signatures for each application need not be made where the advertisement is an invitation to join a discretionary group approved under section 376.421.2., RSMo, which has as its sole purpose the provision of group health insurance benefits. The insurance program must be presented so as not to mislead or deceive the prospective members that they are purchasing insurance as well as applying for membership if that is the case.

(B) Exceptions, Reductions and Limitations.

1. When an advertisement which is an invitation to contract refers to either a dollar amount or a period of time for which any benefit is payable or the cost of the policy or specified policy benefit or the loss for which the benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

2. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for this loss, an advertisement as stated shall disclose the existence of these periods.

3. An advertisement shall not use the words “only”, “just”, “merely”, “minimum” or similar words or phrases to imply a minimal applicability of any exceptions and reductions such as “This policy is subject only to the following minimum exceptions and reductions.”



(C) Preexisting Conditions.

1. An advertisement which is subject to the requirements of subsection (5)(B), in negative terms, shall disclose the extent to which any loss is not covered if the cause of the loss manifested itself prior to the effective date of the policy. The term “preexisting condition” or any similar phrase without an appropriate definition or description shall not be used.

2. When a policy does not cover losses resulting from preexisting conditions, no advertisement of the policy shall state or imply that the applicant’s physical condition or medical history will not affect the issuance of a policy or payment of a claim. If an insurer requires a medical examination for a specified policy, the advertisement if it is an invitation to contract must disclose that a medical examination is required.

3. When an advertisement contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, the application form shall contain a question or statement which reflects the preexisting condition provisions of the policy which immediately precedes the blank space for the applicant’s signature. For example, this application form shall contain substantially the following question or statement: “Do you understand that this policy will not pay benefits during the first year(s) after the issue date for a disease or physical condition which you now have or have had in the past? YES” or substantially the following statement: “I understand the policy applied for will not pay benefits for any loss incurred during the first _____ year(s) after the issue date on account of disease or physical condition which I now have or have had in the past.”

(6) Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination. When an advertisement which is an invitation to contract refers to either a dollar amount or a period of time for which any benefit is payable or the cost of the policy or a specific policy benefit or the loss for which the benefit is payable, it shall disclose the provisions relating to renewability, cancellability, termination and any modification of benefits, losses covered or premiums in a manner which shall not minimize or render obscure the qualifying conditions.

(7) Testimonials or Endorsements by Third Parties.

(A) Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its

own all of the statements contained in the testimonial and the advertisement, including this statement, is subject to all the provisions of these rules.

(B) If the person making a testimonial, an endorsement or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, this fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, this fact shall be disclosed in the advertisement by language substantially as follows: “Paid Endorsement.” The payment of substantial amounts, directly or indirectly, for “travel and entertainment” for filming or recording of television or radio advertisements requires disclosure of such compensation. This rule does not apply when payment is union scale.

(C) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless this is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person(s) who owns or controls the insurer, this fact shall be disclosed in the advertisement.

(D) When a testimonial refers to benefits received under a policy, the specific claim data, including claim number, date of loss and other pertinent information, shall be retained and made available by the insurer for inspection for a period of four (4) years or until the next regular report of examination of the insurer, whichever is the longer period of time.

(8) Use of Statistics.

(A) An advertisement relating to any insurer or policy shall not use irrelevant facts or statistics and shall accurately reflect all of the relevant facts. This advertisement shall not imply that the statistics are derived from the policy advertised unless this is the fact and when applicable to other policies or plans shall specifically so state.

(B) An advertisement shall not represent or imply that claim settlements by the insurer are “liberal” or “generous” or use words of similar import or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

(C) The specific source of any statistics used in an advertisement shall be clearly identified in the advertisement.

(9) Identification of Plan or Number of Policies.

(A) When a choice of the amount of benefits is referred to, an advertisement which is an invitation to contract shall disclose that the—

1. Amount of benefits provided depends upon the plan selected; and

2. Premium will vary with the plan and benefits selected.

(B) When an advertisement which is an invitation to contract refers to various benefits which may be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that these benefits are provided only through a combination of those policies.

(10) Disparaging Comparisons and Statements. An advertisement shall not, directly or indirectly, make unfair or incomplete comparisons of policies or benefits or comparisons of noncomparable policies of other insurers and shall not disparage competitors, their policies, services or business methods. It shall not disparage or unfairly minimize competing methods of marketing insurance.

(11) Jurisdictional Licensing and Status of Insurer.

(A) An advertisement which is 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 shall not create the impression directly or indirectly that the insurer, its financial condition or status or the payment of its claims or merits, desirability or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this state or the United States government.

(12) Identity of Insurer.

(A) The name of the actual insurer shall be stated in all of its advertisements. The form number(s) of the policy advertised shall be stated in an advertisement which is an invitation to contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(B) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols



or physical materials used by agencies of the federal government or of this state or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

(C) No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan or symbol or any device in a manner that implies that the insurer or the policy advertised, or that any insurance producer who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(D) An insurance producer who makes contact with a consumer, as result of acquiring that consumer's name from a lead-generating device must disclose this fact in the initial contact with the consumer.

(13) Group or Quasi-Group Implications. An advertisement of particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates and underwriting privileges, unless that is the fact.

(14) Introductory, Initial or Special Offers.

(A) Advertising.

1. An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts 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 contain phrases describing an enrollment period as "special", "limited" or similar words or phrases when the insurer uses these enrollment periods as the usual method of advertising accident and sickness insurance.

2. An enrollment period during which a particular insurance product 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 substantially the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application which shall not be less than ten (10) days and not more than forty (40) days from the date that the enrollment period is advertised for the first time. This rule applies to all advertising media—that is, mail, newspapers, radio, television, maga-

zines and periodicals—by any one (1) insurer. It is 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. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

3. This rule prohibits any statement of implication to the effect 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, unless this is the fact.

4. The phrase "a particular insurance product" in paragraph (14)(A)2. means an insurance policy which provides substantially different benefits than those contained in any other policy, different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

(B) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

(C) Special award, such as a "safe drivers' award" shall not be used in connection with advertisements of accident or accident and sickness insurance.

(15) Statements About an Insurer. An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, 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 indicates the purpose of the recommendations and the limitations of the scope and extent of the recommendation.

(16) Enforcement Procedures.

(A) Advertising File. Each insurer shall maintain at its home or principal office and at its main office in this state, if any, a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in or into this state, with a notation attached to each advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. This file shall be subject to regular inspection by this department. All these advertisements shall be maintained in this file for a period of four (4) years.

(B) Preapproval of Advertising Required on Noncompliance. Any person violating any provision of this rule shall be subject to the penalties prescribed by law. The director may also require the insurer to file all its advertising intended for use in the state no later than twenty (20) days before the use, the filings to be examined and approved by the accident and health section of the Missouri Department of Insurance before use in this state. On these disapproved filings, the insurer may request a hearing, as under section 376.777.7., RSMo, Approval of Policies.

(17) Guidelines Adopted. The National Association of Insurance Commissioners' Interpretive Guidelines predating this rule are declared to be the official interpretation of this rule except where inconsistent with this rule.

(18) Severability Provision. If any section or portion of a section of these rules or the applicability of them to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of that provision to other persons or circumstances, shall not be affected by it.

AUTHORITY: sections 354.120, 374.045, 375.936, 376.405 and 376.777, RSMo 2000. This rule was previously filed as 4 CSR 190-14.040. This version of rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993; 374.045, RSMo 1967, 1995; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 376.405, RSMo 1959, amended 1984; and 376.777, RSMo 1959, amended 1984.*



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*, as appropriate for the annuity being offered for sale, either the *Buyer's Guide for Deferred Annuities - Variable*, *Buyer's Guide for Deferred Annuities - Fixed*, or the *Buyer's Guide for Deferred Annuities*; use of the *Buyer's Guide for Deferred Annuities* is considered appropriate in all sales and is included herein as Appendix A. A current version of the NAIC *Annuity Buyer's Guide* and its various formats, 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 guaran-

teed 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 (1) 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 nonguaranteed 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**





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.

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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

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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

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.

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.

- 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 FINRA¹ 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.

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

What Is an Annuity?



Buyer's Guide for Deferred 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.*

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Buyer's Guide for Deferred Annuities

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.



Buyer's Guide for Deferred Annuities

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

Fees, Charges, and Adjustments



Buyer's Guide for Deferred Annuities

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

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.

How Annuities Make Payments



Buyer's Guide for Deferred Annuities

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

HOW ANNUITIES ARE TAXED



Buyer's Guide for Deferred Annuities

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.

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



Model Regulation Service—2nd Quarter 2015

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

Contract Year/Age	Premium Payment	Values Based on Guaranteed Rates				Values Based on Assumption that Initial Guaranteed Rates Continue		
		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

Model Regulation Service—2nd Quarter 2015

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

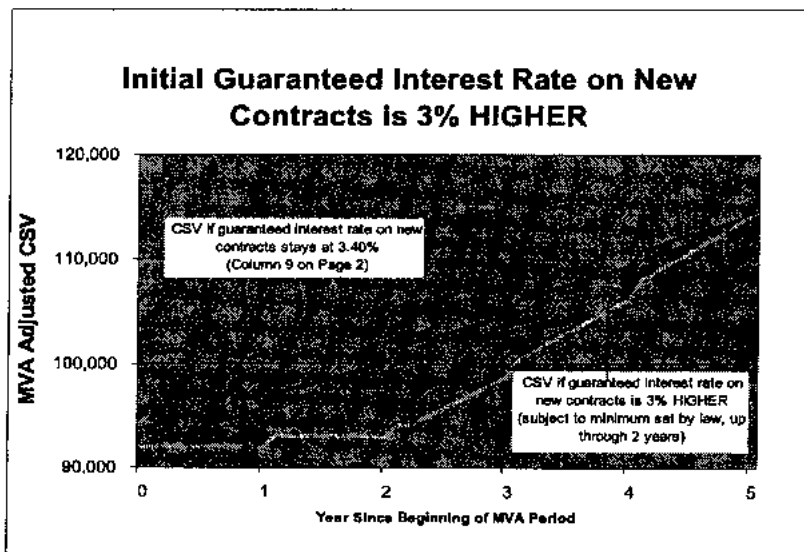
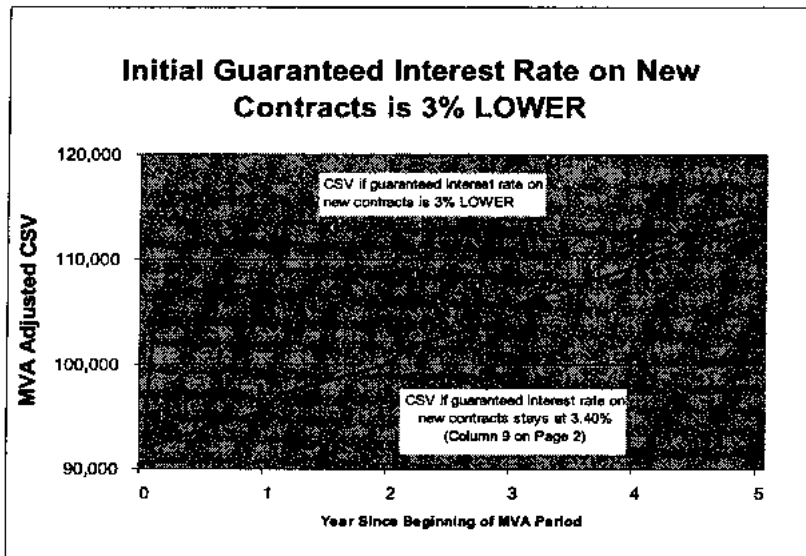
MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

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, 375.143, 375.934, 375.936, and 375.948, RSMo 2016. Original rule filed Sept. 30, 2016, effective March 30, 2017.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008; 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001; 375.143, RSMo 2007; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.948, RSMo 1959, amended 1978, 1991.*

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.

(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 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

3. 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

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.

(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 non-qualified 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 374.045, 375.020,

375.141, 375.143, 375.144, 375.934, 375.936, and 375.948, RSMo 2016. Original rule filed Sept. 30, 2016, effective March 30, 2017.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008; 375.020, RSMo 1988, amended 1990, 1991, 1993, 2001, 2007, 2009, 2014; 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001; 375.143, RSMo 2007; 375.144, RSMo 2005; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.948, RSMo 1959, amended 1978, 1991.*