



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 700—Insurance Licensing
Chapter 1—Insurance Producers

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 700—Insurance Licensing
Chapter 1—Insurance Producers**

20 CSR 700-1.005 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to insurance producers transacting business in this state including those licensed under section 375.018, RSMo. The rules shall be read together with Chapter 536, RSMo.

(2) Definitions.

(A) “Cash premium payment,” a premium payment made in the form of currency.

(B) “Certificate of Authority,” the whole or part of any certificate of approval or charter granted by the director for any insurance company, insurer, association, health services corporation, health maintenance organization, or other legal entity insuring risk.

(C) “Director,” the director of the department.

(D) “Department,” the Department of Insurance, Financial Institutions and Professional Registration.

(E) “ERISA,” the Employee Retirement and Income Security Act of 1974 (29 U.S.C. Section 1101 *et seq.*).

(F) “FINRA,” the Financial Industry Regulatory Authority.

(G) “Insurer,” an insurance company, fraternal benefit society, health services corporation, health maintenance organization, prepaid health plan, or any similar organization authorized to transact business in Missouri.

(H) “License,” the whole or part of any permit, registration, membership, statutory exemption, or any other form of permission granted by the director to any person.

(I) “Licensee,” a person licensed by Missouri to act as an insurance producer.

(J) “NAIC,” the National Association of Insurance Commissioners.

(K) “NIPR,” the National Insurance Producer Registry.

(L) “Personal insurance policy,” any liability or risk-assuming policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, for the purpose of providing personal, noncommercial insurance coverage to an individual or family on a nongroup

basis, including individual or family automobile, homeowners, life, annuity, health, property, or casualty coverage.

(M) “Producer,” the same meaning as in section 375.012, RSMo.

*AUTHORITY: section 374.045, RSMo 2000. * Original rule filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

**20 CSR 700-1.010 Insurance Producers’
Examination and Licensing Procedures
and Standards**

PURPOSE: This rule specifies application forms and fees for insurance producers and explains insurance producer licensing standards and procedures.

(1) Application Forms. The following forms have been adopted and approved for filing with the department:

(A) The Uniform Application for Individual Insurance Producer License form (Form UA-IP), adopted by the NAIC on May 10, 2006, or any form which substantially comports with the specified form; and

(B) The Uniform Application for Business Entity Insurance Producer License form (Form UA-BEP), adopted by the NAIC on May 10, 2006, or any form which substantially comports with the specified form.

(2) Application and Fees. Application for licensure as an individual insurance producer or business entity producer shall contain the information/requirements outlined in sections 375.015 to 375.018, RSMo and this rule and may be submitted by electronic means to the National Insurance Producer Registry (NIPR) or other system(s) as the director may designate.

(A) Initial Licensure.

1. Resident Individual Insurance Producer.

A. A completed Form UA-IP; and

B. One hundred dollar (\$100) application fee.

2. Nonresident Individual Insurance Producer.

A. A completed Form UA-IP; and

B. One hundred dollar (\$100) application fee.

3. Resident Business Entity Insurance Producer.

A. A completed Form UA-BEP;

B. One hundred dollar (\$100) application fee;

C. List of Missouri-licensed produc-

ers conducting business on behalf of the business entity; and

D. Domestic corporations, limited liability companies, or limited liability partnerships must include a certificate of good standing, certificate of incorporation, or certificate of organization issued by the secretary of state and dated within the past year. Partnerships must include a copy of the fictitious name registration as issued by the secretary of state.

4. Nonresident Business Entity Insurance Producer.

A. A completed Form UA-BEP;

B. One hundred dollar (\$100) application fee; and

C. List of Missouri-licensed producers conducting business on behalf of the business entity.

5. Organizational Credit Business Entity.

A. A completed Form UA-BEP;

B. One hundred dollar (\$100) application fee;

C. A list of employees to whom the business entity has paid, within the preceding twelve (12) months, any salary or commission for the sale, solicitation, or negotiation of credit insurance contracts; and

D. An additional fee of eighteen dollars (\$18) per employee with whom the business entity has contracted to pay any salary or commission for the sale, solicitation, or negotiation of credit insurance contracts following licensure.

(B) Renewal Application.

1. Individual Producers.

A. An updated Form UA-IP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer’s continuing duty to amend the application in sections 375.018 and 375.141, RSMo; and

B. One hundred dollar (\$100) application fee.

2. Business Entity Producers.

A. An updated Form UA-BEP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer’s continuing duty to amend the application in sections 375.018 and 375.141, RSMo;

B. One hundred dollar (\$100) application fee; and

C. List of Missouri-licensed producers conducting business on behalf of the business entity.

3. Organizational Credit Business Entity.

A. An updated Form UA-BEP. If applying for renewal through NIPR, the application is deemed submitted at the time of fee payment pursuant to the producer’s continuing duty to amend the application in sections



375.018 and 375.141, RSMo;

B. One hundred dollar (\$100) application fee;

C. An updated list of employees to whom the business entity has paid, within the preceding twelve (12) months, any salary or commission for the sale, solicitation, or negotiation of credit insurance contracts; and

D. An additional fee of eighteen dollars (\$18) per employee with whom the business entity has contracted to pay any salary or commission for the sale, solicitation, or negotiation of credit insurance contracts following licensure.

(C) All fees must be paid by cashier's check, money order, company check, or electronic funds transfer. Fees submitted with electronic applications shall be paid by electronic funds transfer, credit card, or other methods approved by any designee under this rule.

(D) Application and/or renewal fees are not refundable if the application is refused by the director or withdrawn by the applicant.

(3) Examination Procedures.

(A) Before an individual may be licensed to sell certain lines of insurance, the applicant must first take and pass an examination testing both the individual's knowledge regarding the line(s) of insurance the individual proposes to sell and the individual's knowledge of the insurance statutes and regulations. The examination must be taken and passed prior to submitting an application for a license to the department. The lines of insurance for which an examination is required prior to licensure are life insurance, accident and health insurance, property insurance, casualty insurance, variable life insurance and variable annuities, personal lines insurance, crop insurance, title insurance, and prepaid legal services.

(B) The department contracts with an independent testing service, which administers the examinations referred to in subsection (3)(A). In order to take an examination, an individual must register and pay the appropriate fee to the independent testing service designated by the department. Instructions may be obtained from the independent testing service or the department.

(C) Once an individual has passed an examination, the applicant has one (1) year from the date of the examination in which to submit an application for licensure to the department. Failure to submit an application within this time period will necessitate the individual taking and passing the examination again before the applicant may be licensed.

(4) Other Lines of Insurance Authority. In addition to the lines of authority authorized by section 375.018, RSMo, producers may be granted licensure in the following lines of insurance pursuant to the authority granted in section 375.018.1(8), RSMo:

(A) Title Insurance. Pursuant to section 381.115, RSMo and 20 CSR 700-8.100, title agents may be licensed as individual insurance producers and title agencies may be licensed as business entity producers.

(B) Travel Insurance. An application for license to sell travel insurance shall comply with the requirements of section (2) of this rule.

(C) Crop Insurance. An application for license to sell crop insurance pursuant to section 375.018.2, RSMo shall comply with the requirements of section (2) of this rule.

(D) Prepaid Legal. An application for license to sell prepaid legal service plans pursuant to section 379.901, RSMo shall comply with the requirements of section (2) of this rule.

(5) Individuals applying for a nonresident producer license who have not been licensed in their home state for the same line(s) of authority as applying for in this state shall take and pass the appropriate Missouri-specific examination(s), if applicable, for licensure in those lines before a license may be granted.

AUTHORITY: section 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-12.020. Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed July 15, 1976, effective Dec. 20, 1976. Amended: Filed Oct. 14, 1977, effective March 13, 1978. Amended: Filed July 12, 1979, effective Nov. 15, 1979. Amended: Filed Oct. 14, 1981, effective Jan. 15, 1982. Amended: Filed Dec. 14, 1982, effective April 11, 1983. Emergency amendment filed May 30, 1985, effective June 10, 1985, expired Oct. 8, 1985. Amended: Filed Jan. 17, 1986, effective June 28, 1986. Amended: Filed July 5, 1988, effective Nov. 1, 1988. Amended: Filed Feb. 16, 1994, effective Aug. 28, 1994. Amended: Filed April 12, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Sept. 15, 2005, effective March 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

Op. Atty. Gen. No. 145, Scharz (9-15-66). A corporation may not be a licensed insurance

agent. Therefore, an insurance company cannot pay agent a commission to a corporate insurance agency.

20 CSR 700-1.012 Variable Life and Variable Annuity Contract Examination

PURPOSE: This rule prescribes the examination requirements for applicants for qualification for the variable life and variable annuity line of authority.

(1) No insurance producer is authorized to solicit, offer for sale, or sell any variable life or variable annuity contract in this state, unless prior to making any solicitation, offer, or sale of this contract, the producer is qualified under the variable life and variable annuity line of authority as required under section 375.018.1(5), RSMo.

(2) The applicant for qualification under the variable life and variable annuity line of authority shall have passed either the Series 6 or Series 7 examination administered by Financial Industry Regulatory Authority (FINRA).

AUTHORITY: section 374.045, RSMo 2000, and sections 375.016, 375.018, and 376.309, RSMo Supp. 2007. Original rule filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.016, RSMo 1965, amended 1967, 1981, 2001; 375.018, RSMo 1965, amended 1967, 1981, 1984, 1985, 1990, 1991, 1992, 1993, 2001, 2002; and 376.309, RSMo 1963, 1969, 1983, 1992, 1993, 2007.*

20 CSR 700-1.020 Transacting Business as an Insurance Producer

PURPOSE: This rule effectuates and aids in the interpretation of the definition of insurance producer as stated in section 375.012, RSMo by describing without limitation by enumeration activities for which licensure is required.

(1) Solicitation of an Insurance Contract.

(A) Unless otherwise specifically provided by section 375.012, RSMo, no person shall solicit an insurance contract in Missouri unless s/he is a licensed insurance company, its employee or an insurance producer.

(B) Solicitation of an insurance contract includes, but is not limited to, the following activities:

1. Disseminating information as to rates secured by reference to a published or printed list or computer database of standard rates;



2. Initiating sales over the telephone other than scheduling appointments with insurance producers to discuss insurance;

3. Advising an insured to purchase additional insurance when receiving payment for existing business;

4. Signing an application or an order for insurance; and

5. Advising a prospective purchaser on the terms of existing coverage.

(C) Solicitation of an insurance contract does not include the following activities:

1. Dispensing brochures and other general information so long as there is no conversation relating to the terms of an insurance contract;

2. Disseminating buyer's guides, applications for coverage, coverage selection forms, or other similar forms in response to a request from prospective or current policyholders so long as there is no conversation relating to the terms of an insurance contract;

3. Receiving and recording information from a policyholder to give to an insurance producer for his or her review and response; or

4. Scheduling appointments with insurance producers to discuss insurance.

(2) Negotiation of an Insurance Contract.

(A) Unless otherwise specifically provided by section 375.012, RSMo, no person shall negotiate an insurance contract between an insured and a third party in Missouri unless s/he is a licensed insurance company, its employee or an insurance producer.

(B) Negotiation of an insurance contract includes, but is not limited to, the following activities:

1. Advising a prospective purchaser on the premium cost of a proposed contract of insurance, including the quoting of rates;

2. Advising a prospective purchaser on the coverages or terms of a proposed contract of insurance, including counseling as to which coverages to buy;

3. Recommending or independently initiating additions or deletions to an insured's policy;

4. Explaining the effect of age, health, or other risk-related conditions with respect to purchasing a particular policy;

5. Counseling, urging, or advising any prospective purchaser to buy a particular policy or to insure with a particular company; or

6. Explaining, discussing, or interpreting coverage, analyzing exposures or policies, or giving opinions or recommendations as to coverage.

(C) Negotiation of an insurance contract does not include communicating with the policyholder or prospective policyholder in

order to obtain factual information necessary for an insurance producer to complete a review.

(3) Sale of an Insurance Contract.

(A) Unless otherwise specifically provided by section 375.012, RSMo, no person shall sell an insurance contract in Missouri unless s/he is a licensed insurance company, its employee or an insurance producer.

(B) Sale of an insurance contract includes, but is not limited to, the following activities:

1. Signing binders, certificates of insurance, commitments, endorsements, insurance identification cards and insurance policies;

2. Indicating that the requested coverage is or will be bound or issued; or

3. Issuing certificates of insurance, endorsements, binders, commitments, insurance policies or insurance identification cards except when done by a group policyholder.

(C) Sale of an insurance contract does not include the following activities:

1. Receiving requests for coverage for transmittal to a licensed insurance producer or for processing through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer;

2. Receiving and recording information from an applicant or policyholder and preparing an application for insurance pursuant to instructions from and for the review of an insurance producer;

3. Obtaining underwriting information from credit agencies, the Department of Revenue, and other insurance agencies and companies;

4. Receiving and recording information from an applicant or policyholder and preparing an application for an insurance producer's review and signature, all binders, certificates, endorsements, identification cards, or policies pursuant to instructions from the insurance producer; or

5. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement, or existing policy.

(4) Duty to Have Insurance Producer at Each Place of Business.

(A) Each place of business of an insurance producer must contain the principal office of at least one (1) licensed insurance producer.

(B) A licensed insurance producer may be found to be materially aiding any acts in violation of law engaged in by an unlicensed individual under the supervision of that insurance producer.

AUTHORITY: section 374.045, RSMo 2000 and section 375.012, RSMo Supp. 2007. This rule was previously filed as 4 CSR 190-12.025. Original rule filed Dec. 1, 1989, effective June 30, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.012, RSMo 1961, amended 1965, 1967, 1981, 1993, 1997, 2001, 2007.*

20 CSR 700-1.025 Conduct of the Business of Insurance Over the Internet

PURPOSE: This regulation provides general guidelines for the conduct of business in Missouri with Missouri residents over the Internet.

(1) All laws and rules applying to the conduct of the business of insurance apply to the business of insurance conducted over Internet transactions.

(2) Each web site or home page of insurance producers or insurance companies shall contain an address and telephone number for contact with the insurance producers or insurance companies.

(3) Each web site or home page of insurance producers or insurance companies shall contain a notice of the states in which they are authorized or licensed to do the business of insurance.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed July 12, 2002, effective Feb. 28, 2002. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 700-1.030 Certification Letters Submitted With Insurance Producer's License Applications

(Rescinded July 30, 2008)

AUTHORITY: section 374.045, RSMo 2000, sections 375.014, 375.016, 375.017, RSMo Supp. 2001, and section 375.018, RSMo Supp. 2002. This rule was previously filed as 4 CSR 190-12.026. Original rule filed Jan. 11, 1990, effective May 1, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Rescinded: Filed Nov. 30, 2007, effective July 30, 2008.



20 CSR 700-1.040 Clearance Letters

PURPOSE: This regulation provides the definition of a clearance letter and aids and effectuates licensing standards and procedures as outlined in section 375.017.2, RSMo.

(1) As used in this rule, “clearance letter” is a statement from another state certifying that the insurance producer held, within ninety (90) days proceeding the date of application, the same kind of license as applied for in this state.

(2) The statement also includes the signature of the head of the insurance regulatory agency of the state from whom the insurance producer held the same kind of license and his/her official seal.

(3) A clearance letter submitted with an application for a resident license must be dated no earlier than ninety (90) days prior to the date the application is received by the department.

(4) Failure to submit a properly dated clearance letter may cause all application materials to be returned to the insurance producer.

AUTHORITY: section 374.045, RSMo 2000, and sections 375.012, 375.014, 375.016, 375.017, and 375.018, RSMo Supp. 2007.* This rule was previously filed as 4 CSR 190-12.027. Original rule filed Jan. 11, 1990, effective May 1, 1990. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 30, 2007, effective July 30, 2008.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.012, RSMo 1961, amended 1965, 1967, 1981, 1993, 1997, 2001, 2007; 375.014, RSMo 1965, amended 1967, 2001; 375.016, RSMo 1965, amended 1967, 1981, 2001; 375.017, RSMo 1967, amended 1981, 2000, 2001; and 375.018, RSMo 1965, amended 1967, 1981, 1984, 1985, 1990, 1991, 1992, 1993, 2001, 2002.

20 CSR 700-1.050 Payment of Earned Commissions

PURPOSE: This rule permits some commissions fully earned while licensed to be paid after the termination of licensure. This regulation was promulgated pursuant to authority granted by section 374.045, RSMo and implements sections 375.012, 375.014, 375.018 and 375.071, RSMo.

Commissions Receivable Upon Termination. Where an insurance producer’s license is terminated before the full amount of commissions earned during the period of licensure

has been received, the amount earned and not received may be paid.

AUTHORITY: sections 374.045 RSMo 2000, 375.012, 375.014 and 375.071, RSMo Supp. 2001 and 375.018, RSMo Supp. 2002.* This rule was previously filed as 4 CSR 190-12.030. Original rule filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed Oct. 14, 1977, effective March 13, 1978. Amended: Filed Jan. 15, 1981, effective Aug. 24, 1981. Amended: Filed July 12, 2002, effective Jan. 30, 2003.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.012, RSMo 1961, amended 1965, 1981, 1993, 1997, 2001; 375.014, RSMo 1965, amended 1967, 2001; 375.018, RSMo 1965, amended 1967, 1981, 1984, 1985, 1990, 1991, 1992, 1993, 2001, 2002; and 375.071, RSMo 1961, amended 1967, 1984, 2001.

20 CSR 700-1.060 Retrospective Commission Contracts Prohibited

PURPOSE: This regulation specifies restrictions on the authority of insurance producers to settle claims when they profit directly from the refusal to pay claims. This regulation was adopted pursuant to the provisions of section 374.045, RSMo and implements sections 375.141 and 375.445, RSMo.

(1) Retrospective Commission Contracts Prohibited. No insurance company licensed or authorized to do business in Missouri may use any plan of payment to its insurance producers by which the company receives an agreed portion of its earned premium free from any normal claims and allows any insurance producer or other person to pay all normal claims from the remainder and retain as his/her compensation the money not paid to claimants.

(2) Profit Sharing Permitted. Commission agreements may contain a provision for varying the amount of commission paid an insurance producer with the loss experience of the policies s/he has written, provided the company is directly liable for and does pay claims and the insurance producer has no authority to deny or refuse to pay or compromise any claim.

(3) Records Required. Copies of all these agreements shall be maintained as business records by both the company and the insurance producer for three (3) years for inspection by the director or his/her duly appointed agent.

AUTHORITY: sections 374.045, 375.141 and 375.445, RSMo 2000.* This rule was previously filed as 4 CSR 190-10.050. Original

rule filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed Feb. 14, 1975, effective March 1, 1975. Amended: Filed July 15, 1976, effective Dec. 20, 1976. Amended: Filed July 12, 2002, effective Jan. 30, 2003.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001; and 375.445, RSMo 1967.

20 CSR 700-1.070 Coverages Permitted to be Sold Under Credit License

PURPOSE: This regulation describes what coverages may be sold under a limited credit license. This regulation is adopted pursuant to the provisions of section 374.045, RSMo and implements section 375.018.4(5), RSMo.

(1) No credit life insurance may be sold by a licensee exempted from examination by section 375.018.5(4), RSMo which—

(A) Is issued upon the life of any person other than the debtor(s);

(B) Exceeds the term of indebtedness it secures except as provided in section 385.035, RSMo; or

(C) Exceeds at any time the amount of the indebtedness it secures except when—

1. Caused by voluntary prepayment of a portion of the loan;

2. The insurance is written on agricultural credit transaction commitments;

3. The insurance is written on educational credit transaction commitments; or

4. Insurance is written on residential real estate-secured credit transaction commitments. In addition, no credit life insurance that contains a conversion privilege may be sold by the licensee.

(2) No credit accident and sickness insurance may be sold unless that policy does not exceed the amount or term of the indebtedness it secures issued only upon the health of the debtor.

(3) Property insurance under section 375.018.5(4), RSMo may be written under license provided it meets the following provisions:

(A) Covers only that tangible personal property pledged as collateral for a loan except as otherwise permitted by section 408.140, RSMo;

(B) Provides only physical damage coverage in the case of automobiles, for example, collision and comprehensive;

(C) Provides only the standard fire policy with extended coverage in the case of collateral other than automobiles; and



(D) Provides coverage no greater in amount than the total amount of the underlying indebtedness.

AUTHORITY: sections 374.045, RSMo Supp. 1993 and 375.018.5(4), RSMo 1986.* This rule was previously filed as 4 CSR 190-12.040. Original rule filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed May 13, 1975, effective June 20, 1975. Amended: Filed Aug. 16, 1977, effective Dec. 11, 1977. Amended: Filed Feb. 1, 1989, effective July 1, 1989. Amended: Filed Feb. 5, 1990, effective May 1, 1990.

*Original authority: 374.045, RSMo 1967, amended 1993 and 375.018.5(4), RSMo 1965, amended 1967, 1981, 1984, 1985.

20 CSR 700-1.080 Representatives of Reciprocal and Interinsurance Exchanges to be Licensed

PURPOSE: This regulation requires representatives of reciprocal and interinsurance exchanges to be licensed. This regulation is adopted pursuant to the provisions of section 374.045, RSMo and implements sections 375.012, 375.014, 375.016 and 375.018, RSMo.

(1) All persons who represent interinsurance exchanges or the attorney-in-fact for the exchanges and whose compensation is in part or in whole paid in the form of commissions on the business written or a portion of the deposit shall be duly licensed by this department.

(2) This order shall not apply to salaried representatives of the attorney-in-fact.

AUTHORITY: sections 374.045, RSMo Supp. 1993, 375.012, 375.014, 375.016 and 375.018, RSMo 1986.* This rule was previously filed as 4 CSR 190-12.050. Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974.

*Original authority: 374.045, RSMo 1967, amended 1993; 375.012 and 375.014, RSMo 1965, amended 1967; 375.016, RSMo 1965 amended 1967, 1981; and 375.018, RSMo 1965, amended 1967, 1981, 1984, 1985.

20 CSR 700-1.090 Fiduciary Duty of Broker (Rescinded January 30, 2003)

AUTHORITY: sections 374.045, RSMo Supp. 1993 and 375.121, RSMo 1986. This rule was previously filed as 4 CSR 190-12.060. Original rule filed Dec. 20, 1974, effective

Dec. 30, 1974. Rescinded: Filed July 12, 2002, effective Jan. 30, 2003.

20 CSR 700-1.100 Producer Service Agreements

PURPOSE: This regulation provides for Producer Service Agreements.

(1) A producer service agreement may be used to establish compensation. The form set forth in Exhibit A is approved for use as specified in section 375.116, RSMo. Substantially equivalent forms may be used where they contain other provisions and do not affect the content as provided in Exhibit A. The producer service agreement, which is included herein, must be a separate document from any other form or contract.

(2) Each producer service agreement may cover multiple contracts of insurance negotiated or procured for the same insured or prospective insured where the insurance producer's compensation falls within the requirements of section 375.116.3, RSMo. Each insurance producer shall retain one (1) copy of the producer service agreement in the producer's office for three (3) years and deliver one (1) copy to the insured.

(3) The producer service agreement shall contain a list of the policies it covers.



Exhibit A
Missouri Producer Service Agreement

1. The undersigned insured hereby engages the services of _____, a licensed Missouri insurance producer, license # _____, for the purpose of securing, negotiating and procuring the placement of the following described insurance coverages and to assist the undersigned in the preparation of any and all applications, underwriting data, and other information required by an insurer for the purposes of issuing an insurance policy within this state. The insurance coverage requested is: *(Here describe in detail the coverage to be effected.)*

2. The undersigned insured authorizes the insurance producer to commit to a maximum premium of not more than _____ for the above-stated coverage(s). *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate maximum may be stated for each contract covered by this agreement.)*

The undersigned insured agrees to pay as compensation to the insurance producer, above and in addition to the commission received from the insurer, for the various services of the insurance producer a fee of not more than \$ _____. *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate producer fee may be stated for each contract covered by this agreement.)*

3. A brief description of those services performed and not described in paragraph 1. above is: _____

This agreement is in furtherance of section 375.116, RSMo, and Regulation 20 CSR 700-1.100.

Dated: _____
(Insured)

Dated: _____
(Insurance Producer)

AUTHORITY: section 374.045, RSMo 2000 and sections 375.071–375.136, RSMo Supp. 2007. This rule was previously filed as 4 CSR 190-12.080. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed Oct. 14, 1981, effective Jan. 15, 1982. Amended: Filed Jan. 17, 1986, effective June 28, 1986. Amended: Filed Oct. 15, 1996, effective May 30, 1997. Amended: Filed April 12, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.071–375.136, see Revised Statutes of the State of Missouri, 2000 and Cumulative Supplement, 2007.*

20 CSR 700-1.110 Licensing of Business Entity Insurance Producers
(Rescinded July 30, 2008)

AUTHORITY: sections 374.045, 375.013, 375.041, RSMo 2000, sections 375.012, 375.014, 375.016, 375.017, 375.019, 375.020, 375.022, 375.025, 375.031, 375.033, 375.035, 375.037, 375.039, 375.046, 375.051, RSMo Supp. 2001, and section 375.018, RSMo Supp. 2002. This rule was previously filed as 4 CSR 190-12.090. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed July 15, 1976,

effective Dec. 20, 1976. Amended: Filed Oct. 14, 1981, effective Jan. 15, 1982. Amended: Filed April 28, 1994, effective Oct. 30, 1994. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Rescinded: Filed Nov. 30, 2007, effective July 30, 2008.

Op. Atty. Gen. No. 286, Dalton (6-18-68). *An insurance agency originally licensed after January 1, 1968, is required to pay an annual license fee of \$25 on or before July 1, 1968, under the provisions of section 375.061, RSMo (Supp. 1967).*

Op. Atty. Gen. No. 177, Dill (5-2-68). *“True name” as used in section 375.012, subsection (2), RSMo (Supp. 1967), means a person’s actual and not fictitious name and includes a surname, a first name and a middle name or initial.*

Op. Atty. Gen. No. 145, Scharz (9-15-66). *A corporation may not be a licensed insurance agent. Therefore, an insurance company cannot pay agent’s commission to a corporate insurance agency.*

20 CSR 700-1.120 Certain Representatives of Prepaid Dental Corporations to be Licensed

PURPOSE: This regulation requires representatives of prepaid dental corporations who solicit contracts on behalf of the corporation to be licensed as insurance producers with the Department of Insurance pursuant to section 354.721, RSMo.

(1) Any person who solicits membership contracts on behalf of prepaid dental corporations or offers or assumes to act in negotiation of the contracts, whether a salaried representative of the corporation or one whose compensation is in part or in whole paid in the form of commissions on the business written, shall be duly licensed by this department as an accident and health insurance producer.

(2) No person shall act in this state as an insurance producer for a prepaid dental corporation unless s/he is licensed by the director as provided in this regulation.

(3) Persons desiring to solicit contracts on behalf of prepaid dental corporations shall comply with 20 CSR 700-1.010 and 20 CSR 700-3.100 as the regulations relate to insurance producer’s examination and licensing procedures and standards.



(4) Persons desiring to solicit contracts on behalf of prepaid dental corporations, in addition, shall be subject to the provisions of sections 375.016–375.022, 375.046–375.051 and 375.081, RSMo.

(5) The director may revoke or suspend, for a period as s/he may determine, any license of any insurance producer, if it is determined as provided by sections 621.045–621.205, RSMo, that the licensee or applicant has violated, at any time, the provisions of section 375.141, RSMo.

AUTHORITY: sections 354.700–354.723 and 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-12.110. Original rule filed June 13, 1988, effective Oct. 27, 1988. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 354.700, RSMo 1987, amended 1992; 354.702, RSMo 1987; 375.703, RSMo 1989; 354.704–354.707, RSMo 1987; 354.710, RSMo 1987, amended 1990, 1992; and 354.712–354.723, RSMo 1987; 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 700-1.130 Appointment and Termination of Insurance Producers

PURPOSE: The department defines appointment of an insurance producer, as used in section 375.022, RSMo, so an insurance company knows what act(s) constitutes appointment of an insurance producer to act for the insurance company.

(1) As used in section 375.022, RSMo, appointment of an insurance producer means the earliest date on which an insurance company, or its authorized agent does any of the following:

(A) Distributes an application form, which on its face requires submission of premium at the time of completing the application with a consumer, to the prospective insurance producer, unless the application form is marked in bold type as a specimen;

(B) Accepts premiums from the prospective insurance producer;

(C) Accepts for underwriting an application for insurance submitted by the prospective insurance producer;

(D) Executes a written or oral employment contract with the prospective insurance producer; or

(E) Grants binding authority given to the prospective insurance producer.

(2) An insurer may appoint insurance producers directly by appointing individual insurance producers, or by designating a licensed business entity, which designation

shall be deemed to appoint all individual insurance producers employed by such licensed business entity to act for the insurance company in the lines for which the individual insurance producers are licensed and for which the licensed business entity has been designated by the insurance company.

(A) Any individual insurance producers listed or employed by a licensed business entity pursuant to section 375.015, RSMo after the designation of the licensed business entity by an insurer shall be deemed an appointment of such individual insurance producers for all insurers with existing designations of the licensed business entity.

(B) The appointment of an individual insurance producer pursuant to this subsection shall terminate upon the individual insurance producer's termination or resignation from the licensed business entity with which the individual insurance producer is listed or employed, upon termination of the licensed business entity by the insurer, or upon nonrenewal, suspension, revocation, or surrender of the individual insurance producer's license.

(C) An insurer may also appoint an organizational credit business entity licensed pursuant to section 375.065, RSMo, in the manner described in subsections (2)(A) and (2)(B) of this rule.

(3) The notice of termination for one of the reasons set forth in section 375.141, RSMo, required by subsections 5 and 7 of section 375.015, RSMo, shall be accompanied by a report or summary of the acts of the insurance producer believed to violate section 375.141, RSMo, and copy of the documentation collected by the insurer that led to the termination.

AUTHORITY: sections 374.045, RSMo 2000 and 375.022, Supp. 2001. This rule was previously filed as 4 CSR 190-12.120. Original rule filed Aug. 8, 1989, effective Feb. 1, 1990. Amended: Filed April 12, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.022, RSMo 1967, amended 1981, 1991, 1998, 2000 and 2001.*

20 CSR 700-1.135 Forms for Filing Notice of Appointment of Agents and Notice of Termination of Appointment of Agents (Rescinded January 30, 2003)

AUTHORITY: section 374.045.1(2) and (3), RSMo Supp. 1995. Original rule filed Sept. 13, 1996, effective March 30, 1997.

Rescinded: Filed July 12, 2002, effective Jan. 30, 2003.

20 CSR 700-1.140 Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions

PURPOSE: This regulation effectuates and aids in the interpretation of the provisions of section 375.141.1(8), RSMo, which relates to the competence and trustworthiness of insurance producers. The regulation requires insurance producers to comply with certain minimum requirements in transactions involving personal insurance policies. It is promulgated pursuant to the provisions of section 374.045, RSMo and implements the provisions of section 375.141, RSMo.

(1) Document and Premium Handling Standards. When dealing with any personal insurance policy, every insurance producer shall comply with the following standards of promptness regarding securing and amending coverage, providing written evidence of insurance transactions, and handling premiums, except to the extent these actions are the responsibility of the insurer. Where it is the insurer's responsibility to take these actions, this responsibility shall be delineated in a written document, a copy of which shall be retained by the licensee and available for examination by the department.

(A) Every insurance producer shall handle every application for new coverage under a personal insurance policy and every request for amendments to an existing policy in a manner which will secure the new or amended coverage as soon as is reasonably possible, unless a longer time is permitted under a written agreement between the licensee and the insured or prospective insured. If within thirty (30) days of the original application for insurance the licensee has not yet secured an insurer willing to provide coverage, the licensee immediately shall inform the prospective insured of this fact in writing.

(B) Whenever an insurer requires additional information prior to issuing a new personal insurance policy, or prior to renewing, continuing, or amending an existing policy, the insurance producer through whom the insured or prospective insured applied for or procured the coverage shall inform, at the earliest reasonable opportunity, the insured or prospective insured of the need for the additional information from the insured or prospective insured.



(C) Every insurance producer shall provide every purchaser of a personal insurance policy with written evidence of coverage at the time coverage is bound or the policy is issued, whichever occurs earlier, or as soon after as is reasonably possible, but in no event later than thirty (30) days after the date the coverage is bound or the policy is issued. A written binder or insurance policy shall constitute written evidence of coverage for purposes of this subsection. Any application forms, riders, or endorsements associated with the policy which are not provided along with written evidence of coverage shall be provided to the insured as soon as is reasonably possible. When an insurer declines to cover a prospective insured, the insurer's written denial of coverage shall be provided by the licensee to the prospective insured as soon as is reasonably possible, but in no event later than thirty (30) days after the date the coverage is denied.

(D) Insurance producers shall remit all premium payments associated with a personal insurance policy to those persons entitled to them as soon as is reasonably possible after their receipt by the licensee, but in no event later than thirty (30) days after the date of receipt, provided, however, that premiums may be remitted at a later point in time if the licensee is so authorized under a written agreement between the licensee and the person legally entitled to the premiums. In no event, however, shall a licensee retain premium payments if to do so will result in the failure to obtain or continue coverage on behalf of an insured or prospective insured.

(2) No insurance producer or a member of the insurance producer's immediate family shall, at any time, be named as a beneficiary or contingent beneficiary or shall acquire any ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. Such a prohibition would not apply if there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer or immediate family of the insurance producer which gives rise to an insurable interest.

(3) No insurance producer shall obtain or solicit for a loan from an insurance client or former or prospective insurance client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. This prohibition shall not apply—

(A) When it is the usual occupation or practice of the insurance client or former or prospective insurance client to receive and process loan applications and to provide loans to the public as an owner, officer, director, or employee of an institution in the business of providing such loans; or

(B) When there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer which gives rise to an insurable interest.

(4) Receipts for Cash Premiums Payments.

(A) Whenever a cash premium payment is received by an insurance producer for a personal insurance policy, a written receipt shall be executed by the licensee and given to the person making the premium payment. The receipt shall bear the words Receipt or Premium Receipt and shall include the following information:

1. The name of the insured;
2. The name of the insurer, where one (1) has been selected;
3. The date of the cash payment;
4. The amount of the cash payment;
5. The policy number, if available, or other information which will describe the insurance coverage for which the cash premium was paid;
6. The signature of the licensee or an employee of the licensee duly authorized in writing to accept these payments or to execute the receipts; and
7. Any comment required under subsection (4)(D) of this rule.

(B) Use of the form, Exhibit A, included herein, shall be deemed to satisfy the requirements of this section. Other receipt forms which contain the information required by this section may also be used. Methods of documenting the payment of premiums which do not satisfy all the requirements of this section, such as the use of premium payment books for debit plans, shall be deemed to satisfy this section only if their use for this purpose has been approved in writing by the director.

(C) A copy of the cash premium receipt shall be given to the person making the cash premium payment. An additional copy shall be retained by the licensee for the licensee's records as provided in section (5) of this regulation, unless other records of the licensee and the insurer document the information required under subsections (4)(A) and (D) of this rule for purposes of inspections or examinations by the director.

(D) No insurance producer shall accept a cash premium payment for new coverage under a personal insurance policy where the licensee has not selected an insurer with whom to place the coverage unless the cash premium receipt bears a comment indicating that an insurer has not yet been selected and that coverage currently does not yet exist.

(5) Minimum Record Keeping Requirements for all Insurance Producers.

(A) Every insurance producer shall maintain a complete set of records for each personal insurance policy applied for or procured through the licensee, except to the extent the maintenance of these records is, in whole or in part, the responsibility of the insurer. Where it is the insurer's responsibility to maintain these records, this responsibility shall be delineated in a written document(s), a copy of which shall be retained by the licensee. The records which must be maintained shall include, but not be limited to, the following:

1. Any policy applications, declaration pages, endorsements, riders, or binders associated with the policy;
2. Any written correspondence or copies of records transmitted to or received by the licensee concerning the policy;
3. Any documents associated with any claims filed with the licensee under the policy; and
4. Any receipts or other documents associated with any premium payments made to the licensee under the policy, including receipts for cash premium payments required under section (4) of this regulation.

(B) The records required to be maintained under this section shall be open to the inspection or examination of the director or his/her agents, and shall be maintained in an orderly manner so that the information in the records is readily available during the inspection or examination. The requirement of this subsection shall be deemed satisfied whenever a requested record can be retrieved from its storage location within five (5) business days of a request by the director or the director's designee.

(C) An insurance producer operating under an exclusive contract with an insurer, including one (1) insurer and its subsidiaries or affiliates, upon termination of the agency appointment, shall be required to maintain only those records as the contract authorizes him/her to retain, provided that the insurer shall bear responsibility for maintaining all other records which otherwise would have been required to be maintained by the insurance producer.



(D) All records required to be maintained under this section shall be maintained for as long as the personal insurance policy in question is in force and for at least three (3) years thereafter.

(6) It shall be a dishonest or unethical practice in the business of insurance for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale, or negotiation of an insurance product, or in the provision of advice as to the value of or the advisability of purchasing or selling an insurance product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to an insurance product.

(A) The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

1. Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;
2. Use of a nonexistent or self-conferred certification or professional designation;
3. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the insurance producer using the certification or professional designation does not have; and
4. Use of a certification or professional designation that was obtained from a designating or certifying organization that:

A. Is primarily engaged in the business of instruction in sales or marketing;

B. Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

C. Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

D. Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(B) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (6)(A)4. above, when the designation or certification from the organization does not primarily apply to sales or marketing and when the organization has been accredited by:

1. The American National Standards Institute (ANSI);
2. The National Commission for Certifying Agencies; or
3. Any organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes.”

(C) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that an adviser has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

1. Use of one or more words, such as “senior,” “retirement,” “elder,” or like words, combined with one or more words, such as “certified,” “registered,” “char-

tered,” “adviser,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and

2. The manner in which those words are combined.

(D) For purposes of this rule—

1. “Certification or professional designation” does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

- A. Indicates seniority or standing within the organization; or
- B. Specifies an individual’s area of specialization within the organization;
2. “Elderly or senior person” is a person sixty (60) years of age or older; and
3. “Federal financial services regulatory agency” includes, but is not limited to, any agency that regulates—
 - A. Insurers;
 - B. Insurance producers;
 - C. Broker-dealers;
 - D. Investment advisers; or
 - E. Investment companies as defined under the Investment Company Act of 1940.

(E) Nothing in this rule shall limit the director’s authority to enforce existing provisions of law.

(F) This section shall take effect on January 1, 2009.

EXHIBIT A

PREMIUM RECEIPT

Amount of payment: \$ _____ . _____ Date of Payment: _____ / _____ / _____

Name of Insurance Company: _____

Policy Number or Description: _____

Name of Insured: _____

Comment: _____

Insurance Producer’s Signature: _____

KEEP THIS RECEIPT AS PART OF YOUR RECORDS FOR YOUR OWN PROTECTION.



AUTHORITY: section 374.045, RSMo 2000 and section 375.141, RSMo Supp. 2007.* Original rule filed April 5, 1991, effective Oct. 31, 1991. Amended: Filed Nov. 29, 1993, effective July 30, 1994. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 30, 2007, effective July 30, 2008. Amended: Filed April 30, 2008, effective Jan. 1, 2009.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001.

20 CSR 700-1.145 Standards of Commercial Honor and Principles of Trade in Life, Annuity, and Long-Term Care Insurance Sales

PURPOSE: This rule implements the requirements of section 375.141.1(8), RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of life insurance, annuities, and long-term care insurance.

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Producers, in the conduct of variable life, annuity, and long-term care insurance business, shall observe high standards of commercial honor and just and equitable principles of trade. Implicit in a producer's relationship with customers is the fundamental responsibility of fair dealing. Practices that violate this responsibility of fair dealing include, but are not limited to, the following:

1. Inducing an exchange or replacement of variable life, annuity, or long-term care insurance contract with insignificant benefit to the consumer, but for the purpose of accumulating commissions by the producer; and

2. Causing the execution of transactions that are not authorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon; and

(B) Producers shall not materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.040, 374.045 and 375.013, RSMo 2000 and sections 375.143 and 376.309.6, RSMo Supp. 2007.* Emergency rule filed April 14, 2005, effective April 26, 2005, expired Jan. 1, 2006. Original rule filed Sept. 30, 2005, effective

March 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008.

*Original authority: 374.040, RSMo 1939, amended 1967; 374.045, RSMo 1967, amended 1993, 1995; 375.013, RSMo 1993, amended 1995; 375.143, RSMo 2007; and 376.309, RSMo 1963, amended 1969, 1983, 1992, 1993, 2007.

20 CSR 700-1.146 Recommendations of Annuities or Variable Life Insurance to Customers (Suitability)

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the codification of professional standards of conduct in the recommendation of annuities and variable life insurance contracts. Failure to meet these standards would constitute the demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of annuities and variable life contracts.

(1) The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Variable Annuities and Variable Life Insurance.

1. In recommending to an individual customer the purchase, sale, or exchange of any variable life or variable annuity product, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other investment holdings and as to his financial situation and needs.

2. Prior to the execution of a variable life or variable annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

D. The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

E. Such other information used or considered to be reasonable by such produc-

er in making recommendations to the customer.

3. No producer shall recommend to any customer the purchase or exchange of any deferred variable annuity, unless the producer has a reasonable basis to believe:

A. That the transaction is suitable in accordance with this rule and, in particular, that there is a reasonable basis to believe that—

(I) The customer has been informed, in general terms, of various features of deferred variable annuities, such as the potential surrender period and surrender charge; potential tax penalty if the customer sells or redeems deferred variable annuities before reaching the age of fifty-nine and one half (59½); mortality and expense fees; investment advisory fees; potential charges for and features of riders; the benefit and investment components of deferred variable annuities; and market risk;

(II) The customer would benefit from certain features of deferred variable annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(III) The particular deferred variable annuity as a whole, the underlying sub-accounts to which funds are allocated at the time of the purchase or exchange of the deferred variable annuity, and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by this rule; and

B. In the case of an exchange of a deferred variable annuity, the exchange also is consistent with the suitability determination required by subparagraph (1)(A)3.A. of this rule, taking into consideration whether—

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

(II) The customer would benefit from product enhancements and improvements; and

(III) The customer's account has had another deferred annuity exchange within the preceding thirty-six (36) months.

4. Interpretation of subsection (1)(A) of this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the Financial Industry Regulatory Authority (FINRA) or its predecessor organizations.



(B) Indexed Annuities.

1. In recommending to an individual customer the purchase, sale, or exchange of a indexed annuity, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his or her insurance and investment holdings and as to his or her current and reasonably anticipated financial situation and needs.

2. Prior to the execution of an indexed annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

D. The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

3. No producer shall recommend to any customer the purchase or exchange of a deferred indexed annuity unless the producer has a reasonable basis to believe:

A. That the transaction is suitable in accordance with this rule and, in particular, that there is a reasonable basis to believe that—

(I) The customer has been informed, in general terms, of various features of deferred indexed annuities, such as the potential surrender period and surrender charge; potential tax penalty if a customer sells or redeems deferred indexed annuities before reaching the age of fifty-nine and one half (59½); mortality and expense fees; potential charges for and features of riders; the benefit and accumulation components of deferred indexed annuities; and market risk;

(II) The particular deferred indexed annuity as a whole, the underlying accumulation provisions and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by this rule; and

B. In the case of an exchange of a deferred indexed annuity, the exchange also is consistent with the suitability determination

required by subparagraph (1)(B)3.A. of this rule, taking into consideration whether—

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

(II) The customer would benefit from product enhancements and improvements; and

(III) The customer's account has had another deferred indexed annuity exchange within the preceding thirty-six (36) months.

(C) Fixed Annuities.

1. In recommending to an individual customer the purchase, sale, or exchange of a fixed annuity, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his or her insurance and investment holdings and as to his or her current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a fixed annuity transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives, including investment objectives, reasonably anticipated income needs, and risk tolerance;

D. The customer's investment time horizon, liquid net worth, and current and reasonably anticipated needs for liquidity; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer.

(2) The standards of conduct in this rule shall not apply to the following:

(A) Unless a producer is making a recommendation to an individual plan participant, any annuity used to fund—

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

2. Any tax-qualified, employer sponsored retirement or benefit plan that meets the requirements of *Internal Revenue Code*, Sections 401(a), 401(k), 403(b), 408(k), or 408(p);

3. Any government or church plan that meets the requirements of *Internal Revenue Code*, Section 414;

4. Any government or church welfare benefit plan, or any deferred compensation plan of a state or local government or tax exempt organization, that meets the requirements of *Internal Revenue Code*, Section 457; or

5. Any nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; or

(B) Any annuity transaction used to fund settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(3) Record Keeping. The determinations required by this rule shall be documented by the producer recommending the transaction.

(4) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.040, 374.045, and 375.013, RSMo 2000 and sections 375.143 and 376.309.6, RSMo Supp. 2007. Original rule filed July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.040, RSMo 1939, amended 1967; 374.045, RSMo 1967, amended 1993, 1995; 375.013, RSMo 1993, amended 1995; 375.143, RSMo 2007; and 376.309, RSMo 1963, amended 1969, 1983, 1992, 1993, 2007.*

20 CSR 700-1.147 Reasonable Supervision in Variable Life and Variable Annuity Sales

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility by producers in the offer, sale or exchange of variable life and variable annuity products.

(1) Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Individual Producers. Each individual producer licensed to sell variable life and variable annuity products shall be supervised by a member of the Financial Industry Regulatory Authority (FINRA), which member shall also be licensed as a business entity



producer with the director (supervising member).

(B) Supervising Members.

1. Supervisory system.

A. Each supervising member shall establish and maintain a system to supervise the activities of each individual producer that is reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable FINRA rules. Final responsibility for proper supervision shall rest with the supervising member. A supervising member's supervisory system shall provide, at a minimum, for the following:

(I) The establishment and maintenance of written procedures as required by paragraphs (1)(B)2. and 3. of this rule;

(II) The designation, where applicable, of an appropriately qualified and registered FINRA principal(s) with authority to carry out the supervisory responsibilities of the supervising member for variable life and variable annuity products;

(III) The designation of an office of supervisory jurisdiction (OSJ) of each location that meets the definition contained in FINRA Rule 3010(g)(2), effective January 31, 2005. The supervising member shall also designate such other OSJs as it determines to be necessary in order to supervise its producers and employees in accordance with the standards set forth in this rule, taking into consideration the following factors:

(a) Whether the individual producers or employees engage in retail sales or other activities involving regular conduct with public customers;

(b) Whether a substantial number of individual producers conduct sales activities at, or are otherwise supervised from, such location;

(c) Whether the location is geographically distant from another OSJ of the supervising member;

(d) Whether the individual producers are geographically dispersed; and

(e) Whether the investment or insurance activities at such location are diverse and/or complex;

(IV) The designation of one or more appropriately qualified and registered FINRA principal(s) in each OSJ, including the main office, and one or more appropriately FINRA qualified and licensed producers in each non-OSJ branch office (as defined in FINRA Rule 3010(g)(1), effective January 31, 2005) with authority to carry out the supervisory responsibilities assigned to that office by the supervising member;

(V) The assignment of each individual producer to an appropriately FINRA qualified and licensed producer who shall be responsible for supervising that person's activities;

(VI) Reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities;

(VII) The participation of each producer, either individually or collectively, no less than annually, in an interview or meeting conducted by persons designated by the supervising member at which compliance matters relevant to the activities of the individual producer(s) are discussed. Such interview or meeting may occur in conjunction with the discussion of other matters and may be conducted at a central or regional location or at the individual producer's place of business.

2. Written procedures.

A. Each supervising member shall establish, maintain, and enforce written procedures to supervise the variable life and variable annuity business in which it engages and to supervise the activities of individual producers that are reasonably designed to achieve compliance with applicable state insurance laws and regulations, federal securities laws and regulations, and with applicable FINRA rules.

B. The supervising member's written supervisory procedures shall set forth the supervisory system established by the supervising member pursuant to subparagraph (1)(B)1.A. above, and shall include the titles, registration/licensure status and locations of the required supervisory personnel and the responsibilities of each supervisory person as these relate to the types of business engaged in, applicable insurance laws and regulations, applicable federal securities laws and regulations, and applicable FINRA rules. The supervising member shall maintain on an internal record the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective. Such record shall be preserved by the supervising member for a period of not less than three (3) years, the first two (2) years in an easily accessible place.

C. A copy of a supervising member's written supervisory procedures, or the relevant portions thereof, shall be kept and maintained in each OSJ and at each location where supervisory activities are conducted on behalf of the supervising member. Each supervising member shall amend its written supervisory procedures as appropriate within a reasonable time after changes occur in applicable state insurance laws and regula-

tions, applicable federal securities laws and regulations, and applicable FINRA rules, and as changes occur in its supervisory system, and each supervising member shall be responsible for communicating amendments to the individual producers it supervises.

3. Internal inspections.

A. Each supervising member shall conduct a review, at least annually, of the businesses in which it engages, which review shall be reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable state insurance laws, applicable federal securities laws and regulations, and with applicable FINRA rules. Each supervising member shall review the activities of each office, which shall include the periodic examination of customer accounts, to detect and prevent irregularities or abuses.

(I) Each supervising member shall inspect at least annually every office of supervisory jurisdiction and any branch office that supervises one or more non-branch locations.

(II) Each supervising member shall inspect at least every three (3) years every branch office that does not supervise one or more non-branch locations. In establishing how often to inspect each non-supervisory branch office, the firm shall consider whether the nature and complexity of the variable life and variable annuity sales activities for which the location is responsible, the volume of business done, and the number of individual producers assigned to the location require the non-supervisory branch office to be inspected more frequently than every three (3) years. If a supervising member establishes a more frequent inspection cycle, the supervising member must ensure that at least every three (3) years, the inspection requirements enumerated in subparagraph (1)(B)3.B. have been met. The non-supervisory branch office examination cycle, an explanation of the factors the supervising member used in determining the frequency of the examinations in the cycle, and the manner in which a supervising member will comply with subparagraph (1)(B)3.B. if using more frequent inspections than every three (3) years, shall be set forth in the supervising member's written supervisory and inspection procedures.

(III) Each supervising member shall inspect on a regular periodic schedule every non-branch location. In establishing such schedule, the firm shall consider the nature and complexity of the variable life and variable annuities activities for which the location is responsible and the nature and extent of contact with customers. The schedule and an explanation regarding how the supervising member determined the frequency of the



examination schedule shall be set forth in the supervising member's written supervisory and inspection procedures.

(IV) Each supervising member shall retain a written record of the dates upon which each review and inspection is conducted.

B. An office inspection and review by a supervising member pursuant to subparagraph (1)(B)3.A. must be reduced to a written report and kept on file by the supervising member for a minimum of three (3) years, unless the inspection is being conducted pursuant to part (1)(B)3.A.(III) and the regular periodic schedule is longer than a three (3)-year cycle, in which case the report must be kept on file at least until the next inspection report has been written. The written inspection report must also include, without limitation, the testing and verification of the supervising member's policies and procedures, including supervisory policies and procedures in the following areas:

- (I) Safeguarding of customer funds and annuities;
- (II) Maintaining of books and records;
- (III) Supervision of customer accounts serviced by branch office managers;
- (IV) Transmittal of funds between customers and individual producers;
- (V) Validation of customer address changes; and
- (VI) Validation of changes in customer account information.

If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in the written inspection report and document in the report that supervisory policies and procedures for such activities must be in place before the supervising member can engage in them.

C. An office inspection by a supervising member pursuant to subparagraph (1)(B)3.A. may not be conducted by the branch office manager or any person within that office who has supervisory responsibilities or by any individual who is supervised by such person(s). However, if a supervising member is so limited in size and resources that it cannot comply with this limitation (e.g., a supervising member with only one (1) office or a supervising member has a business model where small or single-person offices report directly to an office of supervisory jurisdiction manager who is also considered the office's branch office manager), the supervising member may have a principal who has the requisite knowledge to conduct

an office inspection perform the inspections. The supervising member, however, must document in the office inspection reports the factors it has relied upon in determining that it is so limited in size and resources that it has no other alternative than to comply in this manner. A supervising member must have in place procedures that are reasonably designed to provide heightened office inspections if the person conducting the inspection reports to the branch office manager's supervisor or works in an office supervised by the branch manager's supervisor and the branch office manager generates twenty percent (20%) or more of the revenue of the business units supervised by the branch office manager's supervisor. For the purposes of this paragraph only, the term "heightened inspection" shall mean those inspection procedures that are designed to avoid conflicts of interest that serve to undermine complete and effective inspection because of the economic, commercial, or financial interests that the branch manager's supervisor holds in the associated persons and businesses being inspected. In addition, for the purpose of this paragraph only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the branch office or branch office manager shall be attributed as revenue generated by the business units supervised by the branch office manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve (12)-month basis.

4. Review of transactions and correspondence.

A. Supervision of individual producers. Each supervising member shall establish procedures for the review and endorsement by a FINRA qualified principal in writing, on an internal record, of all transactions and for the review by a registered principal of incoming and outgoing written and electronic correspondence of its individual producers with the public relating to the variable life or variable annuities business of such supervising member. Such procedures should be in writing and be designed to reasonably supervise each individual producer. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the director upon request.

B. Review of correspondence. Each supervising member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic corre-

spondence with the public relating to its variable life or variable annuities business, including procedures to review incoming, written correspondence directed to individual producers and related to the supervising member's variable life or variable annuities business to properly identify and handle customer complaints and to ensure that customer funds and variable life and variable annuities are handled in accordance with supervising member's procedures. Where such procedures for the review of correspondence do not require review of all correspondence prior to use or distribution, they must include provision for the education and training of associated persons as to the supervising member's procedures governing correspondence, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

C. Each supervising member shall retain correspondence of producers relating to its variable life and variable annuity business in accordance with Rules 17a-3 and 17a-4 under the Securities and Exchange Act of 1934. The names of the persons who prepared outgoing correspondence and who reviewed the correspondence shall be ascertainable from the retained records and the retained records shall be readily available to the director, upon request.

5. Qualifications investigated.

A. Each supervising member shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications, and experience of any individual producer prior to assisting in the application of such person for a variable life or variable annuity line with the department.

B. Where an applicant for license has previously been licensed with the department, the supervising member shall review a copy of the Uniform Termination Notice of Securities Industry Registration (Form U-5) filed with the FINRA by such person's most recent previous FINRA member employer, together with any amendments thereto that may have been filed pursuant to Article V, Section 3 of the FINRA's By-Laws. The supervising member shall review the Form U-5 as required by this rule no later than sixty (60) days following the filing of the application for license or demonstrate to the department that it has made reasonable efforts to comply with the requirement. In conducting its review of the Form U-5 and any amendments thereto, a supervising member shall take such action as may be deemed appropriate.

6. Supervisory control system.

A. General requirements.



(I) Each supervising member shall designate and specifically identify one (1) or more principals who shall establish, maintain, and enforce a system of supervisory control policies and procedures that:

(a) Test and verify that the supervising member's supervisory procedures are reasonably designed with respect to its activities and the activities of its employees, to achieve compliance with applicable state insurance laws and regulations, applicable federal securities laws and regulations, and with applicable FINRA rules; and

(b) Create additional or amend supervisory procedures where the need is identified by such testing and verification.

(II) The designated principal or principals must submit to the supervising member's senior management no less than annually, a report detailing each supervising member's system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

(III) The establishment, maintenance, and enforcement of written supervisory control policies and procedures pursuant to part (1)(B)6.A.(I) shall include:

(a) Procedures that are reasonably designed to review and supervise the customer account activity conducted by the supervising member's branch office managers, sales managers, regional or district sales managers, or any person performing a similar supervisory function.

I. A person who is either senior to, or otherwise independent of, the producing manager must perform such supervisory reviews. For purposes of this rule, an "otherwise independent" person: may not report either directly or indirectly to the producing manager under review; must be situated in an office other than the office of the producing manager; must not otherwise have supervisory responsibility over the activity being reviewed (including not being directly compensated based in whole or in part on the revenues accruing for those activities); and must alternate such review responsibility with another qualified person every two (2) years or less.

II. If a supervising member is so limited in size and resources that there is no qualified person senior to, or otherwise independent of, the producing manager to conduct the reviews pursuant to (1)(B)6.A.(II)(a)I. above (e.g., a supervising member has only one (1) office or an insufficient number of qualified personnel who can conduct reviews on a two (2)-year rotation), the reviews may be conducted by a principal

who is sufficiently knowledgeable of the supervising member's supervisory control procedures, provided that the reviews are in compliance with (1)(B)6.A.(II)(a)I. to the extent practicable.

III. A supervising member relying on (1)(B)6.A.(II)(a)II. above must document in its supervisory control procedures the factors used to determine that complete compliance with all of the provisions of (1)(B)6.A.(II)(a)I. is not possible and that the required supervisory systems and procedures in place with respect to any producing manager comply with the provisions of (1)(B)6.A.(II)(a)I. above to the extent practicable.

(b) Procedures that are reasonably designed to review and monitor the following activities:

I. All transmittals of funds (e.g., wires or checks, etc.) from customers to third party accounts (i.e., a transmittal that would result in a change of beneficial ownership); from customer accounts to outside entities (e.g., banks, investment companies, etc.); from customer accounts to locations other than a customer's primary residence (e.g., post office box, "in care of" accounts, alternate address, etc.); and between customers and registered representatives, including the hand-delivery of checks;

II. Customer changes of address and the validation of such changes of address; and

III. Customer changes of investment objectives and the validation of such changes of investment objectives.

(c) The policies and procedures established pursuant to subpart (1)(B)6.A.(II)(b) must include a means or method of customer confirmation, notification, or follow-up that can be documented. If a supervising member does not engage in all of the activities enumerated above, the supervising member must identify those activities in which it does not engage in its written supervisory control policies and procedures and document in those policies and procedures that additional supervisory policies and procedures for such activities must be in place before the supervising member can engage in them; and

(d) Procedures that are reasonably designed to provide heightened supervision over the activities of each producing manager who is responsible for generating twenty percent (20%) or more of the revenue of the business units supervised by the producing manager's supervisor. For the purposes of this part only, the term "heightened supervision" shall mean those supervisory procedures that evidence supervisory activi-

ties that are designed to avoid conflicts of interest that serve to undermine complete and effective supervision because of the economic, commercial, or financial interests that the supervisor holds in the associated persons and businesses being supervised. In addition, for the purpose of this part only, when calculating the twenty percent (20%) threshold, all of the revenue generated by or credited to the producing manager or the producing manager's office shall be attributed as revenue generated by the business units supervised by the producing manager's supervisor irrespective of a supervising member's internal allocation of such revenue. A supervising member must calculate the twenty percent (20%) threshold on a rolling, twelve (12)-month basis.

(2) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

(3) Interpretation of this rule shall be guided by judicial and administrative opinions and decisions construing substantially similar requirements of the FINRA or its predecessor organizations. Any person in compliance with substantially similar requirements of the FINRA shall be deemed to be in compliance with the provisions of this rule.

AUTHORITY: sections 374.040, 374.045, and 375.013, RSMo 2000 and sections 375.143 and 376.309.6, RSMo Supp. 2007. Original rule filed July 5, 2005, effective Jan. 30, 2006. Amended: Filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.040, RSMo 1939, amended 1967; 374.045, RSMo 1967, amended 1993, 1995; 375.013, RSMo 1993, amended 1995; 375.143, RSMo 2007; and 376.309, RSMo 1963, amended 1969, 1983, 1992, 1993, 2007.*

20 CSR 700-1.148 Reasonable Supervision in Indexed and Fixed Annuity Sales

PURPOSE: This rule aids in the interpretation of section 375.141.1(8), RSMo, with respect to the demonstration of incompetence, untrustworthiness, or financial irresponsibility by producers in the offer, sale, or exchange of indexed or fixed annuity products.

(1) The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:



(A) Individual Producers. Each individual producer, prior to recommending or selling any indexed or fixed annuity contract to any person, shall be under a supervisory system meeting the standards pursuant to this rule by either an authorized insurer in this state or a qualified third party under contract with the insurer;

(B) Supervisory System.

1. An insurer issuing indexed annuity contracts in this state shall assure that a system to supervise producers, which is reasonably designed to achieve compliance with rule 20 CSR 700-1.146(1)(B), is established and maintained under this rule. An insurer issuing fixed annuity contracts in this state shall assure that a system to supervise producers, which is reasonably designed to achieve compliance with rule 20 CSR 700-1.146(1)(C), is established and maintained under this rule. A supervisory system shall provide, at a minimum, for the following:

A. The establishment and maintenance of written procedures reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146 and this rule; and

B. Conducting periodic reviews of records that are reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146 and this rule;

2. An insurer may establish and maintain such a system directly, or may contract with a third party, including a general agent or independent agency (supervising entity), to establish and maintain a system of supervision as required by this rule;

3. An insurer, which elects to contract with a supervising entity, shall make reasonable inquiry to assure that the supervising entity is performing the supervisory functions under this rule, and shall immediately report to the director any failure to perform the functions as required by this rule;

4. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

A. Annually obtain a certification from the supervising entity senior manager who has the responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent that the supervising entity is performing the functions as required by section (1) of this rule; and

B. Based on reasonable selection criteria, periodically select supervising entities contracting under this rule for a review to determine whether the supervising entity is performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

(C) Supervising Entity as Producer. The failure of any supervising entity contracted to establish and maintain the supervisory system required by this rule, to establish and maintain written procedures and policies reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146 or this rule, shall be subject to discipline or disqualification under section 375.141, RSMo for failure to comply with this conduct rule and for materially aiding individual producers in failing to comply with rule 20 CSR 700-1.146;

(D) Supervising Entity that is Not a Producer. The failure of any supervising entity that is not also a producer contracted to establish and maintain the supervisory system required by this rule, to establish and maintain written procedures and policies reasonably designed to detect and prevent violations of rule 20 CSR 700-1.146 or this rule, shall subject such supervising entity to an order of the director pursuant to section 374.046, RSMo, for materially aiding individual producers in failing to comply with rule 20 CSR 700-1.146 and this rule; and

(E) Record Keeping. 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 document.

1. Suitability Records. An insurance producer shall maintain records of the information collected from the customer and other information used in making any recommendation of an indexed or fixed annuity for five (5) years after the insurance transaction is completed by the insurer. Pursuant to its duty to supervise, a supervising entity or insurer may perform this obligation to maintain records.

2. Supervision Records. An insurer or a supervising entity shall maintain records related to actions performed pursuant to the supervisory system as implemented under this rule for three (3) years from the date of each action performed pursuant to its system.

(2) The standards of conduct and supervision in this rule shall not apply to the following:

(A) Unless a producer is making a recommendation to an individual plan participant, any annuity used to fund—

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

2. Any tax-qualified, employer-sponsored retirement or benefit plan that meets the requirements of *Internal Revenue Code* Sections 401(a), 401(k), 403(b), 408(k), or 408(p);

3. Any government or church plan that meets the requirements of *Internal Revenue Code* Section 414;

4. Any government or church welfare benefit plan, or any deferred compensation plan of a state or local government or tax-exempt organization, that meets the requirements of *Internal Revenue Code* Section 457;

5. Any nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; or

(B) Any annuity transaction used to fund settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(3) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: section 374.045, RSMo 2000 and sections 375.141 and 375.143, RSMo Supp. 2007. Original rule filed April 30, 2008, effective Dec. 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.141, RSMo 1961, amended 1965, 1967, 1981, 1984, 1989, 1993, 2001; and 375.143, RSMo 2007.*

20 CSR 700-1.150 Incidental Fees Charged by Insurance Producers

PURPOSE: This regulation implements the provisions of sections 375.052 and 379.356.2, RSMo Supp. 2001, with regard to insurance producers charging incidental fees in addition to premium.

(1) As used in sections 375.052 and 379.356.2, RSMo, and in these rules—

(A) “Incidental fee” means an amount equal to the cost of providing a service that is charged in addition to the receipt of premium from an insured or an applicant for insurance.

(B) “Other similar services” includes payment by credit card, processing insufficient funds checks, obtaining records, reports, appraisals, inventories and other like documentation and making regulatory filings for an insured or applicant for insurance.

(2) In order to charge an incidental fee, the insurer or insurance producer is required to actually perform a service or incur a cost.

(3) Incidental fee shall include a charge for premium installments, late payments, policy reinstatements or other similar services. In the case of the fee for permitting insureds or applicants for insurance to make a premium payment by credit card, the insurer or insurance producer shall charge only the amount



charged to the insurer or insurance producer by the credit card company. Any other fees not considered incidental fees shall only be charged by an insurance producer when there is in place a written contract between the insured or applicant for insurance and the insurance producer as permitted in section 375.116, RSMo, 20 CSR 700-1.100 and the form attached thereto as Exhibit A.

(4) All incidental fees charged by the insurer or insurance producer shall be disclosed in writing to the insured or the applicant for insurance at or before the time the fee is charged. The insurer or insurance producer charging the fee shall provide to the insured or applicant for insurance a written disclosure. The disclosure may be contained in an itemized bill, invoice or an application that sets out the amount of the fee and the service for which it is being charged.

(5) The amount of the incidental fees charged by the insurance producer shall be posted conspicuously at any location wherein the insurance producer markets or negotiates the sale or renewal of insurance policies with insureds or applicants for insurance.

(6) All incidental fees charged to the insured or applicant for insurance by the insurer shall be considered premium for purposes of the premium tax imposed pursuant to section 148.320, RSMo.

(7) The provisions of sections 375.052 and 379.356.2, RSMo, and this rule do not include or apply to any other fees specifically permitted by law.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed July 12, 2002, effective Feb. 28, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 700-1.152 Recommendations of Long-Term Care Insurance to Customers (Suitability)

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the codification of professional standards in the recommendation of long-term care contracts. Failure to meet these standards would constitute the demonstration of incompetence, untrustworthiness or financial irresponsibility of producers in the offer, sale or exchange of long-term care contracts.

(1) The professional standards of conduct

codified in this rule reflect standards of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Long-Term Care Insurance.

1. In recommending to an individual customer the purchase, sale, or exchange of a long-term care insurance contract, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his insurance and investments and as to his current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a long-term care insurance transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs, and existing assets;

B. The customer's tax status;

C. The customer's financial objectives;

D. The customer's long-term care objectives; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer;

(B) The standards and systems designed by insurers under 20 CSR 400-4.100 shall comply with the professional standards codified in this rule; and

(C) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: sections 374.040, 374.045, and 375.013, RSMo 2000 and section 375.143, RSMo Supp. 2007. Original rule filed Nov. 30, 2007, effective July 30, 2008.*

**Original authority: 374.040, RSMo 1939, amended 1967; 374.045, RSMo 1967, amended 1993, 1995; 375.013, RSMo 1993, amended 1995; and 375.143, RSMo 2007.*