



RULES OF
**Department of Commerce and
Insurance**
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

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**TITLE 20 – DEPARTMENT OF COMMERCE AND
INSURANCE**
Division 400 – Life, Annuities and Health
Chapter 5 – Advertising and Material Disclosures

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

PURPOSE: The purpose of this rule is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of material and relevant information in the advertising of life insurance policies and annuity contracts. This rule was adopted pursuant to the provisions of section 374.045, RSMo and effectuates and aids in the interpretation of sections 375.934 and 375.936, RSMo.

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

(A) “Advertisement” means material designed to create public interest in life insurance or annuities or in an insurer or to induce the public to purchase, increase, modify, reinstate, or retain a policy including:

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

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

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

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

(B) “Advertisement” for the purpose of this rule shall not include –

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

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

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

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

(D) “Guaranteed elements” means the premiums, benefits, values, credits or charges under a policy, or elements of

formulas used to determine any of these that are guaranteed and determined at issue;

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

(F) “Insurer” means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd’s, fraternal benefit society, and any other legal entity which is defined as an “insurer” in the insurance code of this state or issues life insurance or annuities in this state and is engaged in the advertisement of a policy;

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

(H) “Policy” means any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits;

(I) “Preneed funeral contract or prearrangement” shall have the same meaning as set forth in section 436.405.1(8), RSMo.

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

(2) Applicability.

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

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

(3) Form and Content of Advertisements.

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

(B) No advertisement shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “deposit,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “private pension plan,” “retirement plan,” “preneed contract,” “preneed



funeral contract,” “prearrangement”, or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that s/he will receive, or that it is possible that s/he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(4) Disclosure Requirements.

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

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

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

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

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

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

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

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

(I) Premiums.

1. An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

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

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

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

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

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

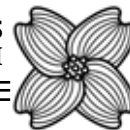
(J) Analogies between a life insurance policy’s or annuity contract’s cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments shall be complete and accurate. An advertisement shall not emphasize the investment or tax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

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

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

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

(N) No insurance producer may use terms such as “financial planner,” “investment adviser,” “financial consultant,” “financial counseling,” “seller,” “preneed seller,” or “preneed agent” in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms



as part of its name from citing the membership, providing that a person citing the membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation, or servicing of policies.

(O) Nonguaranteed Elements.

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

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

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

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

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

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

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

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

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

(Q) Testimonials, Appraisals, Analysis, or Endorsements by Third Parties.

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

2. If the individual making a testimonial, appraisal,

analysis, or endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

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

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

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

(S) Policies Sold to Students.

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

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

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

(T) Introductory, Initial or Special Offers, and Enrollment Periods.

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

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

3. An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When an insurer charges an initial premium that differs in amount from



the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised.

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

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

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

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

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

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

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

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

or statements containing or based on guaranteed elements.

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

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

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

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

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

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

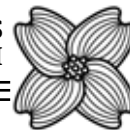
(Z) Failure to comply with the requirements set forth in section (4) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies as those terms are used in section 375.936(4) and (6), RSMo.

(5) Identity of Insurer.

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

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

(C) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner



connected with a governmental program or agency.

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

(6) Jurisdictional Licensing and Status of Insurer.

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

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

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

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

(7) Statements About the Insurer.

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

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

(8) Enforcement Procedures.

(A) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published, or prepared advertisement of its individual policies and specimen copies of typical printed, published, or prepared advertisements of its blanket, franchise, and group policies disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. This file shall be subject to inspection by the director. All advertisements shall be maintained in the file for a period of five (5) years after discontinuance of its use.

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

(C) Each insurer subject to the provisions of this rule shall file with the director with its annual statement a certificate of compliance executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information,

and belief the advertisements that were disseminated by or on behalf of the insurer in this state during the preceding statement year, or during the portion of the year when this rule was in effect, complied or were made to comply in all respects with the provisions of this rule and the insurance laws of this state as implemented and interpreted by this rule.

AUTHORITY: sections 374.045, 375.141, 375.143, 375.144, 375.934, 375.936, and 375.948, RSMo 2016. This rule was previously filed as 4 CSR 190-13.020. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed July 9, 1976, effective Feb. 20, 1977. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Sept. 30, 2016, effective March 30, 2017.*

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

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

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

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

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

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

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

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

(D) Statements or representations or the use of any



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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) Any comparison of the policies or contracts of any such insurer(s), shall be deemed to be an incomplete comparison, if it does not compare in detail the gross premiums and gross premiums less any dividend or other reduction allowed by the insurer(s), at the date of the comparison and the increase in any cash values and all the benefits provided by each of those policies or contracts for a period of twenty (20) years. The omission from any comparison of any benefit or value provided

in any such policies or contracts or of any differences as to amount or period of payment of premiums shall constitute the comparison an incomplete comparison.

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

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

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

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

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

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

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

20 CSR 400-5.300 Solicitation of Insurance on Military Installations in Missouri (Rescinded September 30, 2019)

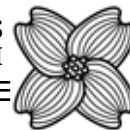
AUTHORITY: sections 374.045, RSMo 2000, and 375.012–375.158, RSMo 2000, Supp 2001 and Supp. 2002. This rule was previously filed as 4 CSR 190-13.050. Original rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Rescinded: Filed March 8, 2019, effective Sept. 30, 2019.

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

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

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

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



The rules shall be read together with Chapter 536, RSMo.

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

1. Credit insurance;

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

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

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

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

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

7. Contracts used to fund:

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

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

C. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, if there is no in-person, face-to-face solicitation of individuals by an insurance producer;

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

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

F. Prearranged funeral contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Is a service member; or

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

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

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

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

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

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

(N) "SGLI," Servicemembers' Group Life Insurance;

(O) "Side fund," a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually



issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;
 2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
 3. A premium deposit fund which:
 - A. Contains only premiums paid in advance which accumulate at interest;
 - B. Imposes no penalty for withdrawal;
 - C. Does not permit funding beyond future required premiums;
 - D. Is not marketed or intended as an investment; and
 - E. Does not carry a commission, either paid or calculated;
- (P) “Specific appointment,” a prearranged appointment agreed upon by both parties and definite as to place and time;
- (Q) “United States Armed Forces,” all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard; and
- (R) “VGLI,” Veterans’ Group Life Insurance.

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

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

20 CSR 400-5.310 Deceptive or Unfair Military Sales Practices

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

(1) Unfair Trade Practices on a Military Installation.

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

1. Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser;
2. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary;
3. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours;
4. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation;
5. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee;
6. Posting unauthorized bulletins, notices or

advertisements;

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

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

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

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

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

(2) Unfair Trade Practices Regardless of Location.

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

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

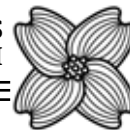
2. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

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

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

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

4. Entering into any agreement with a depository



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

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

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

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

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

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

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

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

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

(D) Untrue, Deceptive or Misleading Representations Concerning Premiums, Costs or Investment Returns. The following acts or practices in connection with the solicitation,

offer to sell or sale to a service member constitute a deceptive sales practice under section 375.144, RSMo or an unfair trade practice under section 375.936(4), RSMo:

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

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

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

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

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

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

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

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

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

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

4. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16; or

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

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

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



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

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

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

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

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

B. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to ten (1-10) and for every fifth policy year thereafter ending at age one hundred (100), policy maturity or final expiration; and

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

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

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

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

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

20 CSR 400-5.400 Life Insurance and Annuities Replacement

PURPOSE: This rule regulates the activities of insurers, agents, and brokers with respect to the replacement of existing life insurance and annuities and protects the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions. This rule

effectuates and aids in the interpretation of sections 375.934, 375.936, and 375.948, RSMo.

(1) Purpose and Scope.

(A) The purpose of this rule is –

1. To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities; and

2. To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions. It will –

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

B. Reduce the opportunity for misrepresentation and incomplete disclosure.

(B) Unless otherwise specifically included, this rule shall not apply to transactions involving –

1. Credit life insurance;

2. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual in group life insurance or a group annuity. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of section (7) of this rule;

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

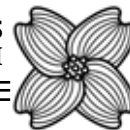
4. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a new policy or contract filed with and approved by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

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

6. (Reserved)

A. Policies or contracts used to fund 1) an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); 2) a plan described by Sections 401(a), 401(k) or 403(b) of the *Internal Revenue Code*, where the plan, for purposes of ERISA, is established or maintained by an employer; 3) a governmental or church plan defined in Section 414, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the *Internal Revenue Code*; or 4) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

B. Notwithstanding subparagraph (1)(B)6.A., this rule shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two (2) or more insurers, and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not



include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee in group life insurance or a group annuity;

7. Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

8. Existing life insurance that is a non-convertible term life insurance policy that will expire in five (5) years or less and cannot be renewed;

9. Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this rule; or

10. Structured settlements.

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

(2) Definitions.

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

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

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

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

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

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

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

1. For policies or contracts other than universal life

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

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

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

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

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

(K) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be –

1. Lapsed, forfeited, surrendered, or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

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

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

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

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

(3) Duties of Producers.

(A) A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the answer is "no," the producer's duties with respect to replacement are complete.

(B) If the applicant answered "yes" to the question regarding existing coverage referred to in subsection (3)(A), the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix A, included herein, or other substantially similar form. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and left with the applicant.



(C) The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(D) In connection with a replacement transaction, the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

(E) Except as provided in subsection (5)(C), in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

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

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

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

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

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

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

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

5. Procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this rule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring;

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

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

2. Number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;

3. Annuity contract replacements as a percentage of the

producer's total annual annuity contract sales;

4. Number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by paragraph (4)(A)5.; and

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

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

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

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

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

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

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

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

(5) Duties of Replacing Insurers that Use Producers.

(A) Where a replacement is involved in the transaction, the replacing insurer shall –

1. Verify that the required forms are received and are in compliance with this rule;

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

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

4. Provide to the policy or contract owner notice of the right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or consideration paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or



consideration or imposed under such policy or contract. Such notice may be included in Appendix A or C, included herein.

(B) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

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

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

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

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

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

A. Notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with subsection (3)(D);

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

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

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

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

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

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

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

(C) Upon receipt of a request to borrow, surrender, or withdraw any policy values, send a notice advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount, or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan; and

(D) Failure to comply with the requirements set forth in

section (6) of this rule shall constitute false information and/or misrepresentations and false advertising of insurance policies and/or misrepresentation in insurance applications as those terms are used in section 375.936(4), (6), and (7), RSMo.

(7) Duties of Insurers with Respect to Direct Response Solicitations.

(A) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue, or change an existing policy or contract. If the applicant indicates a replacement or change is not intended, or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement in Appendix B, included herein, or other substantially similar form approved by the director.

(B) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall –

1. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix C, included herein, or other substantially similar form approved by the director. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the director. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; and

2. Comply with the requirements of paragraph (5)(A)2., if the applicant furnishes the names of the existing insurers, and the requirements of paragraphs (5)(A)3., (5)(A)4., and subsection (5)(B).

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

(8) Violations.

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

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

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

3. The intentional incorrect recording of an answer;

4. Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or

5. Advising a policy or contract owner to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company.

(B) Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after



indicating in, or as a part of, an application for new coverage that replacement is not their intention; however, patterns of inaccurate recordations of the expression of intention regarding replacement by policy or contract owners of the same producer shall be deemed *prima facie* evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed *prima facie* evidence of the producer's intent to violate this rule.

(C) Where it is determined that the requirements of this rule have not been met, the replacing insurer shall provide to the policy or contract owner an in force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix A or C, included herein.

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



APPENDIX A

IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

This document must be signed by the applicant and the producer, if there is one,
and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new policy or contract involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy or contract to pay all or part of any premium or payment due on the new policy or contract. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy or contract and may reduce the amount paid upon the death of the insured or annuitant.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?
 YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

If you answered “yes” to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number, if available) and whether each policy or contract will be replaced or used as a source of financing:



INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
-----------------	-------------------------	-------------------------	----------------------------------

- 1.
- 2.
- 3.

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary, or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because _____.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant’s Signature and Printed Name

Date

Producer’s Signature and Printed Name

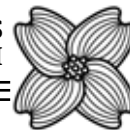
Date

I do not want this notice read aloud to me. ____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?
 Could they change?
 You’re older—are premiums higher for the proposed new policy?
 How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.
 Acquisition costs for the old policy may have been paid, you will incur costs for the new one.
 What surrender charges do the policies have?



What expense and sales charges will you pay on the new policy?
Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
You may need a medical exam for a new policy.
Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?
How will the premiums on your existing policy be affected?
Will a loan be deducted from death benefits?
What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?
What are the interest rate guarantees for the new contract?
Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?
Is this a tax free exchange? (See your tax advisor.)
Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?
Will the existing insurer be willing to modify the old policy?
How does the quality and financial stability of the new company compare with your existing company?



APPENDIX B

NOTICE REGARDING REPLACEMENT REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

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



APPENDIX C

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new policy or contract involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy or contract values, including accumulated dividends, of an existing policy or contract, to pay all or part of any premium or payment due on the new policy or contract. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy or contract and may reduce the amount paid upon the death of the insured or annuitant.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?
 YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number, if available) and whether each policy or contract will be replaced or used as a source of financing:

	INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1.				
2.				
3.				



Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary, or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant’s Signature and Printed Name

Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

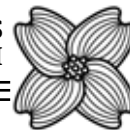
PREMIUMS: Are they affordable?
 Could they change?
 You’re older—are premiums higher for the proposed new policy?
 How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.
 Acquisition costs for the old policy may have been paid, you will incur costs for the new one.
 What surrender charges do the policies have?
 What expense and sales charges will you pay on the new policy?
 Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
 You may need a medical exam for a new policy.
 Claims on most new policies for up to the first two (2) years can be denied based on inaccurate statements.
 Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?



How will the premiums on your existing policy be affected?
Will a loan be deducted from death benefits?
What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?
What are the interest rate guarantees for the new contract?
Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?
Is this a tax free exchange? (See your tax advisor.)
Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?
Will the existing insurer be willing to modify the old policy?
How does the quality and financial stability of the new company compare with your existing company?



AUTHORITY: sections 374.045, 375.143, 375.934, 375.936, and 375.948, RSMo 2016. This rule was previously filed as 4 CSR 190-13.060. Original rule filed Jan. 5, 1970, effective Jan. 15, 1970. Amended: Filed June 21, 1970, effective July 1, 1970. Amended: Filed Feb. 18, 1972, effective Feb. 28, 1972. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Dec. 23, 1975, effective Jan. 2, 1976. Rescinded and readopted: Filed March 15, 1979, effective Sept. 14, 1979. Rescinded: Filed July 3, 1985, effective Oct. 25, 1985. Rescinded and readopted: Filed Aug. 12, 1983, effective Dec. 12, 1983. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Sept. 30, 2016, effective May 30, 2017.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008; 375.143, RSMo 2007; 375.934, RSMo 1959, amended 1978, 1991; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 375.948, RSMo 1959, amended 1978, 1991.*

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

20 CSR 400-5.410 Disclosure of Material Facts in Annuity Sales

(Rescinded March 30, 2017)

AUTHORITY: sections 374.040, 374.045, 375.013, 375.936(4) and 375.936(6), RSMo 2000 and 375.144, RSMo Supp. 2005. Original rule filed July 14, 2006, effective Jan. 30, 2007. Rescinded: Filed Sept. 30, 2016, effective March 30, 2017.

20 CSR 400-5.500 Life Insurance Sold to College Students

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

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

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

(B) The application form for the coverages must recite the terms of any promissory note executed in connection with the coverages, showing the amount of the note, the balance due, the payment provisions and any credit to reflect the down payment, the down payment being required by this rule;

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

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

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

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

1. The policy has been issued as represented; and

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

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

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

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

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

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

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

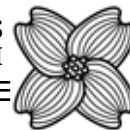
(2) The following practices are deemed deceptive and misleading and, if proven after the hearing required by section 375.940, RSMo, shall subject the insurer to the penalties provided by law: Violations by insurance producers listed in this rule shall subject them to the penalties now contained in section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

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

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

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

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



15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019.

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

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

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

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

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

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



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

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

The Association was established to provide protection in the unlikely event that your life, annuity, or health insurance company becomes financially unable to meet its obligations and is taken over by its insurance department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with Missouri law, with funding from assessments paid by other insurance companies. (For purposes of this notice, the terms “insurance company” and “insurer” include health maintenance organizations (HMOs).)

The basic protections provided by the Association are as follows:

- Life Insurance
 - \$300,000 in death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values
- Health Insurance
 - \$500,000 for health benefit plans
 - \$300,000 in disability insurance benefits
 - \$300,000 in long-term care insurance benefits
 - \$100,000 in other types of health insurance benefits
- Annuities
 - \$250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values

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

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

“Health benefit plan” is defined in section 376.718, RSMo.

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

Benefits provided by a long-term care (LTC) rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the basic life insurance policy or annuity contract to which it relates.

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

Missouri Life and Health
Insurance Guaranty Association
630 Bolivar Street, Suite 204
Jefferson City, Missouri 65101
Ph.: 573-634-8455
Fax: 573-634-8488

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

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



**APPENDIX TWO
NOTICE**

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



AUTHORITY: section 374.045.1(2), RSMo 2016, and section 376.756, RSMo Supp. 2020. This rule was previously filed as 4 CSR 190-13.290. Original rule filed Sept. 6, 1988, effective April 1, 1989. Amended: Filed Dec. 1, 1989, effective May 1, 1990. Emergency amendment filed April 30, 1990, effective May 10, 1990, expired Aug. 7, 1990. Amended: Filed April 30, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed July 29, 2005, effective Feb. 28, 2006. Amended: Filed Oct. 10, 2013, effective April 30, 2014. Amended: Filed Jan. 22, 2016, effective Aug. 30, 2016. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019. Amended: Filed June 4, 2020, effective Jan. 30, 2021. Non-substantive change filed July 20, 2023, published Sept. 30, 2023.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008 and 376.756, RSMo 1988, amended 2018.*

20 CSR 400-5.700 Accident and Sickness Insurance Advertising

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

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

(1) Responsibility of Insurer.

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

(B) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. The insurer whose policies are so advertised shall be deemed responsible for all these advertisements, regardless of by whom written, created, presented or distributed.

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

(2) Definitions.

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

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

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

this rule; and

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

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

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

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

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

(F) Invitation to inquire for the purpose of these rules shall mean an advertisement having as its objective the creation of a desire to inquire further about the product and which is limited to a brief description of the loss for which the benefit is payable and which may contain the dollar amount of benefit payable or the period of time during which the benefit is payable, or both. The advertisement shall not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall conspicuously contain a provision substantially as follows: "For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the policy may be continued in force, see your insurance producer or write the company."

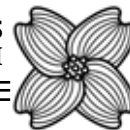
(G) Lead-generating device, for the purpose of these rules, shall mean any communication directed to the public which, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit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

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

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

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

(3) Method of Disclosure of Required Information. All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with



the statements to which this information relates or under appropriate captions of such prominence that it shall not be minimized, obscured or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(4) Form and Content of Advertisements.

(A) The format and content of an advertisement of an accident or sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the director of insurance from the basic overall impressions that the advertisement may create reasonably upon those persons of average education and intelligence for that segment of the public to which it appears on its face to be directed.

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

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

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

1. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of this information or use of these words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied or does not remedy misleading statements or omissions of pertinent fact. No advertisements may employ devices which create undue fear or anxiety in the minds of its readers judged by the standards in section (4).

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

- A. Exaggerates the gaps in Medicare coverage;
- B. Promotes fear of dependence upon relatives or charity;
- C. Implies that long periods of sickness or hospital stays are common among the elderly;

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

E. Describes the inpatient hospital coverage of Medicare as “hospital Medicare” or “Medicare Part A” when the policy does not supplement the nonhospital or the psychiatric hospital benefits of Medicare Part A (phrases to the effect of the “inhospital portion of Medicare Part A” are acceptable);

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

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

3. No advertisement shall contain or use words or phrases such as, “all”, “full”, “complete”, “comprehensive”, “unlimited”, “up to”, “as high as”, “this policy will help pay your hospital and surgical bills”, “this policy will help fill some of the gaps that

Medicare and your present insurance leave out”, “this policy will help to replace your income” (when used to express loss of time benefits) or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

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

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

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

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

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

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

(B) Exceptions, Reductions and Limitations.

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



which the advertisement would have the capacity or tendency to mislead or deceive.

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

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

(C) Preexisting Conditions.

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

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

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

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

(7) Testimonials or Endorsements by Third Parties.

(A) Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained in the testimonial and the advertisement, including this statement, is subject to all the provisions of these rules.

(B) If the person making a testimonial, an endorsement or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, this fact shall be disclosed in the advertisement. If a person

is compensated for making a testimonial, endorsement or appraisal, this fact shall be disclosed in the advertisement by language substantially as follows: “Paid Endorsement.” The payment of substantial amounts, directly or indirectly, for “travel and entertainment” for filming or recording of television or radio advertisements requires disclosure of such compensation. This rule does not apply when payment is union scale.

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

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

(8) Use of Statistics.

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

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

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

(9) Identification of Plan or Number of Policies.

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

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

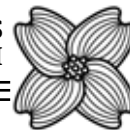
2. Premium will vary with the plan and benefits selected.

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

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

(11) Jurisdictional Licensing and Status of Insurer.

(A) An advertisement which is seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.



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

(12) Identity of Insurer.

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

(B) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by agencies of the federal government or of this state or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

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

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

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

(14) Introductory, Initial or Special Offers.

(A) Advertising.

1. An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer or that applicants will receive substantial advantages not available at a later date or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not contain phrases describing an enrollment period as "special", "limited" or similar words or phrases when the insurer uses these enrollment periods as the usual method of advertising accident and sickness insurance.

2. An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period for substantially the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application which shall not be

less than ten (10) days and not more than forty (40) days from the date that the enrollment period is advertised for the first time. This rule applies to all advertising media – that is, mail, newspapers, radio, television, magazines and periodicals – by any one (1) insurer. It is inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

3. This rule prohibits any statement of implication to the effect that only a specific number of policies will be sold or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless this is the fact.

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

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

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

(15) Statements About an Insurer. An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendations and the limitations of the scope and extent of the recommendation.

(16) Enforcement Procedures.

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

(B) Preapproval of Advertising Required on Noncompliance. Any person violating any provision of this rule shall be subject



to the penalties prescribed by law. The director may also require the insurer to file all its advertising intended for use in the state no later than twenty (20) days before the use, the filings to be examined and approved by the accident and health section of the Missouri Department of Commerce and Insurance before use in this state. On these disapproved filings, the insurer may request a hearing, as under section 376.777.7., RSMo, Approval of Policies.

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

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

AUTHORITY: sections 354.120, 374.045, 375.936, 376.405 and 376.777, RSMo 2000. This rule was previously filed as 4 CSR 190-14.040. This version of rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019.*

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

20 CSR 400-5.800 Annuity Disclosure

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

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

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

(B) *(Reserved)*

1. Annuities used to fund –

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

B. A plan described by Sections 401(a), 401(k), or 403(b) of the *Internal Revenue Code*, where the plan, for purposes of ERISA, is established or maintained by an employer;

C. A governmental or church plan defined in Section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the *Internal Revenue Code*; or

D. A nonqualified deferred compensation arrangement

established or maintained by an employer or plan sponsor.

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

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

(D) *(Reserved)*

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

2. Notwithstanding paragraph (1)(D)1., the delivery of the Buyer's Guide is required in sales of variable annuities, and when appropriate, in sales of other registered products.

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

(E) Structured settlement annuities.

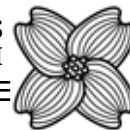
(2) Definitions. For the purposes of this rule –

(A) "Buyer's Guide" means the National Association of Insurance Commissioners' (NAIC) approved *Annuity Buyer's Guide*, as appropriate for the annuity being offered for sale, either the *Buyer's Guide for Deferred Annuities – Variable*, *Buyer's Guide for Deferred Annuities – Fixed*, or the *Buyer's Guide for Deferred Annuities*; use of the *Buyer's Guide for Deferred Annuities* is considered appropriate in all sales and is included herein as Appendix A. A current version of the NAIC *Annuity Buyer's Guide* and its various formats, available on the NAIC website, www.naic.org, is an acceptable substitute;

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

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

(D) "Generic name" means a short title descriptive of the



annuity contract being applied for or illustrated such as “single premium deferred annuity;”

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

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

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

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

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

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

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

(A) *(Reserved)*

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

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

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

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

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

B. With respect to an application received via the

Internet –

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

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

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

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

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

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

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

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

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

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

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

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

E. How values in the contract can be accessed;

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

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

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

4. Specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply; and

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

(C) Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed, however, insurers’ definitions



of terms defined in this rule may not deviate from the definitions in this rule.

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

(4) Standards for Annuity Illustrations.

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

1. Clearly labeled as an illustration;

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

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

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

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

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

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

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

3. Be incomplete.

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

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

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

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

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

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

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

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

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

8. The non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any

assumed future improvement of such elements. Additionally, non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

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

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

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

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

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

E. If a fixed indexed annuity provides an option to allocate the account value to more than one (1) indexed or fixed declared rate account –

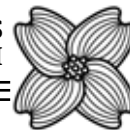
(I) The allocation used in the illustration shall be the same for all three (3) scenarios; and

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

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

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

H. The low and high scenarios: 1) need not show surrender values (if different than account values); 2) shall not extend beyond ten (10) calendar years (and therefore are not subject to



the requirements of subsection (4)(H) beyond subparagraph (4)(H)1.A.; and 3) may be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the ten (10) calendar year period for the low scenario, the high scenario, and the most recent ten (10) calendar year scenario; and

I. The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

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

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

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

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

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

A. The benefits and values are not guaranteed;

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

C. Actual results may be higher or lower;

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

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

17. Illustrations shall be concise and easy to read;

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

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

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

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

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

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

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

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

4. A statement containing in substance the following:

A. For other than fixed indexed annuities –

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

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

B. For fixed indexed annuities –

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

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

5. Additional explanations as follows:

A. Minimum guarantees shall be clearly explained;

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

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

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

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

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

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

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

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

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

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



1. (Reserved)
 - A. First ten (10) contract years; or
 - B. Surrender charge period if longer than ten (10) years, including any renewal surrender charge period(s);
 2. Every tenth contract year up to the later of thirty (30) years or age seventy (70); and
 3. (Reserved)
 - A. Required annuitization age; or
 - B. Required annuitization date.
- (I) If the annuity contains a MVA, the following provisions apply to the illustration:
1. The MVA shall be referred to as such throughout the illustration;
 2. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;
 3. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;
 4. A statement, containing in substance the following, shall be included:
 - A. When you make a withdrawal the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive;
 5. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the MVA;
 6. The illustrative effect of the MVA shall be shown under at least one (1) positive and one (1) negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of a MVA;
 7. Actual MVA floors and ceilings as listed in the contract shall be illustrated; and
 8. If the MVA has significant characteristics not addressed by paragraphs (4)(I)1.–(4)(I)6., the effect of such characteristics shall be shown in the illustration.
 - (J) A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time in a disclosure document:
 1. An explanation, in simple terms, of the elements used to determine the index-based interest, including, but not limited to, the following elements:
 - A. The Index(es) which will be used to determine the index-based interest;
 - B. The Indexing Method – such as point-to-point, daily averaging, monthly averaging;
 - C. The Index Term – the period over which indexed-based interest is calculated;
 - D. The Participation Rate, if applicable;
 - E. The Cap, if applicable; and
 - F. The Spread, if applicable;
 2. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;
 3. The narrative shall include a brief description of the frequency with which the company can re-set the elements used to determine the index-based credits, including the participation rate, the cap, and the spread, if applicable; and
 4. If the product allows the contract holder to make allocations to declared-rate segment, then the narrative shall include a brief description of –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Recordkeeping. Insurers or insurance producers shall maintain, or be able to make available to the director, records of the information collected from the consumer and other information provided in the disclosure statement (including illustrations) for not less than three (3) years after the contract is delivered by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer. Records required to be maintained by this



rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document.

APPENDIX A



Buyer's Guide for Deferred Annuities





Prepared by the

NAIC

National Association of Insurance Commissioners

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

This guide does not endorse any company or policy.

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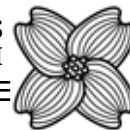


NAIC Buyer's Guide for Deferred Annuities

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

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

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



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