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September 19, 2005

Jonathan G. Katz, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington DC 20549-9303

RE: Proposed NASD Rule 2821- Suitability and Supervision in Variable Annuity Distribution; Release No. 34-52046A, File No. SR-NASD-2004-183.

Dear Mr. Katz:

We greatly appreciate the opportunity to share our views on proposed NASD Rule 2821 concerning the supervision and suitability of variable annuity sales. The American Council of Life Insurers (ACLI) is a national trade association with 356 members representing 80 percent of all United States life insurance companies as measured by total assets, and reflecting 84 percent of total annuity considerations and 78% of total insurance premiums.

Many of our members manufacture variable annuities distributed through affiliated and independent broker-dealers. Over 50% of the NASD's 661,780 registered salespersons work for broker-dealers affiliated with life insurance companies. The initiative would have a significant, unique impact on life insurers, variable annuities, and salespersons.

We have actively participated in numerous NASD rule proposals, and submitted comment on the NASD's draft suitability rule for variable annuities.[1] The SEC's grant of ACLI's request[2] for an extension of the initial 21-day comment period enables thorough analysis and constructive input. Careful evaluation of SRO rules ensures balanced regulation in the public interest, and helps preserve competitive fairness in the marketplace.

The NASD's draft proposal elicited 1,129 letters of comment. According to the release, only fourteen of the commentators fully supported the proposal, and twenty offered partial or qualified support. Using the NASD's numbers, 97% of the commentators opposed the initiative. [3] The proposal has become a lightning rod for broad industry concern.[4] The SEC's

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[1] *See* http://www.nasd.com/web/groups/rules_regs/documents/notice_to_members/nasdw_010087.pdf for a copy of our comment on the draft NASD proposal.

[2] The SEC granted a 21-day extension to the initial comment period at Release No. 34-52191(Aug. 2, 2005) [File No. SR-NASD-2004-183] in response to ACLI's request dated July 27, 2005 (located in the comment file at http://www.sec.gov/rules/sro/nasd/nasd2004183/cbwilkerson072705.pdf).

[3] Similarly, the current proposal has already generated over 1,400 letters of comment expressing significant concern. *See* comment file at http://www.sec.gov/rules/sro/nasd/nasd2004183.shtml .

[4] In a gesture of commendable candor, the NASD accurately noted that "the overwhelming majority of commentators opposed the proposal." *See* Release No. 34-52046A at 42128.

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involvement in this rulemaking, therefore, is essential.

Overview of the Proposal

Recommendation Requirements. When recommending a deferred variable annuity transaction, Rule 2821 requires broker-dealers and salespersons to have a reasonable basis to believe that the:

- customer has been informed of the unique features of the deferred variable annuity,
- customer has a long-term investment objective,
- customer has a need for the features of a deferred variable annuity as compared with other investment vehicles, and
- deferred variable annuity as a whole and the underlying sub-accounts are suitable for the particular customer.

Rule 2821 requires these determinations to be documented and signed by the salesperson recommending the transaction. Rule 2821 would also require salespersons to make reasonable efforts to obtain information concerning customers' age, annual income, financial situation and needs, investment experience, investment objectives, intended use of the variable annuity, investment time horizon, existing investment and insurance holdings, liquidity needs, liquid net worth, risk tolerance, tax status and other information used by the salesperson in making recommendations.

Supervisory Review. Under Rule 2821, a registered principal of the broker-dealer must review and approve the transaction before transmitting the customer's application to a life insurer for acceptance, regardless of whether the transaction had been recommended. In reviewing the transaction, the registered principal would need to take into account whether the:

- customer appears to have a need for the features of a deferred variable annuity as compared with other investments;
- customer's age or liquidity needs make a long-term investment inappropriate, such as a customer over a specific age or with a short-term investment objective;
- amount of money invested exceeds a stated percentage of the customer's net worth or is more than a stated dollar amount;
- the transaction involves an exchange of a deferred variable annuity, and whether the customer: will incur surrender charges, face a new surrender period, lose death or existing benefits, have increased mortality and expense fees, appears to have a need for any potential product enhancements and improvements, or had another deferred variable annuity exchange within the preceding 36 months.

- Under Rule 2821, a registered principal must sign the salesperson's suitability determination document required by Rule 2821 prior to transmitting the application to the life insurer for acceptance.

Supervisory Procedures. Rule 2821 requires broker-dealers to establish and maintain specific written supervisory procedures reasonably designed to achieve and evidence compliance with the standards in Rule 2821. The broker-dealer must have procedures to screen and have principal review of the recommendations requirements in Rule 2821.

Training. Under the proposal, broker-dealers would need to develop and document specific training policies or programs designed to ensure that salespersons recommending transactions, and registered principals who review transactions, in deferred variable annuities comply with the requirements of Rule 2821 and that they understand the material features of deferred variable annuities, including liquidity issues, sales charges, fees, tax treatment, and market risks.

Background

The life insurance industry has a long history of developing and supporting initiatives protecting insurance and annuity consumers, including:

- Creation of the Insurance Marketplace Standards Association[5] (IMSA), a voluntary insurance industry membership organization promoting high ethical standards in the sale of individual life insurance and annuity products;

- ACLI's substantive rulemaking petition leading to new variable life insurance Form N-6, an integrated registration emphasizing streamlined, simplified, plain-English disclosure;[6]

- ACLI's significant involvement in the design of variable annuity registration Forms N-3 and N-4, which streamline and simplify variable annuity disclosure, and promote informed decision making ;

- Contributions to National Association of Insurance Commissioners (NAIC) laws and

[5] After a two-year period of development, ACLI established the Insurance Marketplace Standards Association, a voluntary membership organization leading the insurance industry in promoting high ethical standards in the sale of individual life insurance and annuity products. Through its Principles and Code of Ethical Market Conduct, IMSA encourages life insurers to develop and implement policies and procedures to promote sound market practices. IMSA members must complete rigorous self and independent assessments to meet its principles and code. Added background on IMSA is provided in the appendix to this letter.

[6] *See* ACLI's rulemaking petition filed with the SEC January 13, 1993. ACLI retained an independent research organization to conduct focus group research on prospectus disclosure, and made an unprecedented supplemental video filing in the rulemaking proceeding highlighting the results of the focus group research. *See* Wilkerson, *The Administrative History of Variable Life Insurance Registration Form N-6: the Proposal's Purpose, Design and Intent,* ALI-ABA Conference on Life Insurance Company Products (Nov. 2002) at 149 for additional background on the amendments to Form N-6, which provided a regulatory template for conforming amendments to variable annuity registration Form N-4.

regulations, such as

- The Senior Protection in Annuity Transactions Model Regulation;
- The Model Replacement Regulation;
- Amendments to the Unfair Trade Practices Act; and,
- The Model Annuity Disclosure Regulation.

- ACLI's consumer resources for annuity purchasers, including *Individual Annuities: Tips for Seniors* and a *Variable Annuity Kit* that covers fees, exchanges and buying tips, among other things.[7]

- Continuous commitments to constructive market conduct through avenues such as ACLI's Compliance Education Seminars, Regulatory Update Services, website compliance services, and Regulatory Alerts.

- ACLI's Board-approved regulatory agenda actively supporting nationwide adoption of the NAIC Senior Protection in Annuity Transactions Model Regulation and the NAIC Annuity Disclosure Model Regulation, to demonstrate life insurers' commitment to the highest standard in the sale of individual annuities.

- Careful examination of the constructive recommendations in the June 2004 SEC-NASD Report on Variable Annuity Distribution to further enhance comprehensive compliance procedures protecting variable annuity consumers. The observations are taken very seriously. Life insurers and their customers alike are served poorly by unsuitable sales.

Summary of Position

- Life insurers condemn unsuitable variable annuity sales. There is no place for unscrupulous practices in variable annuity distribution. The life insurance industry has a long history of developing and supporting substantive regulatory initiatives protecting insurance consumers.

- Consistent, strong enforcement of current NASD suitability and supervision standards provides the most effective prophylactic against marketplace abuses. A single-product suitability rule may thwart enterprise-wide compliance uniformity.

- Comprehensive compliance procedures, meaningful prospectus disclosure, investor education, and informed decision-making are essential ingredients to variable annuity sales.

- The variable annuity prospectus provides essential disclosure prepared according to uniform standards. It facilitates informed purchase decisions and critical comparison shopping.

- Substantive rulemaking demands careful scrutiny and compelling justification. New

[7] The ACLI's resources for seniors are located at http://www.acli.com/ACLI/Consumer/Annuities/Default.htm , and the variable annuity kit is located at http://www.acli.com/ACLI/Newsroom/Press%20Packets/Default.htm .

rules must carefully balance benefits to be achieved against burdens created.

- Several aspects of the proposal are functionally unworkable. Superior solutions exist.

Guideposts to SRO Initiatives

Self-regulatory rulemaking should thoroughly explain the need for new rules, practices, or interpretations supported by quantifiable rationale. The nexus between regulatory solutions and regulatory need should be clearly stated. Burdens of new regulations must be carefully balanced against the regulatory goals of each proposal. Every self-regulatory initiative should include a meaningful economic and competitive impact statement. Each rule should exhibit clear drafting to avoid interpretive ambiguity, and should be fully explained in the adopting Notice to Members. These essential approaches to rulemaking ensure that new rules and responsive enterprise-wide compliance procedures are appropriate. Our letter reviews the proposal against these benchmarks.

Measuring Market Conduct and Compliance

Substantive rulemaking demands careful scrutiny and compelling justification. The proposal voices concern over increased patterns of unsuitable variable annuity sales. The initiative asserts that “some investors continue to be confused by certain features” of variable annuities, although no consumer survey is referenced in support of this proposition. The joint SEC-NASD report on variable contract distribution highlighted both commendable and deficient conduct, but did not quantify any of the deficient practices listed.

The current suitability and supervision rules have ensured appropriate variable annuity sales practices, as measured by meaningful yardsticks. ACLI has created a complete database of all reported NASD disciplinary actions over the past five years. The database categorizes and quantifies all the disciplinary actions according to type of wrongdoing, security involved, fines, penalties, and parties. We have also studied the nature and relative incidence of SEC complaint data. These objective data sources provide valuable perspective and scope.

Here are the facts: over 50% of the NASD's 661,780 registered salespersons work for broker-dealers affiliated with life insurers.[8] Unsuitable variable annuity sales account for 0.32% of the NASD's total disciplinary actions on average over the past five years. As a matter of reference, there were 20,311,000 individual variable annuity contracts in 2003[9].

Similarly, the SEC's Office of Investor Education and Assistance tabulates complaints about broker-dealers marketing variable annuities. The SEC logged 14 times as many broker-dealer complaints about equity securities as variable annuities, and 4.5 as many mutual fund complaints as variable annuities for the 12 months ending May 31, 2004.[10]

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[8] Moreover, broker-dealers unaffiliated with life insurers also have problems with the proposal.

[9] Source: ACLI Product Line Surveys (2003).

[10] The SEC’s data reflects aggregate complaints without regard to the merits of the complaint, and do not tabulate the correlation of final administrative or enforcement actions associated with the complaints. The SEC provided this data in response to an ACLI Freedom of Information Act (FOIA) request dated Sept. 10, 2004. In order to evaluate market conduct referenced in the NASD proposal, ACLI also sought copies of variable annuity

With these statistics at hand, we have serious concerns about the reasons cited for the new regulation. To make sure there is no uncertainty about our position on the issue, we reiterate that life insurers condemn unsuitable variable annuity sales. The life insurance industry fully supports strong enforcement against inappropriate variable annuity sales. We question, however, the proposal's dearth of analysis and functional deficiencies.

The proposal fails to show that the regulatory revisions will have any impact on the cited regulatory concerns. By creating unique, single-product supervision, suitability, and oral disclosure standards, the initiative may actually thwart effective system-wide uniformity and compliance.

No demonstration has been made that consistent enforcement of existing NASD supervision and suitability standards cannot remedy the targeted conduct. Strong broker-dealer enforcement against sales practice abuses provides the best deterrent to negative market conduct.

The proposal introduces individualized supervisory requirements that will be unnecessarily burdensome as a matter of compliance program uniformity. In sum, the proposal has overstated the relative incidence of inappropriate variable annuity sales. The need for new regulatory procedures is unconvincing. The NASD can constructively address its concerns and protect consumers by requiring broker-dealers to strongly encourage consumers to carefully and critically review the prospectus. Prospectus disclosure and vigilant enforcement are more effective than new single-product suitability standards.

While there have been recent, well-publicized enforcement actions against several broker-dealers and bank distributors of variable annuities, they are not indicative of a systemic problem in the insurance industry. Rather, they are examples of unique, isolated practices. Life insurers and their distributors carefully follow state and federal suitability and supervision rules, and serve their customers with high standards of fairness and professionalism. Moreover, the cases demonstrate that the system works efficiently to isolate and prosecute unsuitable conduct.

Duplicate Regulatory Practices

Other Federal securities law requirements currently govern central aspects of Rule 2821, such as fees, charges, risks, and liquidity. The variable annuity prospectus already requires plain-English disclosure on these items in a uniform, comparable format that must be delivered to every purchaser. The discussion below highlights the overlap of this disclosure process.

Form N-4 Synopsis, Fee Table and Risk Disclosure. Variable annuity Registration Form N-4[11]

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complaints during a selected time period, in its FOIA request. Because the SEC only fulfilled this aspect of our request on Aug. 11, 2005, we have been unable to thoroughly digest the 3,000 pages delivered. Nonetheless, a preliminary review reveals that many complaints are ministerial in nature rather than market conduct related. Therefore, undifferentiated aggregate figures cannot be accurately used as a barometer of abusive sales practices to support new rulemaking.

[11] Adopted in Release No. IC-14575 [CCH Fed. Sec. L. Rep ¶83,783], effective July 25, 1985, 50 FR 26145; amended in Release No. IC-16245 [CCH Fed. Sec. L. Rep ¶84,217], effective May 1, 1988, 53 FR 3868; Release No. IC-16766 [CCH Fed. Sec. L. Rep. ¶ 84,349], effective May 1, 1989, 54 FR 4772; Release No. IC-18005

mandates streamlined, simplified disclosure, and requires the prospectus to "clearly and concisely describe the key features" of the variable annuity and the issuing life insurer in an upfront synopsis. The form also requires a very detailed "fee table" that the SEC substantially upgraded in November 2002.[12] The SEC staff identifies the fee table as the "current lynchpin of cost disclosure."[13] The fee table is a core feature of the SEC's prospectus simplification project that sought to replace "unintelligible, tedious, and legalistic" disclosure with meaningful information on which to make an informed purchase decision.[14]

The 2002 amendments to the variable annuity fee table require information about all recurring fees and charges. The enhancements also require a narrative that explains the purpose of the fee table and relevant cross-references to the prospectus. The revisions require specific explanatory narratives preceding each section of the fee table "to help investors better understand the information about fees and charges in that section." By way of example, Form N-4 requires the fee table to include a series of captions in front of different detailed tabular information stating that:

> *The following tables describe the fees and expenses that you will pay when buying, owning, and surrendering the contract. The first table describes the fees and expenses that you will pay at the time that you buy the contract, surrender the contract, or transfer cash value between the investment options. State premium taxes may also be deducted.*
>
> *The next table describes the fees and expenses that you will pay periodically during the time that you own the contract, not including [portfolio company] fees and expenses.*
>
> *The next item shows the minimum and maximum total operating expenses charged by the portfolio companies that you may pay periodically during the time that you own the contract. More detail concerning each [portfolio company's] fees and expenses is contained in the prospectus for each [portfolio company].*

Form N-4 requires a fee table "example" highlighting comparative variable annuity costs at one, three, five, and ten-year intervals. A required caption in front of the example must state:

> *This Example is intended to help you compare the cost of investing in the contract with*

[CCH Fed. Sec. L. Rep ¶84,710], effective May 1, 1991 for Item 1, generally effective June 1, 1991, 56 F.R. 8113; and Release No. FR-40A [CCH Fed. Sec. L. Rep ¶72,440], effective November 2, 1992, 57 FR 45287; Release No. IC-19284 [CCH Fed. Sec. L. Rep ¶85,112], effective November 1, 1993, 58 FR 14848; Release No. IC-20486 [CCH Fed. Sec. L. Rep ¶85,423, effective October 11, 1994, 59 FR 43460; corrected in Release No. IC-20486A, September 23, 1994, 59 FR 48798; Release No. IC-21221 [CCH Fed. Sec. L. Rep. ¶72,446], effective September 1, 1995, 60 FR 38918; and Release No. IC-21946 [CCH Fed. Sec. L. Rep. ¶ 85,805], effective June 14, 1996, 61 F.R. 24652; Release No. IC-22224 [CCH Fed. Sec. L. Rep. ¶ 85,845, effective October 7, 1996, 61 F.R. 49957; Release No. IC-22815[CCH Fed. Sec. L. Rep. ¶ 85,906, effective October 11, 1997, 62 F.R. 47934; Release No. IC-22921 [CCH Fed. Sec. L. Rep. ¶ 85,973], effective February 10, 1998, 62 F.R. 64968; Release No. 33-7684 [CCH Fed. Sec. L. Rep. ¶ 86,138], effective June 28, 1999, 64 F.R. 27888; Release No. 33-8147 [CCH Fed. Sec. L. Rep. ¶ 86,801], effective December 23, 2002, compliance and phase-in dates range from January 1, 2003, to January 1, 2004, see text of release for compliance details, 67 F.R. 69974; Release No. 33-8294 (¶86,968), effective for fund advertisements submitted for publication after March 31, 2004, 68 F.R. 57760; Release No. 33-8408 [CCH Fed. Sec. L. Rep. ¶ 87,173], effective May 28, 2004, 69 F.R. 22300.

[12] *See* Release No. IC-25802 (Nov 13, 2002) [CCH Fed. Sec. L. Rep 86801].

[13] *See* Report-Letter, CCH Fed. Sec. L. Rep. #2018, June 25, 2003.

[14] *See* Arthur Levitt, *Plain English in Prospectuses*, New York State Bar Journal (Nov. 1997) at 36.

the cost of investing in other variable annuity contracts. These costs include contract owner transaction expenses, contract fees, separate account annual expenses, and [portfolios company] fees and expenses.

The Example assumes that you invest $10,000 in the contract for the time periods indicated. The Example also assumes that your investment has a 5% return each year and assumes the maximum fees and expenses of any of the [portfolio companies]. Although your actual costs may be higher of lower, based on these assumptions, your costs would be:

(1) *If you surrender your contract at the end of the applicable time period: …*
(2) *If you annuitize at the end of the applicable time period: …*
(3) *If you do not surrender your contract: ….*

All of the variable annuity fee table requirements are modeled after the mutual fund fee table in form N-1A, and facilitate full disclosure of cost information in a uniform format that lends to comparison shopping.

The SEC's comprehensive prospectus simplification projects, particularly with regard to fees, charges and risks, provides valuable information for consumers.[15] One of the central goals of the SEC's project was to thwart corrosive "disclosure creep." [16] The potentially inconsistent oral disclosure required in the proposal will dilute the value of uniform prospectus disclosure and overload consumers with redundant information.

The proposal's requirement for salespersons to confirm a customer's understanding of "the material features of the variable annuity" is largely an oral substitute for the written point-of-sale document the NASD dropped from the latest version of the rule. An oral point-of-sale requirement does not answer the large volume of commentary against largely similar written point-of-sale standards in the NASD's draft proposal,[17] and is a regulatory sleight of hand. Isolated, non-contextual disclosure may lead consumers to focus principally on fees and charges, instead of whether the variable annuity is suitable for their needs and circumstances.

A clear, but unstated, premise in the proposal is that consumers do not read their prospectuses. We do not agree with this presumption. In any event, it is the SEC's responsibility to address this issue, not the NASD's.

Proposed SEC Point-of-Sale Disclosure. The SEC has proposed point-of-sale disclosure in confirmation rule amendments.[18] We commend the NASD for dropping its written point-of-

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[15] The SEC has published Guide 13 to accompany Form N-4 that provides specific guidance in addition to the instructions in the form. The presentation of the fee table is thoroughly covered in Form N-4 and its amendments.

[16] *Id*. at 38. Former SEC Chairman Levitt observed that the prospectus simplification project began "with the clear understanding that our eventual goal is to purge the entire document of words that, in the famous phrase of George Orwell, 'fall upon the facts like soft snow, blurring the outlines and covering up all the details.' " The NASD proposal for oral disclosure could create the very kind of blurring disclosure Chairman Levitt condemned.

[17] The NASD's discussion of commentary in its filing with the SEC did not fairly or adequately address the wide range of input offered on the proposal. For, example, it did not discuss in the extensive similar disclosure in the variable annuity fee table, risk disclosure, or Example. SRO rulemaking should fully respond to all commentary.

[18] *Rule 15c2-2(b) would require broker-dealers to give customers written confirmation of :*

- The date of the transaction;
- The issuer and class of the covered security;
- The net asset value of the shares or units and, if different, the public offering price of the shares

sale proposal, although the requirement that the customer has been informed of the unique features of the variable annuity is largely oral disclosure about the same matters. Rule 2821's oral disclosure would contain the same category of information in the SEC's point-of-sale proposal. The need for required oral disclosure duplicating prospectus disclosure *and* the SEC's proposed point-of-sale requirement is not compelling

State Insurance Regulation. Several aspects of the proposal unnecessarily duplicate existing requirements of state insurance laws and regulations. A good example is the proposal's requirement that the registered principal review and approve whether the customer's account has had another deferred variable annuity exchange within the preceding 36 months.

State replacement regulations require very detailed procedures protecting consumers against abusive replacements. Specific standards, undertakings, plain-English consumer disclosure, and acknowledgement forms already exist. For background, an overview of state replacement standards is set forth in Appendix A to this comment letter. The NASD proposal, therefore, duplicates existing state insurance law standards.

We have also included in Appendix B to this comment letter a broad overview of comprehensive state and federal regulatory requirements to highlight the wide range of existing laws, and how the proposal would add to an already vast scope of regulation. Variable annuities are one of the most heavily regulated financial products in today's market place. Variable annuities are subject to the jurisdiction and regulations of the SEC, NASD and 53 state insurance jurisdictions. No other product is subject to three levels of substantive regulation. Any new regulations must be founded on a well-substantiated regulatory need.

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or units;
- The number of shares or units of the security purchased or sold by the customer, the total dollar amount paid or received in the transaction and the net amount of the investment bought or sold in the transaction;
- Any commission, markup or other remuneration received or to be received by the broker, dealer or municipal securities dealer from the customer in connection with the transaction;
- any deferred sales load that the customer has incurred or will incur in connection with the transaction; and,
- when applicable, the fact that the broker-dealer involved is not a member of SIPC.

The proposed amendments to Rule 15c2-2(c) would require added disclosure about:
- The amount of any sales load that the customer has incurred or will incur at the time of purchase, expressed in dollars and as a percentage of the net amount invested, together with:
  - If the customer will incur a sales load at the time of sale, information about the availability of breakpoints;
  - If the customer will not incur a sales load at the time of sale, information about the availability of breakpoints with regard to a different class of the covered security.
- An explanation of the potential amount of any deferred sales load that the customer may incur in connection with any subsequent sale of the shares or units purchased in the transaction;
- An explanation of any asset-based sales charges and asset-based service fees incurred, or to be incurred, by the issuer of the covered security in connection with the customer's purchase of the shares or units;
- The amount of any dealer concession that the broker, dealer or municipal securities dealer will earn in connection with the transaction, expressed in dollars and as a percentage of the net amount invested;
- Disclosure of payments to broker-dealers attributable to revenue sharing and portfolio securities transactions; and
- Disclosure about differential compensation practices related to the covered security purchased.

Specific Provisions in the Proposal

The proposal establishes several suitability and supervisory requirements for broker-dealers distributing variable annuities. Most of the proposal's requirements are already subsumed in current NASD standards. The repackaging of existing requirements in separate rules thwarts coordinated system-wide compliance procedures.

In addition, variable product salespersons fulfill a significant network of state and federal suitability standards protecting consumers and the integrity of the sales process.[19] Added layering of repetitive obligations is unconstructive.

The proposed rule restates requirements that already apply under NASD's current Conduct Rules, including Rule 2310[20] (Suitability), IM-2310-2 (Fair Dealing with Customers), Rule 3010(d)(1)(Review of Transactions) and Rule 3110 and IM 3110-1 (Customer Account Information). This approach does not improve compliance or market conduct. In fact, it impedes consistent, system-wide compliance practices.

For example, Rule 2821 does not apply to recommendations to reallocate subaccounts after the initial purchase or exchange of a variable annuity. The release explains that any recommendation for subsequent reallocations are, however, subject to the general NASD

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[19] *See* Wilkerson, *Covering All the Bases: An Integrated Approach to Suitability*, Association of Life Insurance Counsel Proceedings (2002) at 1; Wilkerson, *Variable Product Distribution: A Continuing Study of Compliance Examinations, Inspections Sweeps and Evolving Regulatory Standards*, Understanding Securities Products of Insurance Companies, Practicing Law Institute (2001) at 295.

[20] NASD Rule 2310, Recommendations to Customers (Suitability), provides:

(a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

(b) Prior to the execution of a transaction recommended to a non-institutional customer, other than transactions with customers where investments are limited to money market mutual funds, a member shall make reasonable efforts to obtain information concerning:

> (1) the customer's financial status;
>
> (2) the customer's tax status;
>
> (3) the customer's investment objectives; and
>
> (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

(c) For purposes of this Rule, the term "non-institutional customer" shall mean a customer that does not qualify as an "institutional account" under Rule 3110(c)(4).

suitability Rule 2310. As a result, two different NASD suitability rules would apply: 2821 to the initial sale, and 2310 to subsequent reallocations. A single suitability rule would better enhance enterprise-wide compliance uniformity. Applying two suitability rules to different phases of the variable annuity creates unnecessary administrative and compliance complexity. Other securities, such as mutual funds, apply a single suitability rule for recommendations to purchase as well as to reallocate.[21]

Subsection (b)(1) of the proposed rule ("Recommendation Requirements") restates several existing rule standards. Rule 2310(a) already requires members to have reasonable grounds for believing that all recommendations to purchase, sell or exchange any security are suitable. Furthermore, Rule 2310(b) requires a member to make reasonable efforts to obtain information about the customer's investment objectives and other information needed to make suitable recommendations.

Subsection (b)(1)(A) requires that members and their associated persons have a reasonable basis to believe that the customer has been informed of the material features of the deferred variable annuity. As a practical matter, NASD Rules 2110, 2120, IM-2210-2 and 3010 cover this responsibility.

Subsection (b)(1) requires members and their associated persons to have a reasonable basis to believe that the deferred variable annuity and the selected underlying subaccounts are suitable for the particular customer. Again, Rule 2310 has generally been interpreted, correctly in our view, to require this kind of suitability analysis.

Subsection (b)(1) requires suitability determinations to be documented and signed by the associated person recommending the transactions, in addition to being approved by a registered principal, as required by paragraph (c) of the new rule. To the extent this requirement is a restatement of what Rules 2310, 3010(d)(1) and 3110(c)(1)(C) already require, it is unnecessary.

Subsection (b)(1) requires the salesperson to ascertain several factors before making a recommendation. Subsection (b)(1)(B) requires affirmation that the customer has a long-term investment objective. Neither the proposal nor the release defines the scope of the term "long-term." The individual customer circumstances and the individual variable annuity design can vary greatly, and may be a difficult benchmark for consideration in a suitability analysis.

To the extent Rule 2821 advances, we offer a number of observations and suggestions. The proposal's required comparison to other investments in Subsection (b)(1)(C) is troubling for several reasons. While we are not clear what "comparable" products the NASD staff had in mind with this question, the standard reflects a disturbing notion that variable annuities are fungible with some other security, like mutual funds. This notion is incorrect, and reflects an invalid perception about variable annuity fees and charges.

While it is true that variable annuity fees and charges are different from other products like

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[21] Some observers find that Rule 2821(a)(1) should be clarified to state that the rule's suitability standards do not apply to premiums transmitted to an insurer after the initial purchase of the variable annuity contract because allocations later associated with subsequent premium payments are separate from recommendations associated with the initial premium payment. This suggestion is sound.

mutual funds, it is also true that variable annuities are a completely different product with long-term mortality guarantees. Fees and charges for these insurance and long-term guarantees are set forth in the fee table and fully discussed in the prospectus.

A variable annuity is a financial product that can provide a life-time stream of income, something offered by no other financial product. Indeed, this unique factor makes the proposed comparisons to other financial products inapt and misleading. The release appears to have lost this critical distinction. Values accumulate in the variable annuity based on the performance of underlying investment portfolios. By tracking the performance of the economy, annuity values can protect against a decline in purchasing power caused by inflation. Some variable annuities protect beneficiaries' interests with life insurance in case the annuity owner dies before annuity payments commence, and reduce beneficiaries' exposure to investment risk.

As a consequence of these unique features, variable annuities are not "comparable" with other financial products. Form N-4 requires a fee table "Example" highlighting comparative variable annuity costs at one, three, five, and ten-year intervals. These costs include contract owner transaction expenses, contract fees, separate account annual expenses, and [portfolios company] fees and expenses.

The Example shows the impact of these collective fees and charges, including various surrender scenarios, on a $10,000 variable annuity account value assuming a 5% rate of return. This approach facilitates comparison shopping, fee translation, and performance visualizations. The fee table and Example provide meaningful tools for comparison shopping in a relevant fashion.

If Rule 2821 advances, it would be far more effective to require a representation that the salesperson directed the customer's attention to the variable annuity synopsis, fee table, Example, risk disclosure and accompanying information. If the SEC or the NASD believe the variable annuity prospectus is inadequate in any respect, revision of the prospectus is far preferable to a rule requiring uncertain comparisons with other financial products. We would be happy to work with the SEC to enhance the variable annuity prospectus.

The release indicates that "a general comparison with other types of investment products" would fulfill the determination in Subsection (b)(1)(C). [22] This loose, generalized standard of comparison contradicts longstanding NASD admonitions against inapt or less than exacting investment comparisons.[23] For example, Rule 2210 governs communications with the public and mandates that "any comparison in advertisements or sales literature between investments or services must disclose all material differences between them, including investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, fluctuation of principal or return, and tax features." This strict, unequivocal guidance on public communications is inconsistent with the "general" comparison the NASD suggests in Rule 2821(b)(1)(C). The NASD advertising staff firmly rejects advertising that does not meet the precise standards in Rule 2210. The comparison standard should be stricken from Rule 2821.

Subsection (b)(2) requires salespersons to gather categories of customer information, including "insurance holdings." The scope of this category is not defined, and could comprise a wide

[22] *See* footnote 20 in the release.
[23] *See* Rule 2210(d)(2)(B).

array of information not germane to securities suitability. While perhaps the provision pertains to life insurance, the connection to a variable annuity purchase is not clear. The death benefit in a variable annuity contract is different from other life insurance benefits. The nexus to insurance holdings in a suitability fact finding is unclear, and of nebulous value. We recommend that it be eliminated if Rule 2821 is advanced.

Subsection (b)(1) requires the various "determinations" to be "documented." While the records traditionally required for a salesperson's suitability analysis are unobjectionable, the "documentation" of the comparison to other investment vehicles is unclear and open-ended. The extent of "adequate" documentation is unclear regarding investment comparisons and burdensome, particularly in light of the release's aberrant guidance noted above which deviates from other current NASD standards. This deficiency would be obviated by eliminating the requirement to compare variable annuity recommendations with other financial products.

Subsection (c) requires a registered principal to review and approve a variable annuity recommendation before the application is transmitted to the life insurer, regardless of whether the transaction has been recommended. As with subsection (b)(2), we do not believe it is appropriate to impose these requirements unless a salesperson is recommending the transaction. Other securities sales do not face review for transactions not recommended, and the proposal has not demonstrated why a different standard should apply to variable annuities.

More importantly, performing the procedure described in this subsection before transmitting the application is unwise. In similar contexts, the SEC by rule allows insurance companies two business days after receipt to process a variable annuity application[24] and by order exempts insurance companies from the standard t+3 settlement time frame.[25] The same kinds of considerations warrant more time for suitability supervision here. Moreover, state insurance laws typically give customers the right to return a variable annuity contract after it is delivered through "free look" provisions. We have included a chart summarizing free look provisions as Appendix C.

"Free look" provisions offer a greater opportunity to redress unsuitable sales after the fact than for products that do not offer a right to return and for which the proposed transactional delay would not apply. Imposing a delay before transmitting variable annuity applications is both unnecessary and arbitrary. Moreover, it may injure customers by unnecessarily delaying pricing of the contract.

Rule 2821(c) merges the variable annuity application process with principal review standards. This approach conflicts with important regulatory practices fully recognizing, and developed around, the application process. For example, the two-day five-day pricing practices allowed in Rule 22(c)-1(c) under the Investment Company Act of 1940 recognize the significance of the application process in pricing variable contracts promptly.

[24] Rule 22c-1(c) under the Investment Company Act allows two business days for processing an initial variable annuity application that is in good order. The rule allows up to five business days to complete a variable annuity application that is not in good order, or longer if the customer consents.

[25] Securities Transaction Settlement, Securities Act Release No. 7177 (June 6, 1995) (available on Westlaw 1995 WL 357899); Industry Comment Letter (publicly available November 3, 1995) (available on Westlaw 1995 WL 815284).

Unfortunately, Rule 2821(c) blends supervision timetables with good order processing and prompt pricing standards. Principal review should be separated in the rule from the application process to best serve these worthwhile, but distinct, goals. In time-linking these two objectives, Rule 2821(c) impairs both. Principal review should not be tied to the application process. Instead, the rule should be revised to require principal review to occur "promptly" and in light of the individual facts and circumstances of each situation.

If after further consideration, the SEC determines that supervision should be interlinked with the contract application process, then a preferable alternative trigger point for principal review would be before the contract is issued by the life insurer. While this would require logistical coordination between principal and issuer, it would allow insurers to process applications coextensively with the supervisory review, but before the security is issued. Such an approach avoids delays in pricing due to delayed transmission of applications.

We are also concerned that Rule 2821(c) effectively imposes a pre-approval requirement that is greater than, and different from, other securities sales. Additionally, the need for this unique standard is not clearly explained in the proposal or release. Because the proposal would require the principal review to occur before the application is transmitted to a life insurer, it may unduly shorten the time for review to prevent delay in the pricing and processing of the contract. This is a poor consequence for broker-dealers and customers alike.

Some of the verifications the rule would require principals to make are challenging because principal is not in the position to reduplicate each step of the salesperson's analysis of the customer's facts. NASD Supervision Rule 3110 requires instead a verification that the salesperson made a recommendation meeting an identified objective of the customer based on facts elicited, and that he transaction is not unsuitable for the customer. It does not require the principal to fully reduplicate all the salesperson's suitability determinations. Instead, the rule requires that the principal to determine that the salesperson had a reasonable basis founded on sufficient information to make a suitable determination. The proposal should not have a different approach as a matter of consistency and uniformity.

Competitive and Economic Impact

The NASD's proposal contains no economic impact statement, and does not quantify the burdens on broker-dealers or variable product manufacturers under the proposed changes. The initiative would impose unnecessary expenses on these groups. The economic burden of the proposal greatly overshadows its benefits. The proposal may impose substantial, unwarranted competitive burdens on the variable annuity industry. These are important considerations for the SEC in reviewing and approving this specific NASD initiative.

When it amended the Exchange Act in 1975, Congress specifically charged the SEC with the responsibility to evaluate competitive burdens of SRO rules and rule changes. The Senate report on the legislation stated that:

> Sections 6(b)(8), 19(b) and 19(c) of the Exchange Act would obligate the Commission to review existing and proposed rules of the self-regulatory organizations and to abrogate any present rule, or to disapprove any proposed rule, having the effect of a competitive restraint it finds to be neither necessary nor appropriate in furtherance of a legitimate regulatory objective.[26]

Section 23(a) of the Exchange Act was also added in 1975, and requires the SEC to consider the anti-competitive effects of rule changes, and to balance any impact against the regulatory benefit to be obtained.[27] Similarly, Sections 15A(b)(6) and (9) of the 1934 Act require the SEC to evaluate carefully the competitive impact of proposed SRO rules and amendments.

The Securities Act Amendments of 1975 significantly expanded the SEC's oversight and regulatory powers concerning SRO rules, and specifically directed the SEC to carefully evaluate competitive factors in exercising its SRO oversight. Importantly, Congress did not intend to confer general antitrust immunity on SRO rulemaking that was subject to the SEC's oversight review.[28]

The antitrust immunity created by Congress contemplates active oversight by the SEC in executing its responsibilities to ensure consistency with the securities laws, and to blunt the anticompetitive behavior inherent in self-regulatory conduct. Otherwise, a Congressional grant of substantial regulatory authority to private organizations without federal regulatory oversight would violate the constitutional prohibition against the delegation of legislative powers.

In order for SEC review to provide immunity for self-regulatory conduct, the review must be active, and must result in a ruling by the SEC that is judicially reviewable.[29] Section 25 of the 1934 Act states that the SEC's actual findings are conclusive if supported by substantial *evidence*, and that its decisions should be overturned only if "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law, the excess of statutory jurisdiction, authority, or limitations, or short of statutory right, or without observance of procedures required by law." The proposed rule amendments fail the statutory safeguards to competition set forth above.

In a different context, former SEC Chairman Levitt emphasized the importance of reviewing the impact of rulemaking on competition when he stated:

> In response to the National Securities Markets Improvement Act of 1996 (NSMIA),

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[26]S. Rep. 94, 94th Cong., 1st Sess. (April 14, 1975) at 12.

[27]*Id*. at 12.

[28]*See*, Smythe, *Government Supervised Self-Regulation in the Securities Industry and the Antitrust Laws: Suggestions for an Accommodation*, 62 N.C. L. Rev. 475 (1984) at 504 [the SEC has an obligation in reviewing SRO conduct to "weigh the competitive impact in reaching regulatory conclusions"].

[29]*Id.*

> the Commission has rededicated itself to considering how rules affect competition, efficiency, and capital formation as part of its public interest determination. Accordingly, the Commission intends to focus increased attention on these issues when it considers rulemaking initiatives. In addition, the Commission measures the benefits of proposed rules against possible anti-competitive effects, as required by the Exchange Act.[30]

The NASD's rule request for SRO rule approval does not fulfill the important SEC and statutory goals to protect both competition and investors. The SEC should not approve the NASD initiative without modifications to remedy the rules' anticompetitive impact. If the proposed single-product suitability rule advances, it will be incumbent on the NASD promptly to adopt multiple single-product suitability and supervision rules for securities incurring a greater incidence of disciplinary actions and complaints.[31] Otherwise, the NASD would be targeting one of many financial products in a discriminatory, burdensome fashion without firm rationale.

Request to Meet with SEC Staff to Discuss Rule 2821

We believe it would be constructive to meet with SEC staff to discuss our concerns and submission in greater detail. In the interest of full input under the Administrative Procedure Act, we respectfully request the opportunity to meet with the SEC staff for these purposes.

Conclusion

The life insurance industry condemns any unsuitable variable annuity sales. There is no place for unscrupulous practices. Abusive sales conduct harms consumers and life insurers alike. We support firm application of the securities laws against wrongdoing.

The most effective solution to inappropriate variable annuity sales is strong enforcement of existing suitability and supervision standards. The current suitability and supervision rules provide significant, uniform standards assuring appropriate market conduct. The NASD has comprehensive enforcement and examination tools at its disposal.

The variable annuity prospectus communicates uniform and essential disclosure about many of the issues identified by the NASD. The fee table, Example, synopsis, and risk disclosure convey valuable information to consumers making purchase decisions, and provide a

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[30] *See* testimony of Arthur Levitt, SEC Chairman , concerning appropriations for fiscal year 1998 before the Subcommitte on Commerce, Justice, and State, the Judiciary, and Related Agencies of the House Committee on Appropriations (Mar 14, 1997), which appears at http://www.sec.gov/news/testimony/testarchive/1997/tsty0497.txt

[31] As a point of reference, the NASD has published suitability and supervision concerns about various other securities, such as collateralized mortgage obligations, funds of hedge funds, non-conventional investments, mutual funds, and direct participation programs, without creating free standing suitability or supervision rules. *See* Notice to Members 93-73 [Members Obligations When Selling Collateralized Mortgage Obligations]; NASD Investor Alert-*Funds of Hedge Funds: Higher Costs and Risks for Higher Potential Return* (Aug. 23, 2003); Notice to Members 03-07[Non-Conventional Investments]; Notice to Members 94-16 [NASD Reminds Members of Mutual Fund Sales Practice Obligations (on break points and switching]; Notice to members 95-80 [NASD Further Explains Members Obligations and Responsibilities Regarding Mutual fund Sales Practices]; Notice to Members 91-69[Secondary Market in Direct Participation Programs]. To address break point abuses in mutual fund sales, the NASD issued IM-2830-1, not new suitability and supervision rules.

consistent source of updated content reviewed by the SEC. We would welcome the opportunity to work with the SEC to enhance the variable annuity prospectus standards. A more constructive alternative to the proposal would require broker-dealers to strongly encourage consumers to carefully read the prospectus.

The proposal does not adequately demonstrate a need for new regulations based on objective empirical data. There is no demonstration that the proposed rule changes will materially change the targeted conduct. The initiative lacks any quantification of economic impact. The proposal has not fulfilled the important anti-trust standards Congress established for SRO rulemaking.

Objective data on NASD disciplinary actions and SEC complaint history do not support the initiative's stated purpose. The proposed rule repackages current training, supervision, and suitability standards and may thwart enterprise-wide compliance uniformity. Detailed federal securities and state insurance laws comprehensively govern the manufacture and sale of variable annuities, and provide important consumer protection.

In sum, the burdens of the proposal greatly outweigh its putative benefits. Responsible rulemaking requires rigorous analysis and articulate justification. On these measures, the proposal should be dropped. If the proposal is advanced further, it needs substantial modification to eliminate confusing imprecision and unwarranted burdens.

We greatly appreciate your attention to our views, and would be happy to address any questions that may develop.

Sincerely,

Carl B. Wilkerson

Carl B. Wilkerson

Appendix A to ACLI letter of Comment on NASD Rule 2821

1. NAIC Insurance and Annuities Replacement Model Regulation

A. In June 2000, the National Association of Insurance Commissioners (NAIC) adopted substantial amendments to the 1998 Insurance and Annuities Replacement Model Regulation that were supported by the ACLI and the life insurance industry. The modifications parallel the Iowa Replacement Regulation, which served as a template for many of the changes endorsed by the life insurance industry.

1. The amendments were developed with the Iowa Insurance Department to assure that none of the operative goals of the 1998 Model were weakened. The 2000 amendments should promote uniformity among state regulations.
2. Citation: Insurance and Annuities Replacement Model Regulation, NAIC Model Regulation Service-July 2000 at III-621-1, *See*, http://www.naic.org/1papers/models/Table_of_Contents2000.htm.

B. Approach of the amended regulation

1. The amended regulation establishes duties for insurance producers, replacing insurers, and existing insurers designed to protect consumers.
    1. For example, insurers using insurance producers must, among other things:
        (1) Maintain a system of supervision and control;
        (2) Have the capacity to monitor each producer's life and annuity replacements for that insurer;
        (3) Ascertain that required sales material and illustrations are complete and accurate; and
        (4) Maintain records of required notification forms and illustrations that can be produced.
    2. A required notice of replacement must be presented, read to consumers, and signed by the producer and consumer.
2. The regulation lists illustrative violations, and establishes penalties that may include the revocation or suspension of a producer's or company's license, monetary fines, and forfeiture of commissions or compensation. Commissioners may require insurers to make restitution, and restore policy values with interest when violation are material to the sale. [See, Section 8 of the regulation].

C. Overview of Issue

1. A replacement occurs when an individual uses existing life insurance policy or annuity contract values to purchase a new policy or contract.
2. A replacement may involve the use of the entire value of an existing policy or contract, as in the case of a surrender, or it may involve the use of only a portion of the existing values.

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3. Under the NAIC Model as amended in 2000, the use of *any* portion of the values of an existing policy or contract to purchase a new policy or contract constitutes replacement, including borrowing, assigning dividends, lapsing, or forfeiting.
    1. External replacement occurs when a company replaces the life or annuity product of another company.
    2. Internal replacement occurs when a company replaces a life or annuity contract that it has already issued.

D. *Purpose* of the Amended NAIC Replacement Regulation

1. To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.
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, and to:
    1. Assure that purchasers receive information with which a decision can be made in his or her own best interest;
    2. Reduce the opportunity for misrepresentation and incomplete disclosure; and
    3. Establish penalties for failure to comply with the regulation.

E. Regulation Applies to Variable Life Insurance and Variable Annuity Replacements

1. The term replacement is defined in the regulation to mean 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 force of for which benefits would be paid;
    4. Reissued with any reduction in cash value; or
    5. Used in a financed purchase.
2. The regulation excuses variable life and variable annuity contracts from requirements in Sections 5(A)(2) and 6(B) to provide illustrations or policy summaries.
    1. In place of the policy summaries and illustrations requirement, the regulation mandates "premium or contract distribution amounts and identification of the appropriate prospectus or offering circular" instead.
    2. In all other respects, the regulation fully applies to individual variable contract replacements.

F. *Exceptions* from regulation for group contracts

1. The regulation does not apply to transactions involving:
    1. 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 non-qualified deferred compensation arrangement established or maintained by an employer or plan sponsor.
    2. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer.
    3. Credit life insurance.

G. Duties of Producers and Insurers in Replacement Transactions

1. Duties of insurers that use producers [Section 4.]
    1. Under the regulation, each insurer must:
        (1) *Maintain a system of supervision and control* to insure compliance with the requirements of this regulation that shall *include at least* the following:

            (a) *Inform its producers of the requirements of the regulation* and incorporate the requirements of the regulation into all relevant *producer training manuals* prepared by the insurer;

            (b) *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;

            (c) *A system to review the appropriateness* of each replacement transaction *that the producer does not indicate is in accord with the regulation's standards;*

            (d) Procedures to *confirm* that the *requirements* of this regulation have been *met*; and

            (e) Procedures to *detect transactions that are replacements of existing policies* or contracts by the existing insurer, but that have not been identified as such by the applicant or producer.

        (2) *Have the capacity to produce*, upon request, and make available to the Insurance Department, *records of each producer's*: ......

            (a) *Replacements*, including financed purchases, as a percentage of the producer's total annual sales for life insurance and annuity contracts not exempted from this regulation;

(b) *Number of lapses* of policies and contracts by the producer as a percentage of the producer's total annual sales for life insurance and annuity contracts not exempted from this regulation;

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

(d) *Replacements, indexed by replacing producer and existing insurer*.

(3) 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;

(4) 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 to the regulation;

(5) When the applicant has existing policies or contracts, retain completed and signed copies of the notice regarding replacements in its home or regional office for at least five years after the termination or expiration of the proposed policy or contract;

(6) When the applicant has existing policies or contracts, obtain and retain copies of any sales material as required by Section 3(E) of the regulation, the basic illustration and any supplemental illustrations used in the sale and the producer's and applicant's signed statements with respect to financing and replacement in its home or regional office for at least five years after the termination or expiration of the proposed policy or contract

(7) Records required to be retained by the regulation may be maintained in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process which accurately reproduces the actual document.

2. Duties of Replacing Insurers that Use Producers [Section 6].

   1. 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 the regulation;

(2) Notify any other existing insurer that may be affected by the proposed replacement within five 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 business days of a request from an existing insurer; [*note*: this illustration and policy summary requirement does not apply to variable contracts.]

(3) Be able to produce copies of the notification regarding replacement required in Section 4(B), *indexed by producer, in its home or regional office* for at least five 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 considerations 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 considerations or imposed under such policy or contract.

2. In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control [*internal replacements*] 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.

3. If an insurer *prohibits the use of sales material other than that approved* by the company, as an alternative to the requirements of Section 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*;

(b) *Lists*, by identifying number or other descriptive language, the *sales material that was used*; and

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

(2) Within ten 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 Section 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) *Keep a copy of the letter* or other verification *in the policy file at the home or regional office for at least five years* after the termination or expiration of the policy or contract.

3. Duties of the Existing Insurer [Section 6].

1. Where a replacement is involved in the transaction, the existing insurer shall:

(1) Upon notice that its existing policy or contract may be replaced or a policy may be part of a financed purchase, *retain copies* of the notification in its home or regional office, *indexed by replacing insurer*, notifying it of the

replacement for at least five years or until the conclusion of the next regular examination conducted by the Insurance Department of its state of domicile, whichever is later.

(2) 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 business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner.

(3) Upon receipt of a request to borrow, surrender or withdraw any policy or contract values, send to the applicant a notice, advising the policy or contract owner of the effect release of policy or contract values will have on the non-guaranteed elements, face amount or surrender value of the policy or contract 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 or contract owner. In the case of *consecutive automatic premium loans or systematic withdrawals* from a contract, the insurer is only required to send the notice at the time of the first loan or withdrawal.

4. Duties of Producers [Section 4].

   1. A producer who initiates an application must 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.
   2. If the applicant answered "yes" to the question regarding existing coverage referred to in Subsection (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 to the regulation or other substantially similar form approved by the commissioner. *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.
   3. 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.
   4. 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 policyholder in printed form no later than at the time of policy or contract delivery.
   5. Except as provided in Section 5(C) of the regulation, 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* used in the transaction

H. Selected Definitions

1. Section 2(D) defines the term financed purchase as “the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay all or part of any premium due on the new policy.”

    1. If a withdrawal, surrender, or borrowing involving the policy values of an existing policy are used to pay premiums on a new policy owned by the same policyholder within thirteen months before or after the effective date of the new policy and is known by the replacing insurer, or if the withdrawal, surrender, or borrowing is shown on any illustration of the existing and new policies made available to the prospective policyowner by the insurer or its producers, it will be deemed prima facie evidence of a financed purchase.

2. Section 2(I) defines the term *registered contract* as “a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.”

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APPENDIX A-1

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 life insurance policy 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, to pay all or part of any premium or payment due on the new policy. 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.

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, and the contract number if available) and whether each policy 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 A-2

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.

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APPENDIX A

Replacement of Life Insurance and Annuities: Life Insurance Law Survey

This multi-state compilation identifies the states that have based their life and annuity replacement requirements on the NAIC's Life and Annuities Replacement Model Regulation. The compilation specifically notes the states that have adopted the most current (1998) version of the model. Rather than summarizing other replacement requirements, the compilation provides citations to state law or regulations that correspond with several key elements of the NAIC model: definitions, duties of producers and insurers, and forms.

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Alabama	Yes	Applies to life insurance. Exemptions: Ala. Admin. Code r. 70, Sec. 5 • Annuities • Individual credit life • Group life, group credit life, and life insurance issued in connection with a tax qualified pension, profit-sharing or other benefit plan • Variable life • An application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised • Existing life insurance that is non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Definitions: Ala. Admin. Code r. 70, Sec. 3 (replacement); Sec. 4 (other) Duties: • Producers: Ala. Admin. Code r. 70, Sec. 6 • Replacing insurers: Ala. Admin. Code r. 70, Sec. 7 • Existing insurers: Ala. Admin. Code r. 70, Sec. 9 • Direct response: Ala. Admin. Code r. 70, Sec. 8 Forms: Ala. Admin. Code r. 70, Exhibit A (different companies); Exhibit B (same company); Exhibit C (direct response)
	Yes Effective 1/1/05 (1998)	*Effective 1/1/05: Applies to life insurance and annuities.* *Exemptions: Ala. Admin. Code r. 482-1-133-.02* • *Credit life* • *Certain group life and group annuities* • *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 the commissioner* • *Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company* • *Various pension, welfare, or deferred compensation plans* • *Non-contributory group life* • *Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed* • *Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities that are purchased with proceeds from an existing policy are not exempted from the requirements of this regulation* • *Structured settlements* • *Registered contracts (exempt from some requirements with provisos)*	*Effective 1/1/05: Definitions: Ala. Admin. Code r. 482-1-133-.03* *Duties:* • *Producers: Ala. Admin. Code r. 482-1-133-.04* • *All insurers using producers: Ala. Admin. Code r. 482-1-133-.05* • *Replacing insurers that use producers: Ala. Admin. Code r. 482-1-133-.06* • *Existing insurers: Ala. Admin. Code r. 482-1-133-.07* • *Direct response: Ala. Admin. Code r. 482-1-133-.08* *Forms: Ala. Admin. Code 482-1-133 Appendix A, Appendix B, Appendix C*
Alaska	N/A		No applicable provisions

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Arizona	Yes (1998)	Applies to life insurance and annuities. • Exemptions: Ariz. Rev. Stat. Ann. § 20-1241.01 • Credit life • Group policies and contracts that do not involve direct solicitation by producer • Policies and contracts used to fund prearranged funeral agreements • Various pension, welfare, or deferred compensation plans • 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 the director • Existing life insurance that is a nonrenewable and nonconvertible term life insurance policy that will expire in five years or less • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Non-contributory group life • Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities that are purchased with proceeds from an existing policy are subject to this article • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Ariz. Rev. Stat. Ann. § 20-1241 Duties: • Producers: Ariz. Rev. Stat. Ann. § 20-1241.03 • All insurers using producers: Ariz. Rev. Stat. Ann. § 20-1241.04 • Replacing insurers: Ariz. Rev. Stat. Ann. § 20-1241.05 • Existing insurers: Ariz. Rev. Stat. Ann. § 20-1241.06 • Direct response: Ariz. Rev. Stat. Ann. § 20-1241.07 Forms: Ariz. Admin. Code R20-6-215, NAIC Replacement Model Appendix A, Appendix B, Appendix C adopted by reference
Arkansas	No	Applies to permanent life insurance (currently) and annuities (beginning 1/1/05): Bulletins 8-2004 and 8A-2004. Exemptions: Bulletin 14-83 • Term life • Credit life • Group insurance • Life insurance issued in connection with a pension, profit-sharing or other benefit plan	Duties: • Producers: Ark. Code Ann. § 23-66-307 and Bulletin 6-89. Replacements that do not conform with Ark. Code Ann. § 23-66-307 are defined as "churning." Ark. Code Ann. § 23-66-206(13)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
California	Yes	Applies to life insurance and annuities. Exemptions: Cal. Ins. Code § 10509.3 • Credit life • Group life or group annuities • Application to the existing insurer that issued the existing life insurance when a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer • Transactions where the replacing insurer and the existing insurer are the same, with provisos • Registered contracts (exempt from some requirements with provisos)	Definitions: Cal. Ins. Code § 10509.2 Duties: • Producers: Cal. Ins. Code § 10509.4 • Insurers: Cal. Ins. Code § 10509.5 • All insurers using producers: Cal. Ins. Code § 10509.6 • Direct response: Cal. Ins. Code § 10509.7 Forms: Cal. Ins. Code § 10509.4(d) (from producer)
Colorado	Yes (1998)	Applies to life insurance and annuities. Exemptions: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 3 • Credit life • Certain group life and group annuities • 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 the commissioner • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities that are purchased with proceeds from an existing policy are not exempted from the requirements of this regulation • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 4 Exemptions: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 3 Duties: • Producers: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 5 • All insurers using producers: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section6 • Replacing insurers: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 7 • Existing insurers: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 8 • Direct response: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Section 9 Forms: Col. Code Regs. 3 Colo. Code Regs § 4-1-4, Appendices A and C – replacement forms for life insurance or annuities; Appendix B – notice to applicant to compare existing benefits against proposed contract.
Connecticut	N/A		Conn. Gen. Stat. § 38a-435 authorizes insurance commissioner to make regulations governing replacement of life insurance and annuities. No regulations to date.

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Delaware	Yes	Applies to life insurance and annuities. Exemptions: Del. Admin. Code tit. 18, Regulation 1204, Section 4.0 • Credit life • Group life or group annuities • An application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control. • Registered contracts (exempt from some requirements with provisos) • Life insurance or annuity products issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums (with provisos)	Definitions: Del. Admin. Code tit. 18, Regulation 1204, Section 2.0 (replacement); Section 3.0 (other) Duties: • Agents or brokers: Del. Admin. Code tit. 18, Regulation 1204, Section 5.0 • All insurers: Del. Admin. Code tit. 18, Regulation 1204, Section 6.0 • All insurers using agents or brokers: Del. Admin. Code tit. 18, Regulation 1204, Section 7.0 • Direct response: Del. Admin. Code tit. 18, Regulation 1204, Section 8.0 Forms: Del. Admin. Code tit. 18, Regulation 1204, Exhibit A
District of Columbia	N/A		No applicable provisions.
Florida	Yes	Applies to life insurance and annuities. Exemptions (from some requirements): Fla. Admin. Code Ann. 69B-151.004 and 69O-151.004 (formerly 4-151.004) • Industrial insurance • Group, franchise, and individual credit life • Group life insurance and life insurance policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums • An application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege is being exercised • Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed, unless such policy has tabular cash values • Proposed life insurance that is to replace existing life insurance issued under a binding or conditional receipt delivered by the same company • Variable life insurance or annuities under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account	Definitions: Fla. Admin. Code Ann. 69B-151.002 and 69O-151.002 (formerly 4-151.002) (replacement); 69B-151.003 and 69O-151.003 (formerly 4-151.003) (other) Duties: • Producers: Fla. Admin. Code Ann. 69B-151.002 (formerly 4-151.005) (agent); 69B-151.002 (formerly 4-151.006) (replacing agent) • Replacing insurers: Fla. Admin. Code Ann. 69O-4-151.007 (formerly 4-151.007) • Existing insurers: Fla. Admin. Code Ann. 69O-4-151.008 (formerly 4-151.008) Forms: OIR-B2-312 "Notice to Applicant Regarding Replacement of Life Insurance" and OIR-B2-313 "Comparative Information Form." Also, for information on churning, see: Fla. Stat. Ann. §§ 626.9541(1)(aa); 627.573; Fla. Admin. Code Ann. 69B-151.201 - 203 (formerly 4-151-201 to 4-151-203); and Form DI4-1180 "Policy Disclosure Form and Instructions."

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Georgia	Yes	Applies to life insurance and annuities replacing existing life insurance. Exemptions: Ga. Comp. R. & Regs. 120-2-24-.04 • Replacement of annuity contracts • Credit life • Group life • Life insurance issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos	Definitions: Ga. Comp. R. & Regs. 120-2-24-.03 Duties: • Producers: Ga. Comp. R. & Regs. 120-2-24-.05 • All insurers: Ga. Comp. R. & Regs. 120-2-24-.06 • All insurers using producers: Ga. Comp. R. & Regs. 120-2-24-.07 • Direct response: Ga. Comp. R. & Regs. 120-2-24-.08 Forms: Ga. Comp. R. & Regs. Chapter 120-2-24, Exhibit A (replacement notice)
Hawaii	Yes (1998)	Applies to life insurance and annuities. Exemptions: Hawaii Rev. Stat. § 431:10D-501; Hawaii Administrative Code § 16-3-3 • Credit life • Certain group life insurance or group annuities • 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 • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • Immediate annuities that are purchased with proceeds from an existing contract; provided that immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this part • Structured settlements. • Registered contracts (exempt from some requirements with provisos)	Definitions: Hawaii Rev. Stat. § 431:10D-502; Hawaii Administrative Code § 16-3-2 Exemptions: Hawaii Rev. Stat. § 431:10D-501; Hawaii Administrative Code § 16-3-3 Duties: • Producers: Hawaii Rev. Stat. § 431:10D-503; Hawaii Administrative Code § 16-3-5 • All insurers: Hawaii Administrative Code § 16-3-6 • All insurers using producers: Hawaii Rev. Stat. § 431:10D-504 • Replacing insurers: Hawaii Rev. Stat. § 431:10D-505 • Existing insurers: Hawaii Rev. Stat. § 431:10D-506 • Direct response: Hawaii Rev. Stat. § 431:10D-507 Forms: Hawaii Rev. Stat. § 431:10D-502 (direct response); Hawaii Administrative Code § 16-3-7, Exhibit A (disclosure statement); Exhibit B (notice)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Idaho	Yes	Applies to life insurance and annuities. Exemptions: Idaho Administrative Code 18.01.41 Section 011 • Credit life • Group life or group annuities • Existing insurer--An application to the insurer that issued the existing life insurance and a contractual change or conversion privilege being exercised • Binding or conditional receipt issued by same company--proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Common ownership or control--transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control, with provisos	Definitions: Idaho Administrative Code 18.01.41 Section 004 (replacement), Section 005 (other) Duties: • Producers: Idaho Administrative Code 18.01.41 Section 012 • All insurers: Idaho Administrative Code 18.01.41 Section 013 • All insurers using producers: Idaho Administrative Code 18.01.41 Section 014 • Direct response: Idaho Administrative Code 18.01.41 Section 015 Forms: Idaho Administrative Code 18.01.41 Section 016, Exhibit A
Illinois	Yes	Applies to life insurance and annuities. Exemptions: Ill. Adm. Code tit. 50, Section 917.50 • Credit life • Group life and group annuities • Life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for the tax deductibility of premiums • Registered contracts except that the appropriate prospectus or offering circular shall be given to the applicant • Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Transactions where the replacing insurer and the existing insurer are the same or are subsidiaries under common ownership or control, with provisos • The total cash surrender value of all existing policies which would be affected by the replacement is less than $500 and the sum of their face amounts is less than $5,000	Definitions: Ill. Adm. Code tit. 50, Section 917.30 (replacement); Section 917.40 (other) Duties: • Producers: Ill. Adm. Code tit. 50, Section 917.60 • Replacing insurers: Ill. Adm. Code tit. 50, Section 917.70 • Direct response: Ill. Adm. Code tit. 50, Section 917.80 Forms: Ill. Adm. Code tit. 50, Section 917, Exhibit A (notice re: replacement); Exhibit B (notice re: proposed replacement)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Indiana	Yes	Applies to life insurance and annuities. Exemptions: Ind. Admin. Code tit. 760 r. 1-16.1-4 • Individual and group credit life • Group life and life policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos • An existing life insurance policy in which a contractual change or conversion privilege is being exercised	Definitions: Ind. Admin. Code tit. 760 r. 1-16.1-2 (replacement); r. 1-16.1-3 (other) Duties: • Producers: Ind. Admin. Code tit. 760 r. 1-16.1-5 • Replacing insurers: Ind. Admin. Code tit. 760 r. 1-16.1-6 • Existing insurers: Ind. Admin. Code tit. 760 r. 1-16.1-8 • Direct response: Ind. Admin. Code tit. 760 r. 1-16.1-7 Forms: Ind. Admin. Code tit. 760 r. 1-16.112.5, Exhibit A (agent); r. 1-16.113.5, Exhibit B (direct response)
Iowa	Yes (1998)	Applies to life insurance and annuities. Exemptions: Iowa Admin. Code r. 191—16.23(507B) • Credit life • Certain group life insurance or group annuities • 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 • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • New coverage provided under a life insurance policy or contract where the cost is borne wholly by the insured's employer or by an association of which the insured is a member • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • 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 chapter • Structured settlement annuities • Registered contracts (exempt from some requirements with provisos)	Definitions: Iowa Admin. Code r. 191—16.22(507B) Duties: • Producers: Iowa Admin. Code r. 191—16.24(507B) • All insurers using producers: Iowa Admin. Code r. 191—16.25(407B) • Replacing insurers: Iowa Admin. Code r. 191—16.26(507B) • Existing insurers: Iowa Admin. Code r. 191—16.27(507B) • Direct response: Iowa Admin. Code r. 191—16.28(507B) Forms (NAIC models): Iowa Admin. Code r. Chapter 16, Appendix A; Appendix B; Appendix C

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Kansas	Yes	Applies to life insurance and annuities. Exemptions: Kan. Admin. Regs. § 40-2-12(b) • Application for the new life insurance is made to the same insurer that issued the existing life insurance, and a contractual policy change or conversion privilege is being exercised • New life insurance is provided under: (A) group life; or (B) mass marketed group life • Existing life insurance is a non-convertible term policy with five years or less to expire and which cannot be renewed • Solicitation is made by direct mail with provisos • Policy is issued in connection with a pension, profit sharing, an individual retirement account, or other benefit plan qualifying for an income tax deduction of premiums	Definitions: Kan. Admin. Regs. § 40-2-12(a) Duties: • Producers: Kan. Admin. Regs. § 40-2-12(c), (d), (h), (i), (j) • All insurers: Kan. Admin. Regs. § 40-2-12(e) • Replacing insurers: Kan. Admin. Regs. § 40-2-12(f) Forms: Kan. Admin. Regs. § 40-2-12(g), Exhibit A (different companies); Exhibit B (same company); Exhibit C
Kentucky	Yes	Applies to life insurance. Exemptions from some requirements: Ky. Rev. Stat. Ann. § 304.12-030(4) • Annuities • Individual credit life • Group life, group credit life, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos • Variable life • An application to the existing insurer that issued the existing life insurance and a contractual policy change or conversion privilege or a privilege of policy change granted by the insurer is being exercised • Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Definitions: Ky. Rev. Stat. Ann. § 304.12-030(1); 806 Ky. Admin. Regs. 12:080, Section 2 Duties: • Producers: Ky. Rev. Stat. Ann. § 304.12-030(2); 806 Ky. Admin. Regs. 12:080, Sections 4 and 7 • Replacing insurers: Ky. Rev. Stat. Ann. § 304.12-030(3) and (5); 806 Ky. Admin. Regs. 12:080, Section 5 • Existing insurers: 806 Ky. Admin. Regs. 12:080, Section 7 • Direct response: 806 Ky. Admin. Regs. 12:080, Section 6 Forms: 806 Ky. Admin. Regs. 12:080, Section 8, Departmental Form A (referenced); Bulletin 83-DM-004

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Louisiana	Yes (1998)	Applies to life insurance and annuities. Exemptions: La. Admin. Code tit. 37, § 8905 (Reg. 70) • Credit life • Certain group life or group annuities • 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 an approved by the commissioner of insurance • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • 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 regulation • Structured settlement annuities • Any insurer that markets under the Home Service Marketing Distribution System • Registered contracts (exempt from some requirements with provisos)	Definitions: La. Admin. Code tit. 37, § 8903 (Reg. 70) Duties: • Producers: La. Admin. Code tit. 37, § 8907 (Reg. 70) • All insurers using producers: La. Admin. Code tit. 37, § 8909 (Reg. 70) • Replacing insurers: La. Admin. Code tit. 37, § 8911 (Reg. 70) • Existing insurers: La. Admin. Code tit. 37, § 8913 (Reg. 70) • Direct response: La. Admin. Code tit. 37, § 8915 (Reg. 70) Forms: La. Admin. Code tit. 37, § 8921 (Reg. 70), Appendix; § 8923 (Reg. 70), Appendix B; and § 8925 (Reg. 70), Appendix C
Maine	N/A		No applicable provisions for life and annuity products.

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Maryland	Yes (1998)	Applies to life insurance and annuities. Exemptions: Md. Regs. Code 31.09.05.02 • Credit life • Certain group life or group annuities • An application to an insurer that issued an existing life insurance policy or existing annuity contract if: (a) A contractual change or a conversion privilege is being exercised; or (b) The existing life insurance policy or existing annuity contract is being replaced by the same insurer under a program filed with and approved by the Commissioner • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a nonconvertible term life insurance policy that will expire in 5 years or less and cannot be renewed • Immediate annuities that are purchased with proceeds from an existing annuity contract • Structured settlements	Definitions: Md. Regs. Code 31.09.05.03 Duties: • Producers: Md. Regs. Code 31.09.05.04 • All insurers using producers: Md. Regs. Code 31.09.05.05 • Replacing insurers: Md. Regs. Code 31.09.05.06 • Existing insurers: Md. Regs. Code 31.09.05.07 • Direct response: Md. Regs. Code 31.09.05.08 Forms: Md. Regs. Code 31.09.05.10, Replacement Form A; Md. Regs. Code 31.09.05.11, Replacement Form B; Md. Regs. Code 31.09.05.12, Replacement Form C
Massachusetts	Yes	Applies to life insurance and annuities. • Exemptions: Mass. Regs. Code tit. 211, § 34.03 • Credit life • Group life and group annuities • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Internal replacements where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control • Non-contributory group life • Life insurance policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums • Registered contracts (exempt from some requirements with provisos)	Definitions: Mass. Regs. Code tit. 211, § 34.02 Duties: • Producers: Mass. Regs. Code tit. 211, § 34.04 • All insurers: Mass. Regs. Code tit. 211, § 34.05 • All insurers using producers: Mass. Regs. Code tit. 211, § 34.06 • Direct response: Mass. Regs. Code tit. 211, § 34.07 Forms: Mass. Regs. Code tit. 211, § 34.04;

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Michigan	Yes	Applies to life insurance, excluding annuities in definition of life insurance. Exemptions: Mich. Admin. Code r. 500.601 and r. 500.605 • Application for the new life insurance made to the same insurer that issued the existing life insurance or to an affiliate of the existing insurer • New life insurance provided under any of the following plans with provisos: (a) group term life; (b) certain mass marketed policies; (c) life insurance policies issued in connection with a pension, profit sharing, or other benefit plan qualifying for tax-deductibility of premiums • Existing life insurance is a nonconvertible term policy which cannot be renewed and which would expire within five years after the initiation of the transaction	Definitions: Mich. Admin. Code r. 500.601 Duties: • Producers: Mich. Admin. Code r. 500.602 • All insurers: Mich. Admin. Code r. 500.603 • Replacing insurers: Mich. Admin. Code r. 500.604 Forms: Insurance Bureau Bulletin 84-6
Minnesota	Yes	Applies to life insurance and annuities. Exemptions: Minn. Stats. Ann. § 61A.54 • Credit life • Group life or group annuities • Application to the existing insurer that issued the existing life insurance or annuity, where a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos	Definitions: Minn. Stats. Ann. § 61A.53 Duties: • Producers: Minn. Stats. Ann. § 61A.55 • All insurers: Minn. Stats. Ann. § 61A.56 • All insurers using producers: Minn. Stats. Ann. § 61A.57 • Direct response: Minn. Stats. Ann. § 61A.58 Forms: Minn. Stats. Ann. § 61A.60, Subdivisions 1, 2, and 3

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Mississippi	Yes (1998)	Applies to life insurance and annuities. Exemptions: Miss. Ins. Reg. 99-2.1 • Credit life • Certain group life insurance or group annuities • 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 • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed; • Immediate annuities that are purchased with proceeds from an existing contract • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Miss. Ins. Reg. 99-2.2 Duties: • Producers: Miss. Ins. Reg. 99-2.3 • All insurers using producers: Miss. Ins. Reg. 99-2.4 • Replacing insurers: Miss. Ins. Reg. 99-2.5 • Existing insurers: Miss. Ins. Reg. 99-2.6 • Direct response: Miss. Ins. Reg. 99-2.7 Forms: Miss. Ins. Reg. 99-2, Appendix A, Appendix B, and Appendix C
Missouri	Yes	Applies to life insurance and annuities. Exemptions: Mo. Code Regs. Ann. tit. 20, § 400-5.400(4) • Credit life • Group life or group annuities • Application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same or are subsidiaries or affiliates under common ownership or control; with provisos • Policies issued in connection with a pension, profit sharing and individual retirement account or other benefit plan qualifying for tax deductibility of premium • Registered contracts (exempt from some requirements with provisos)	Definitions: Mo. Code Regs. Ann. tit. 20, § 400-5.400(2) and (3) Duties: • Producers: Mo. Code Regs. Ann. tit. 20, § 400-5.400(5) • All insurers: Mo. Code Regs. Ann. tit. 20, § 400-5.400(6) • All insurers using producers: Mo. Code Regs. Ann. tit. 20, § 400-5.400(7) • Direct response: Mo. Code Regs. Ann. tit. 20, § 400-5.400(8) Forms: Mo. Code Regs. Ann. tit. 20, § 400-5.400, Exhibit A and Exhibit B

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Montana	Yes (1998)	Applies to life insurance and annuities. Exemptions: Mont. Admin. Reg. 6.6.304 • Credit life • Certain group life or group annuities • 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 • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • Non-contributory group life • Immediate annuities that are purchased with proceeds from an existing contract • Structure settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Mont. Admin. Reg. 6.6.303 Duties: • Producers: Mont. Admin. Reg. 6.6.305 • All insurers using producers: Mont. Admin. Reg. 6.6.311 • Replacing insurers: Mont. Admin. Reg. 6.6.306 • Existing insurers: Mont. Admin. Reg. 6.6.308 • Direct response: Mont. Admin. Reg. 6.6.307 Forms: NAIC model forms—Appendices A, B, and C—incorporated by reference
Nebraska	Yes	Applies to life insurance and annuities. Exemptions: 210 Neb. Admin. Code Ch. 19, section 005 • Credit life • Group life or group annuities • An application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos • Registered contracts (exempt from some requirements with provisos)	Definitions: 210 Neb. Admin. Code Ch. 19, section 003 (replacement); 210 Neb. Admin. Code Ch. 19, section 004 (other) Duties: • Producers: 210 Neb. Admin. Code Ch. 19, section 006 • All insurers: 210 Neb. Admin. Code Ch. 19, section 007 • All insurers using producers: 210 Neb. Admin. Code Ch. 19, section 008 • Direct response: 210 Neb. Admin. Code Ch. 19, section 009 Forms: 210 Neb. Admin. Code Ch. 19, Exhibit A

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Nevada	Yes	Applies to life insurance (annuities are neither included nor specifically excluded). Exemptions: Nev. Admin Code § 686A.540 • Individual credit life • Group life insurance, group credit life insurance or life insurance issued in connection with a pension, profit-sharing or other benefit plan that qualifies for tax deductibility of premiums • Variable life under which the death benefits and cash values vary in accordance with the unit values of investments held in a separate account • Application made to an insurer under an existing policy for a contractual change or the exercise of a privilege of conversion • Existing policy which is a nonconvertible, term policy, will expire in five years or less and cannot be renewed • Proposed life insurance which is to replace life insurance under a binding or conditional receipt issued by the same company • Policy solicited through direct response with a face value of $5,000 or less	Definitions: Nev. Admin Code §§ 686A-510 - 686A.530 Duties: • Producers: Nev. Admin Code § 686A.550; § 686A.567 • Replacing insurers: Nev. Admin Code § 686A.555 • Direct response: Nev. Admin Code § 686A.560 Forms: Nev. Admin Code § 686A.563
New Hampshire	Yes (1998)	Applies to life insurance and annuities. Exemptions: N.H. Code Admin. R. Ann. Ins. 302.02 • Credit life • Certain group life or group annuities • 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; • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Non-contributory group life • Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed • 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 regulation • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: N.H. Code Admin. R. Ann. Ins. 302.03 Duties: • Producers: N.H. Code Admin. R. Ann. Ins. 302.04 • All insurers using producers: N.H. Code Admin. R. Ann. Ins. 302.05 • Replacing insurers: N.H. Code Admin. R. Ann. Ins. 302.06 • Existing insurers: N.H. Code Admin. R. Ann. Ins. 302.07 • Direct response: N.H. Code Admin. R. Ann. Ins. 302.08 Forms: N.H. Code Admin. R. Ann. Ins. 302, Appendix A, Appendix B, and Appendix C

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
New Jersey	Yes	Applies to life insurance. Exemptions: N.J. Admin. Code § 11:4-2.3 • Annuities • Individual credit life • Group life, group credit life, and life policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos • Variable life • An application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised • Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Definitions: N.J. Admin. Code § 11:4-2.2 Duties: • Producers: N.J. Admin. Code § 11:4-2.4 • Replacing insurers: N.J. Admin. Code § 11:4-2.5 • Existing insurers: N.J. Admin. Code § 11:4-2.7 • Direct response: N.J. Admin. Code § 11:4-2.6 Forms: N.J. Admin. Code § 11:4-2, Appendix A (different companies); Exhibit B (same company); Exhibit C (important notice); Exhibit D (comparative information form) [**Ed. Note**: Also see Bulletin No. 04-11, dated July 22, 2004, for information of impending adoption of current NAIC Replacement Model.]
New Mexico	Yes (1998)	Applies to life insurance and annuities. Exemptions: N.M. Admin Code tit. 13, § 9.6.2 • Credit life • Group life or group annuities where no direct solicitation by insurance producer • Group life and annuities used to fund prearranged funeral contracts • Application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised or when existing policy is being replaced by same insurer, with provisos • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Policies or contracts issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos, or nonqualified deferred compensation arrangement established or maintained by employer or plan sponsor • New coverage provided under an employer-paid life policy • Existing life insurance that is non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Immediate annuities purchased with proceeds from exiting contract • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: N.M. Admin Code tit. 13, § 9.6.7 Duties: • Producers: N.M. Admin Code tit. 13, § 9.6.8 • All insurers using producers: N.M. Admin Code tit. 13, § 9.6.9 • Replacing insurers using producers: N.M. Admin Code tit. 13, § 9.6.10 • Existing insurers: N.M. Admin Code tit. 13, § 9.6.11 • Direct response: N.M. Admin Code tit. 13, § 9.6.12 Forms: N.M. Admin Code tit. 13, § 9.6.14, Appendix A (notice to be signed by applicant and producer, if one); § 9.6.15, Appendix B (notice); § 9.6.16, Appendix C (notice to be signed by applicant)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
New York	Yes (but with many variations)	Applies to life insurance and annuities. Exemptions: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.3 • The application for the new life insurance policy or new annuity contract is made to the same insurer that issued the existing life insurance policy or annuity contract and a contractual conversion privilege is being exercised • A policy change customarily granted by the insurer is being exercised, provided such change results in no additional surrender or expense charge or suicide or contestable restrictions, and only to the extent such change is approved by the Superintendent of Insurance • New coverage under certain group life policies or group annuities • Individual life or individual annuity whose cost is borne wholly by the applicant's employer or by an association of which the applicant is a member • Certain mass marketed individual life policies or individual annuity contracts • The existing life insurance is a nonrenewable, nonconvertible term policy with five years or less to its expiration date	Definitions: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.2 Duties: • Producers: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.5 • All insurers: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.6 • Replacing insurers: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.6 • Existing insurers: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.6 Forms: N.Y. Comp. Codes R. & Regs. tit. 11, § 51.8, Appendix 10A (disclosure statement), Appendix 10B (annuity to annuity), Appendix 10C (notice), Appendix 11 (definition of replacement)
North Carolina	Yes (1998)	Applies to life insurance and annuities. Exemptions: N.C. Admin Code tit. 11, r. 12.0604 • Credit life • Group life or group annuities where no direct solicitation by insurance producer • Group life and annuities used to fund prearranged funeral contracts • Application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised or when existing policy is being replaced by same insurer, with provisos • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Policies or contracts issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos, or nonqualified deferred compensation arrangement established or maintained by employer or plan sponsor • New coverage provided under an employer-paid life policy • Existing life insurance that is non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Immediate annuities purchased with proceeds from exiting contract • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: N.C. Admin Code tit. 11, r. 12.0602 and 12.0603 Duties: • Producers: N.C. Admin Code tit. 11, r. 12.0605 • Existing insurer: N.C. Admin Code tit. 11, r. 12.0606 • Insurers using producers: N.C. Admin Code tit. 11, r. 12.0607 • Replacing insurers using producers: N.C. Admin Code tit. 11, r. 12.0611 • Direct response: N.C. Admin Code tit. 11, r. 12.0608 Forms: N.C. Admin Code tit. 11, r. 12.0611 (notice)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
North Dakota	N/A		No applicable provisions.
Ohio	Yes	Applies to life insurance and annuities. Exemptions: Ohio Admin. Code § 3901-6-05(C) • Credit life • Group life, group annuities, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums with provisos • Application to the insurer that issued the existing life insurance where a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Registered contracts (exempt from some requirements with provisos)	Definitions: Ohio Admin. Code § 3901-6-05(D) Duties: • Producers: Ohio Admin. Code § 3901-6-05(E) • All insurers: Ohio Admin. Code § 3901-6-05(F) • All insurers using producers: Ohio Admin. Code § 3901-6-05(G) • Direct response: Ohio Admin. Code § 3901-6-05(H) Forms: Ohio Admin. Code § 3901-6-05 Appendix
Oklahoma	No	Applies to life insurance and annuities. Exemptions: Okla. Stat. Ann. tit. 36, § 4032 • Credit life • Group life or group annuities • Contracts issued in connection with employee benefits or welfare plans as defined by ERISA • The exercise by an insured of an existing contractual right with the same insurer for the purchase of additional insurance under a guaranteed insurability provision or conversion option or any other contractual policy change privilege • Short-term nonrenewable life insurance policies written to cover periods of 31 days or less • An existing nonconvertible term life insurance policy which will expire in five years or less and which cannot be renewed • Proposed life insurance policy that is to replace life insurance under a binding or conditional receipt issued by the same company issuing the policy which is to be replaced	Definitions: Okla. Stat. Ann. tit. 36, § 4033 and § 4037 Duties: • Producers: Okla. Stat. Ann. tit. 36, § 4034 • All insurers: Okla. Stat. Ann. tit. 36, § 4034 • Existing insurers: Okla. Stat. Ann. tit. 36, § 4034 Forms: Okla. Stat. Ann. tit. 36, § 4035 (notice); § 4036 (applicant's statement); § 4037 (definitions)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Oregon	Yes (1998)	Applies to life insurance and annuities. Exemptions: Or. Admin. R. 836-080-0001(4) and (5) • Credit life • Certain group life or group annuities • 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 Director • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer • Various pension, welfare, or deferred compensation plans • Noncontributory group life • Existing life insurance that is a nonconvertible term life insurance policy that will expire in five years or less and cannot be renewed • Immediate annuities purchased with proceeds from an existing contract • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Or. Admin. R. 836-080-0005 Duties: • Producers: Or. Admin. R. 836-080-0014 • All insurers using producers: Or. Admin. R. 836-080-0022 • Replacing insurers: Or. Admin. R. 836-080-0029 • Existing insurers: Or. Admin. R. 836-080-0034 • Direct response: Or. Admin. R. 836-080-0039 Forms: Or. Admin. R. 836-080, Appendix A, Appendix B, and Appendix C
Pennsylvania	Yes	Applies to life insurance and annuities. Exemptions: 40 Pa. Code § 81.3 • Group life policies issued to creditors • Credit life • Group life or group annuities • Application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos • Registered contracts (exempt from some requirements with provisos)	Definitions: 40 Pa. Code § 81.2 Duties: • Producers: 40 Pa. Code § 81.4 • All insurers: Pa. Stat. Ann. tit. 40, § 625-9; 40 Pa. Code § 81.5 • All insurers using producers: 40 Pa. Code § 81.6 • Direct response: 40 Pa. Code § 81.7 Forms: 40 Pa. Code Chapter 81, Appendix A and Appendix B

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Rhode Island	Yes	Applies to life insurance. Exemptions: R. I. Ins. Reg. 29, sec. 5 • Annuities • Individual credit life • Group life; group credit life, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, with provisos • Variable life under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account • An application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised • Existing life insurance that is non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Definitions: R. I. Ins. Reg. 29, sec. 3 (replacement); R. I. Ins. Reg. 29, sec. 4 (other) Duties: • Producers: R. I. Ins. Reg. 29, sec. 6 • Replacing insurers: R. I. Ins. Reg. 29, sec. 7 • Existing insurers: R. I. Ins. Reg. 29, sec. 9 • Direct response: R. I. Ins. Reg. 29, sec. 8 Forms: R. I. Ins. Reg. 29, Exhibit A (different companies); Exhibit B (same company); Exhibit C (direct response); Exhibit D (comparative form)
South Carolina	Yes	Applies to life insurance and annuities. Exemptions: S. C. Code Regs. 69-12.1, sec. 4 • Credit life • Group life and group annuities • Application to the insurer that issued the existing life insurance to effect a change permitted by contract or to exercise a conversion privilege contained in the contract • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same with provisos • Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed • Registered contracts (exempt from some requirements with provisos)	Definitions: S. C. Code Regs. 69-12.1, sec. 2 (replacement); 60-12.1, sec. 3 (other) Duties: • Producers: S. C. Code Regs. 69-12.1, sec. 5 • All insurers: S. C. Code Regs. 69-12.1, sec. 6 • All insurers using producers: S. C. Code Regs. 69-12.1, sec. 7 • Direct response: S. C. Code Regs. 69-12.1, sec. 8 Forms: S. C. Code Regs. 69-12.1, Exhibit A
South Dakota	No	Applies to life insurance and annuities. Exemptions: S. D. Admin. R. 20:06:08:40 • Credit life • Group life or group annuities • Application to the insurer that issued the existing life insurance or annuity exercising a contractual change or conversion privilege • Proposed life insurance that is to replace life insurance or annuity under a binding or conditional receipt issued by the same company	Definitions: S. D. Admin. R. 20:06:08:38 Duties: • Producers: S. D. Admin. R. 20:06:08:39 • Replacing insurers: S. D. Admin. R. 20:06:08:39 Forms: S. D. Admin. R. 20:06:08:41 (describes contents of notice)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Tennessee	Yes	Applies to life insurance and annuities. Exemptions: Tenn. Comp. R. & Regs. 0780-1-24-.04 • Credit life • Group life insurance • Application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos • Registered contracts (exempt from some requirements with provisos)	Definitions: Tenn. Comp. R. & Regs. 0780-1-24-.02 (replacement); 0780-1-24-.03 (other) Duties: • Producers: Tenn. Comp. R. & Regs. 0780-1-24-.05 • All insurers: Tenn. Comp. R. & Regs. 0780-1-24-.06 • All insurers using producers: Tenn. Comp. R. & Regs. 0780-1-24-.07 • Direct response: Tenn. Comp. R. & Regs. 0780-1-24-.08 Forms: Tenn. Comp. R. & Regs. 0780-1-24, Exhibit A
Texas	N/A		No applicable provisions.
Utah	Yes	Applies to life insurance and annuities. Exemptions: Utah Admin. Code R590-93-5 • Credit life • Group life or group annuities • Proposed insurance that is to replace insurance applied for under a binding or conditional receipt issued by the same company • Proposed insurance to be provided by the insurer that issued existing insurance where a contractual change or conversion privilege is being exercised • Proposed insurance offered on a direct response basis to a class or classes of existing policyholders by the same insurer, for the principal purpose of upgrading existing insurance with provisos	Definitions: Utah Admin. Code R590-93-3 (replacement); R590-93-4 (other) Duties: • Producers: Utah Admin. Code R590-93-6 • All insurers using producers: Utah Admin. Code R590-93-7 • Existing insurers: Utah Admin. Code R590-93-9 • Direct response: Utah Admin. Code R590-93-8 Forms: Utah Admin. Code R590-93, Addendum (notice)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Vermont	Yes (1998)	Applies to life insurance and annuities. Exemptions: Reg. I-2001-03, Sec. 1.B. • Credit life • Certain group life or group annuities • 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 • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Various pension, welfare, or deferred compensation plans • Noncontributory group life • Existing life insurance that is a nonconvertible term life insurance policy that will expire in five years or less and cannot be renewed • Immediate annuities that are purchased with proceeds from an existing contract • Structured settlements • Registered contracts (exempt from some requirements with provisos)	Definitions: Reg. I-2001-03, Sec. 2 Duties: • Producers: Reg. I-2001-03, Sec. 3 • All insurers using producers: Reg. I-2001-03, Sec. 4 • Replacing insurers: Reg. I-2001-03, Sec. 5 • Existing insurers: Reg. I-2001-03, Sec. 6 • Direct response: Reg. I-2001-03, Sec. 7 Forms: Reg. I-2001-03, Sec. Appendices A, B, and C
Virginia	Yes	Applies to life insurance and annuities used to replace existing life insurance. Exemptions: 14 Va. Admin. Code § 5-30-30 • Replacement of annuity contracts • Credit life • Life insurance issued in connection with a pension, profit-sharing, group, or other benefit plan qualifying for tax deductibility of premiums with provisos • Situations where the replacing insurer and the existing insurer are the same	Definitions: 14 Va. Admin. Code § 5-30-20 Duties: • Producers: 14 Va. Admin. Code § 5-30-40 • All insurers: 14 Va. Admin. Code § 5-30-50 • All insurers using producers: 14 Va. Admin. Code § 5-30-60 • Direct response: 14 Va. Admin. Code § 5-30-70 Forms: 14 Va. Admin. Code § 5-30, Exhibit A

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Washington	Yes	Applies to life insurance and annuities. Exemptions: Wash. Admin. Code § 284-23-430 • Credit life • Certain group life or group annuities • Application to the existing insurer that issued the existing life insurance when a contractual change or conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos • Registered contracts (exempt from some requirements with provisos)	Definitions: Wash. Admin. Code § 284-23-410 (replacement); § 284-23-420 (other) Duties: • Producers: Wash. Admin. Code § 284-23-440 • All insurers: Wash. Admin. Code § 284-23-450 • All insurers using producers: Wash. Admin. Code § 284-23-455 • Direct response: Wash. Admin. Code § 284-23-460 Forms: Wash. Admin. Code § 284-23-485
West Virginia	Yes	Applies to life insurance. Exemptions: W. Va. Code § 33-11-5a(c); W. Va. Code St. R. § 114-8-3 • Annuities • Individual credit life • Group life, group credit life and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums with provisos • Variable life under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account • Application to the existing insurer that issued the existing life insurance and a contractual policy change or conversion privilege or a privilege of policy change granted by the insurer is being exercised • Existing life insurance that is a nonconvertible term life insurance policy which will expire in five years or less and cannot be renewed; or • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Definitions: W. Va. Code § 33-11-5a(a); W. Va. Code St. R. § 114-8-2 Duties: • Producers: W. Va. Code St. R. § 114-8-4 • Replacing insurers: W. Va. Code § 33-11-5a(b); W. Va. Code St. R. § 114-8-5 • Existing insurers: W. Va. Code St. R. § 114-8-7 • Direct response: W. Va. Code St. R. § 114-8-6 Forms: W. Va. Code St. R. § 114-8, Appendix A (different companies); Appendix B (same company); Appendix C (direct response); Appendix D (comparative form)
Wisconsin	No	Applies to life insurance and annuities. Exemptions: Wisc. Admin. Code Ins 2.07(2) • Credit life • Group life or group annuities • Certain contracts issued in connection with employee benefit or welfare plans as defined by Section 3(3) of the federal employee retirement income security act of 1974 (ERISA) • Purchase, within the same insurer, of insurance under a guaranteed insurability option or conversion option • Short-term nonrenewable life insurance policies written for periods of 31 days or less	Definitions: Wisc. Admin. Code Ins 2.07(3) Duties: • Producers: Wisc. Admin. Code Ins 2.07(4) • All insurers: Wisc. Admin. Code Ins 2.07(5) • All insurers using producers: Wisc. Admin. Code Ins 2.07(5)(a) • Direct response: Wisc. Admin. Code Ins 2.07(5)(b) Forms: Wisc. Admin. Code Ins 2.07, Appendix I (notice if agent); Appendix II (notice if no agent); Appendix III (definitions)

State	Based On Current or Previous Versions of NAIC Model (Including Variations)	Applicability and Exemptions	Key Elements/Citations
Wyoming	Yes	Applies to life insurance and annuities. Exemptions: Wy. Ins. Regs. ch. 12, sec. 4 • Credit life • Group life or group annuities • Application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised • Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company • Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control with provisos	Definitions: Wy. Ins. Regs. ch. 12, sec. 3 Duties: • Producers: Wy. Ins. Regs. ch. 12, sec. 5 • All insurers: Wy. Ins. Regs. ch. 12, sec. 6 • All insurers using producers: Wy. Ins. Regs. ch. 12, sec. 7 • Direct response: Wy. Ins. Regs. ch. 12, sec. 8 Forms: Wy. Ins. Regs. ch. 12, Exhibit A

APPENDIX B

VARIABLE CONTRACTS FULFILL A COMPREHENSIVE STATE AND FEDERAL SYSTEM OF REGULATION

A. STATE INSURANCE REGULATION

Through a network of statutes and regulations, state insurance departments heavily regulate the operations, products, and sales of life insurance companies. Life insurers and their salespersons must satisfy this regulatory structure in their state of domicile and every jurisdiction in which they distribute life insurance and annuities. Uniformity of regulation is accomplished throughout the states by means of model statutes and regulations promulgated by the National Association of Insurance Commissioners (the "NAIC"). Many of the insurance statutes and regulations promulgated and enforced by state insurance departments fulfill regulatory goals quite similar to those of the state securities administrators. The summary below highlights the broad scope and comprehensiveness of certain state insurance statutes and regulations.

UNFAIR TRADE PRACTICES

Virtually every state has enacted a version of the NAIC Model Unfair Trade Fair Practices Act which was developed to regulate trade practices in the insurance business by defining and prohibiting practices that constitute unfair methods of competition or unfair deceptive acts or practices.[1]

A variety of the activities defined to be unfair trade practices directly parallel the purpose and scope of state securities codes. Section 4(A) involves misrepresentations and false advertising of insurance policies, and identifies unfair trade practices to include any estimate, illustration, circular or statement, sales misrepresentation, omission or comparison that misrepresents the benefits, advantages, conditions or terms of any policy, among other things.

Section 4(B) involves false information and advertising generally. This provision defines an unfair trade practice to include making, publishing or disseminating in a newspaper, magazine or other publication, on any radio/television station any assertion, representation or statement about an insurer or its business, which is untrue, deceptive or misleading.

Knowingly making any false statement of any material fact to insurance regulators, or in documents that will be publicly disseminated, is defined to be an unfair trade practice in Section 4(B) of the Model Unfair Trade Practices Act. This proscription is consistent with the truthfulness and accuracy of reports, records and representations required of Broker/Dealers by the NASD and the SEC under the federal securities laws.

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[1]This model statute governs items previously subject to Section 5 of The Federal Trade Commission Act. Congress observed that continued regulation of insurance by the states was in the public interest. *See*, legislative history of NAIC Unfair Trade Practices Act, NAIC Model Regulation Service at 880-20(1993).

Section 4(J) involves the failure to maintain marketing and performance records, and defines as an unfair trade practice the failure of an insurer to maintain its books, records, documents, and other business records in such an order that data regarding complaints, claims, reading, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year in the two preceding years must be maintained under this standard. This provision directly parallels the scope and purpose of NASD Conduct Rule 3110 regarding books and records.

Section 4(K) defines the failure of any insurer to maintain a complete record of all the complaints it received since the date of its last market conduct examination to be an unfair trade practice. The records of complaints must indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint and the time it took to process each.[2] For purposes of this subsection, the term "complaint" means any written communication primarily expressing a grievance.

Like state securities administrators, insurance commissioners have the power to examine and investigate the affairs of every insurer operating in the insurance department's state "in order to determine whether such insurer has been or is engaged in any unfair trade practice prohibited by [the Unfair Trade Practices Act]."[3] Several provisions embellish this important authority.

For example, Section 7 of the Unfair Trade Practices Act gives insurance commissioners extensive authority to initiate hearings concerning unfair trade practices, to compel witnesses, appearances, production of books, and service of process. Section 7 sets forth detailed administrative and procedural practices, in order to assure due process and quasi-judicial formality.

Section 8 of the Unfair Trade Practices statute authorizes insurance commissioners finding insurers guilty of unfair trade practices to issue written findings and enforcement orders requiring the insurer to cease and desist from engaging in the act or practice. The insurance commissioner also has the discretionary authority to suspend and revoke the insurer's license if the insurer knew or reasonably should have known that its conduct violated the Unfair Trade Practices Act, and to order penalties of $1,000 for each violation up to an aggregate penalty of $100,000, unless the violation was committed flagrantly in conscious disregard of the act, in which case the penalty may be up to $25,000 for each violation to an aggregate total penalty of $250,000. A similar monetary violation may be imposed under Section 11 for violations of cease and desist orders. The act also provides for judicial review of insurance commissioner orders and authorizes immunity from prosecution for witnesses who attend, testify or produce books, records or other paper correspondence.[4]

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[2]The NAIC has also promulgated a Model Regulation for Complete Records to be maintained pursuant to Section 4(K) of the NAIC Unfair Trade Practices Act. *See*, NAIC Model Regulation Service at 844-1(1992).This regulation sets forth a complaint record form, content requirements, maintenance requirements, and standards concerning the format of complaint records.

[3] *See* Section 6, Power of Commissioner, Model Unfair Trade Practices Act, NAIC Model Regulation Service at 880-9(1993).

[4]*See* Sections 8, 9, 10, 11 and 14 of the Model Unfair Trade Practices Act, NAIC Model Regulation Service at 880-10 through 13(1994).

These significant powers that may be used by insurance commissioners to enforce violations of unfair trade practice proscriptions, together with the recordkeeping, reporting and inspection powers of the Act, provide a package of regulatory tools directly analogous to state securities codes, the NASD Rules of Conduct and SEC regulations governing market conduct practices and the prosecution of violations. In a sum, the unfair trade practice laws provide meaningful proscriptions that eliminate the need for duplicative regulation of variable contracts.

NAIC MODEL FRAUD LAWS AND FRAUD LEGISLATION

Enactment of state fraud statutes represents another significant insurance regulatory development. Recent market conduct issues have resulted in some insurance departments requiring insurer management to assume increased responsibility for supervision of sales activities. Other states have taken an approach similar to that of New York and Pennsylvania by requiring insurer review of market conduct compliance, thus placing direct responsibility at the corporate officer level. This widespread action dovetails with the objectives of the Federal Crime Control Statute and the Federal Sentencing guidelines, discussed below.

While states have taken different approaches to the issue, the majority of states addressing the fraud issue enacted legislation similar to the NAIC Model Fraud Laws.[5]

MARKET CONDUCT EXAMINATIONS

Nearly every jurisdiction has enacted a version of the NAIC Model Law on Examinations.[6] This Act is designed to provide an effective and efficient system for examining the activities, operations, financial condition and affairs of all persons transacting the business of insurance in each state and concerning individuals otherwise subject to the insurance commissioner's jurisdiction. The Act is intended to enable commissioners to adopt a flexible system of examinations and allocate resources deemed appropriate and necessary for the administration of the insurance laws of each state. The Model Law on Examinations sets forth standards for the conduct of examinations, commissioner authority, scope, and scheduling of examinations. It also details the scope of examination reports which shall be comprised of only facts appearing on books, records or other documents of the company, its agents or other persons examined or as ascertained from the testimony of its officers or agents or other persons examined.[7]

Significantly, this Model Act dovetails with the NAIC Market Conduct Examiner's Handbook, an extremely detailed manual for examiners to assure that examiners follow comprehensive, uniform practices and procedures. The Examiner's Handbook is divided into seven different sections and contains 58 different standards. Among other things, the Examiner's Handbook addresses complaint handling, marketing and sales, producer licensing, and company operations/management.[8]

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[5]*See* NAIC Insurance Fraud Prevention Model Act, NAIC Model Reporting Service at 680-1(1995).

[6]*See* NAIC Model Regulation Service at 390-1(1991).

[7]*See* Sections 3, 4, and 5 of the Model Law on Examinations, NAIC Model Regulation Service at 390-5 (1991). Section 5 also sets forth detailed provisions for orders and administrative procedures in the conduct of hearing and adoption of a report on examination.

[8]Certain standards under the complaint handling section illuminate the depth and scope of the market conduct examination. Several standards are set forth below in this note as representative examples.

Throughout most of 1995 and 1996, the NAIC significantly revised the Market Conduct Examiner's Handbook, which has been recommended for full adoption by the NAIC. The NAIC, together with industry input, sought to expand and enhance tools fostering the detection and prevention of marketplace abuse in the life insurance industry. Market conduct examinations are extremely comprehensive and serve as a means of positive reinforcement, by discouraging deficient practices that will be detected on examination, resulting in remedial action, and insurance department intervention.

AGENTS LICENSING AND TESTING

The NAIC Agents and Brokers Licensing Model Act,[9] which appears virtually in every state, governs the qualifications and procedures for licensing insurance and annuity agents and brokers. This model law sets forth examination and licensing standards in great detail, and has a specific category for variable annuities and variable life insurance contracts. Licensed salespeople must be deemed by the insurance commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation. Insurance brokers must also fulfill experience requirements. Section 8 of this regulation governs license denial, non-renewal and termination, giving the insurance commissioner broad discretion to suspend, revoke or refuse to issue or renew a license upon finding any of a variety of conditions including materially untrue statements, violation or noncompliance with insurance laws,

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Complaint Handling
Standard 2

The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.

Review Procedures and Criteria

Review manuals to verify complaint procedures exist. Procedures in place should be sufficient to require satisfactory handling of complaints received as well as internal procedures for analysis in areas developing complaints. There should be a method for distribution of and obtaining and recording response to complaints. This method should be sufficient to allow response within the time frame required by state law.

Company should provide a telephone number and address for consumer inquiries.

Complaint Handling
Standard 3

The company should take adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.

Review Procedures and Criteria

Review complaints documentation to determine if the company response fully addresses the issues raise. If the company did not properly address/resolve the complaint, the examiner should ask company what corrective action it intends to take.

Commentary:

Reference to the examiner's general instructions on Handbook page VIII-14 (November 1995) reveals that an inquiry broader in scope than the mere resolution of a given complaint is expected. For example, the Handbook contains the following instructions:

"The examiner should review the frequency of similar complaints and be aware of any pattern of specific type of complaints....Should the types of complaints generated be cause for unusual concern, specific measures should be instituted to investigate other areas of the company's operation."

Complaint Handling
Standard 4

The time frame within which the company responds is in accordance with applicable statutes, rules, and regulations.

Review Procedures and Criteria

Review complaints to ensure company is maintaining adequate documentation. Determine if the company response is timely. The examiner should refer to state laws for the required time frame.

[9] *See* NAIC Model Regulation Service at 210-1 (1990).

withholding, misappropriating or converting customer moneys, conviction of a felony or misdemeanor involving moral turpitude, forgery, or cheating on licensing examinations, among other things.

CONTINUING EDUCATION

In granting insurance agents and brokers licenses, most states also impose significant continuing education standards that parallel in objective and scope the continuing education standards recently developed by the securities industry together with the NASD. As in other areas seeking uniformity, the NAIC has promulgated the Agents and Brokers Licensing Model Act.[10] Under Section 5 of this model regulation, licensed agents must annually satisfy courses or programs of instruction approved by insurance commissioners in each state according to a minimum number of classroom hours, which typically is in the range of 25 class room hours per year for life and annuity salespersons. The courses include those presented by the Life Underwriter Training Council Life Course Curriculum, the American College's Chartered Life Underwriter and Chartered Financial Planner curriculum, and the Insurance Institute of America's programs in general insurance, for example. Like the NASD, state insurance regulators understand that testing, licensing and demonstration of continued competence through continuing education is critically important in the distribution of insurance and annuity products.

VARIABLE CONTRACT STATUTES

Life insurance companies are authorized to issue separate accounts funding variable life insurance and annuity contracts upon fulfilling a variable contract statute in their domestic state, which typically follows the NAIC Model Variable Contract Law.[11] This NAIC model statute gives the insurance commissioner exclusive authority to regulate the issuance and sale of variable contracts and to issue rules and regulations appropriate to carry out the act's purpose. This model act and associated regulations that appear under state insurance law gives an additional, important measure of regulatory scrutiny and purchaser protection.

Collectively, the NAIC statutes and regulations provide a significant network of comprehensive regulation over many important aspects affecting the marketing and sale of variable contracts that closely reflect the purpose and scope of analogous concepts of securities regulation.

INSURANCE PRODUCER DATABASE

From a market conduct perspective, life insurers have committed to a single, industry-accessible national producer database to facilitate their ability to track pertinent information regarding licensed producers. Access to information having a bearing on the producer's background, qualifications and competency is a valuable tool to insurers in the employment/appointment screening process. Moreover, widespread availability of such information makes it more difficult for a producer with significant disciplinary history to continue illegal or unethical practices by "company jumping."

NIPR (National Insurance Producer Registry) is a non-profit affiliate of the National Association of Insurance Commissioners (NAIC). It was created in October 1996 to develop and

[10] *See* NAIC Model Regulation Service at 215-1 (1990).

[11] *See* NAIC Model Regulation Service at 260-1 (1984).

operate a national repository for producer license information (PDB) and to establish a network to facilitate the electronic exchange of producer information.

The Producer Database (PDB) is an electronic database consisting of information relating to insurance agents and brokers (producers) accessible through the NIPR Gateway on a subscription basis through the Internet. Internet PDB links participating state regulatory licensing systems into one common system establishing a repository of producer information. Internet PDB also contains or references producer information from sources such as the Regulatory Information Retrieval System (RIRS) of the NAIC. Its development is based, in part, on the belief that the widespread availability of such information will make it more difficult for a producer with significant disciplinary history to continue illegal or unethical practices.

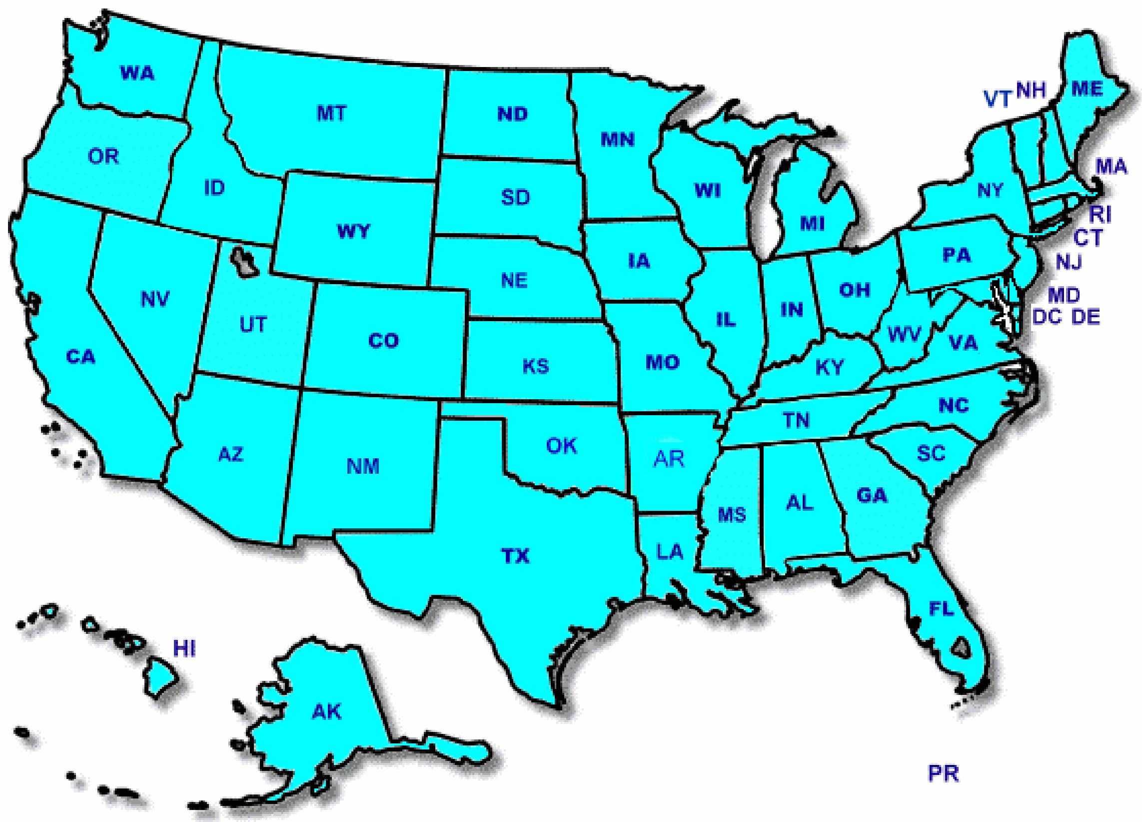
The NIPR Gateway is an electronic communication network that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of producer information; including license applications, appointments, and terminations. To date, data standards have been developed for the exchange of appointment and not-for-cause termination information. All data flowing through the NIPR Gateway will conform to these standards.

Through Internet PDB, industry is able to access all public information related to a producer provided by participating states, including licensing, demographics and final regulatory actions. The product is designed to assist insurers in exercising due diligence in the monitoring of agents and brokers to reduce the incidence of fraud. Currently, Internet PDB contains information on over 2.9 million producers. Information available includes:

- Demographics – name, date of birth, addresses
- License Summary – state of license, license number, issue date, expiration date, license type/class, residency, lines of authority, status, status reason, status/reason effective date.
- Continuing Education – CE compliance indicator, CE renewal date, CE credits needed.
- Certificates and Clearance – date issued, issuing state, receiving state, certification or clearance indicator.
- Regulatory Actions – State of action, entity role, origin of action, reason for action, enter date penalty/fine/forfeiture, effective date, file reference, time/length of dates.

Currently 37 jurisdictions participate in the PDB, including AL, AK, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, ME, MD, MI, MN, MS, MO, MT, NC, ND, NE, NM, NV, NH, NJ, NY, OH, OK, OR, PA, RI, PR, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY. Jurisdictions not participating in the PDB are AS, GU, VI.

Map of states in the National Insurance Producer Registry



In many respects, this new producer data base parallels the purpose and scope of the NASD's Central Records Depository or CRD. Through the NIPR data base, problem producers can be tracked and deterred from the insurance business.

B. ERISA

In several significant regards, the ERISA statute was patterned after the Investment Company Act of 1940 concerning prohibitions against self-dealing, fiduciary duty, and information reporting. As a general standard, employee benefit plans must be operated for the exclusive benefit and solely in the interest of plan participants and beneficiaries. Plan sponsors are subject to high standards of prudence in executing their responsibilities, and are subject to liability for breaches of fiduciary duty that are punishable by severe penalties. Retirement plans funded by variable contract separate accounts must fulfill these rigorous fiduciary and regulatory standards administered by the Department of Labor.

A plan sponsor has a fiduciary duty to select appropriate funding vehicles, such as group variable annuities, and to continually monitor their performance.[12] This responsibility includes a

[12]Unlike other suitability standards that are measured only at the time of purchase, ERISA requires plan sponsors to continually monitor the appropriateness of qualified plan funding vehicles. The broad scope of this fiduciary duty is comprehensively discussed in Knickerbocker, *Fiduciary Responsibility Under ERISA* (Michie) (1997).

thorough evaluation of the insurance company and the investment manager's experience, and execution of due diligence in ascertaining the manager's good professional character and appropriate licensing. If the fiduciary fails to act prudently and exercise due diligence, the fiduciary is liable to plan participants for any losses attributable to the inexperience of the investment manager.

The problems of churning and inappropriate replacements are circumscribed under ERISA which requires that a fiduciary act solely in the interest and for the exclusive benefit of plan participants and beneficiaries.[13] In addition, ERISA specifically prohibits a fiduciary from dealing with assets of a plan in his/her own interest or for his/her own account.[14]

ERISA prevents any person who has been convicted of certain crimes from serving: as a plan administrator, fiduciary, trustee, custodian or representative in any capacity of any employee benefit plan; as a consultant or advisor to any employee benefit plan; or, in any capacity that involves decision making authority or custody or control of plan assets.[15]

In another example of regulatory parallels, ERISA grants the Labor Department the power, in order to determine whether any person has violated or is about to violate any provision of ERISA or any regulation thereunder, to conduct an investigation, and to require the submission of reports, books, and records, and the filing of data in support of any information required to be filed with the Labor Department. In addition, the Labor Department has the authority to enter business places, inspect books and records, and question persons to enable the Department to determine the facts relative to such investigation.[16] These inspection and examination powers correspond to the authority of securities administrators to examine registered broker/dealers, and ensure regulatory supervision of qualified plan administration.

Similarly, ERISA requires extensive recordkeeping, and mandates that certain plan administrators must furnish to participants an individual statement containing information about each participant's benefits.[17] Additionally, ERISA requires each administrator of a pension plan to furnish to any plan participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information, the total benefits accrued and the nonforfeitable pension benefits which have accrued or the earliest date on which such benefits will become nonforfeitable.[18]

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[13]*Id*. at Sections 404(a).

[14]*Id*. at Section 406(b)(1).

[15]*Id.* at Section 411.

[16]*Id.* at Section 504(a).

[17]*Id.* at Section 105.

[18]Section 103 of ERISA requires plan administrators to engage an independent qualified public accountant to conduct such an examination of a financial statements of the plan, and of other books and records of the plan, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. This requirement applies to plans covering 100 or more participants, and also mandates that the accountant shall conduct such tests of the books and records of the plan as are considered necessary by the independent qualified public accountant.

Among other things, the annual report required in Section 103 must have information in separate schedules concerning: a statements of the assets and liabilities of the plan aggregated by categories and valued at the current value; a

The fundamental structure of ERISA and state fiduciary laws place the responsibility for the investment of retirement plan assets on plan fiduciaries, who select and monitor institutions managing plan assets and, with respect to 401(k) plans, also assure participant access to a prudent and diverse range of investments for individual accounts. Failure to fulfill these obligations in a prudent manner and solely in the interests of plan participants and beneficiaries subjects the fiduciary to ERISA's enforcement regime.

Under ERISA, a participant, beneficiary or the Secretary of Labor can bring a civil action against the fiduciary who breached his or her duties. The fiduciary is personally liable to make good to the plan any losses resulting from the breach and to restore to the plan any profits that inured to the fiduciary. The fiduciary is also subject to other equitable or remedial relief as a court may deem appropriate.

DOL DISCLOSURE INITIATIVES AFFECTING QUALIFIED PLANS

There have been significant developments at the Department of Labor concerning the range of funding options available to plan participants and the risk attributable to each option, and noteworthy strides in educating plan participants about retirement plan funding alternatives. After careful analysis and critical scrutiny, the Department of Labor issued its Section 404(c) regulations in 1992 that provide plan participants with useful additional information about, and more control over, their investment choices.[19]

In order to rely on the Section 404(c) regulations, a plan sponsor or plan administrator must offer at least three diversified investment vehicles, each of which has different risk and return characteristics. Further, the plan must permit participants to transfer among the vehicles at least once within each three-month period, and more frequently for investment vehicles subject to fluctuating performance patterns.

Significantly, the Section 404(c) rules require the plan sponsor to assure that plan participants are given, or can obtain, the information necessary to make an informed investment decision. At a minimum, sponsors must give employees information about each investment option, including its objectives, risk and return characteristics, and type of portfolio assets, as well as information about transfer procedures, the expenses and performance of each investment option, and a prospectus for vehicles registered under the Securities Act of 1933.

Since adopting the Section 404(c) regulations concerning fiduciary responsibilities for self-directed individual account plans, the Department of Labor issued Interpretative Bulletin 96-1 on June 6, 1996, which provides guidance to encourage employer-provided education for plan participants. The

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schedule of all assets held for investment purposes aggregated and identified by issuer, borrower or lessor, maturity date in valuation and a schedule of all loans or fixed income obligations.

Section 102(a)(1) requires that the summary plan description for participants and beneficiaries shall be written in a manner calculated to be understood by the average plan participants and shall be sufficiently accurate and comprehensive to reasonably apprize such participants and beneficiaries of their rights and obligations under the plan. This requirement parallels the SEC's plain English initiative. Collectively, these requirements impose high thresholds for monitoring activities involving qualified plans and plan assets, and preventing abusive practices. This parallels SEC and NASD plain English and participant education initiatives.

[19]Section 404(c) under ERISA gives plan sponsors or plan administrators of self-directed plans protection from certain fiduciary liabilities if the conditions of Section 404(c) are followed.

Department of Labor sought to provide a safe harbor for retirement plans delineating the type of investor education that could be provided to plan participants without becoming investment advice. The Department of Labor issued this interpretation in view of the important role that investment education can play in assisting participants and beneficiaries in making informed investment and retirement-related decisions.

Interpretative Bulletin 96-1 identifies four increasingly specific categories of investment information and materials that can be provided within the ambit of investment education. These are plan information, general financial and investment information, asset allocation models, and interactive investment materials. This category includes information and materials that inform a plan participant or beneficiary about (i) general financial and investment concepts, such as risk and return, diversification, dollar cost averaging, compound returns and tax-deferred investment; (ii) historic differences in rates of return between different asset classes (*e.g.*, equities, bonds or cash) based on standard market indices; (iii) the effects of inflation; (iv) how to estimate future retirement income needs; (v) how to determine investment time horizons; and (vi) how to assess risk tolerance.

In October 1998, the Department of Labor published a detailed consumer disclosure booklet on 401(k) plan fees.[20] This Department of Labor action evidences active regulation of qualified plan funding vehicles.

C. OTHER FEDERAL STATUTES ENHANCING COMPLIANCE PROCEDURES AND MARKET CONDUCT

The *Federal Violent Crime Control Act of 1994* ("The Act"), and the *Federal Sentencing Guidelines for Organizations* have an important impact on the prevention of abusive sales practices. Together, these statutes provide material protections for qualified plans and their participants.

Several provisions in the *Federal Violent Crime Control Act of 1994*[21] relate to sales practices within the insurance industry. The law punishes with fines and a jail term up to five years anyone who *participates* in the business of insurance and has been convicted of a felony involving dishonestly or a breach of trust. Likewise anyone convicted of violating the Act itself cannot participate in the business of insurance and is punished with fines and jail. There are fines and jail terms for anyone who willfully allows a person to participate in the business of insurance who has been convicted of a felony involving dishonesty or a breach of trust. Consequently, anyone who willfully *allows* a person who has been convicted of a felony involving dishonesty or a breach of trust to participate in the business of insurance will be prohibited from participating in the business of insurance themselves.

The law applies to all insurance companies, regardless of the lines of business sold or the state of domicile. Persons who *"participate"* in the business of insurance include officers, directors, agents, employees, or persons authorized to act on behalf of such persons. The *"willfully permits"* language means that even if the felony was before the effective date, that person cannot be allowed to continue to participate in the business.

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[20]On several occasions, the DOL has publicly stated its intent to develop a standardized fee disclosure statement to facilitate comparison among competing funding arrangements for 401(k) plans. *See* Winokur, *Labor Dept. Is Developing 1-Page Fee Disclosure Form*, American Banker (Nov. 6, 1998) at 6.

[21]Ch. 47, Title 18, U.S.C. at subsection 1033 (1996).

The Federal Crime Control Statute imposes an important prophylactic parallel to the NASD's barrier to statutorily disqualified individuals in the broker/dealer industry. This protection applies to all life and annuity sales, including variable annuities marketed to qualified plans.

Importantly, the *Sentencing Reform Act of 1984* has made a dramatic change in the federal court sentencing system since its enactment.[22] Essentially, the law provides that evidence of effective compliance programs will be regarded favorably as mitigating factors in the imposition of sentence upon a conviction for criminal behavior. The guidelines as provided in the *United States Sentencing Commission Guidelines Manual: Sentencing of Organizations*, are:

> "An effective program to prevent and detect violations of law means a program that been reasonably designed, implemented, and enforced so that it generally will be effective in preventing and detecting criminal conduct. Failure to prevent or detect the instant offense, by itself, does not mean that the program was not effective. The hallmark of an effective program to prevent and detect violations of law is that the organization exercised due diligence in seeking to prevent and detect criminal conduct by its employees and other agents. Due diligence requires at a minimum that the organization must have taken the following types of steps:
>
> (1) The organization must have established compliance standards and procedures to be followed by its employees and other agents that are reasonably capable of reducing the prospect of criminal conduct.
>
> (2) Specific individual(s) within high-level personnel of the organization must have been assigned overall responsibility to oversee compliance with such standards and procedures.
>
> (3) The organization must have used due care not to delegate substantial discretionary authority to individuals whom the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activities.
>
> (4) The organization must have taken steps to communicate effectively its standards and procedures to all employees and other agents, *e.g.,* by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.
>
> (5) The organization must have taken reasonable steps to achieve compliance with its standards, *e.g.*, by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct by its employees and other agents and by having in place and publicizing a reporting system whereby employees and other agents could report criminal conduct by others within the organization without fear of retribution.

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[22]The particular provisions noted above are from the *Organizational Sentencing Guidelines*, and took effect on November 1, 1991.

(6) The standards must have been consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense. Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of discipline that will be appropriate will be case specific.

(7) After an offense has been detected, the organization must have taken all reasonable steps to respond appropriately to the offense and to prevent further similar offenses -- including any necessary modifications to its program to prevent and detect violations of law."

Significantly, organizations are now strongly motivated to establish compliance standards and procedures and to monitor those procedures through a self evaluative process. Through this process, corporations can reduce exposure to liability, both criminally and civilly. Insurance and annuity consumers benefit from these initiatives.

D. VOLUNTARY MARKET CONDUCT EFFORT - THE INSURANCE MARKETPLACE STANDARDS ASSOCIATION ("IMSA")

After a comprehensive two-year period of ACLI study and development, the life insurance industry has established the Insurance Marketplace Standards Association ("IMSA"), a voluntary, membership organization for life insurance companies. IMSA provides a practical and conceptual structure to assist its member companies to maintain high standards of market conduct in the sale of individual life and annuity products. The fundamental purpose of IMSA is to facilitate, advance, and promote ethical market conduct in the life insurance industry.

An eligible life insurance company will be admitted to IMSA membership five days after filing with IMSA current reports indicating successful completion of IMSA's Assessment Questionnaire by both the eligible company and by an independent assessor approved by IMSA. An insurance company considering participation in IMSA would first need to evaluate, understand, and adopt IMSA's Principles of Ethical Market Conduct and the IMSA Code of Life Insurance Ethical Market Conduct. The company would then utilize IMSA's Assessment Questionnaire and the Assessor's Handbook to perform a market conduct self-assessment. If the company were able to respond affirmatively to each question in the Assessment Questionnaire, it would then engage an independent assessor to review the self-assessment and to perform an independent assessment following similar procedures. If the independent assessment is successful, the company would then be able to submit reports indicating such success to IMSA and could become a member. Following an advertising moratorium expiring on April 1, 1998, IMSA members were able to advertise their membership and use the IMSA logo. Membership in IMSA is good for a three-year period after which companies must undergo the assessment process anew to retain membership. As of August 4, 2000 IMSA has 240 member companies that collectively represent 82.52% of the market share for individually sold life insurance and annuity business in the United States.

The core of the IMSA market conduct initiative is the commitment of each participating life insurance company to the following Principles of Ethical Market Conduct:

"Each life insurance company subscribing to these principles commits itself in all matters affecting the sale of individually-sold life and annuity products:

1. To conduct business according to high standards of honesty and fairness and to render that service to its customers which, in the same circumstances, it would apply to or demand for itself.

2. To provide competent and customer-focused sales and services.

3. To engage in active and fair competition.

4. To provide advertising and sales materials that are clear as to purpose and honest and fair as to content.

5. To provide for fair and expeditious handling of customer complaints and disputes.

6. To maintain a system of supervision and review that is reasonably designed to achieve compliance with these Principles of Ethical Market Conduct."

The Code of Ethical Market Conduct elaborates in some detail on each of the six principles and includes commentary to clarify application and use of the Principles. The six Principles are supported implementing Code Provisions set forth in a 140-page Assessment Handbook detailing the criteria for interpreting and applying the Principles, Code, and Assessment Questionnaire.

The focus of the self-assessment done by the company and the independent assessment done by the independent assessor relates to whether or not the company has an infrastructure - policies and procedures - that will reasonably assure compliance with the Principles and Code. The program architects developed the IMSA Assessment Questionnaire to test the existence of such an infrastructure and to assist the company and the independent assessor in assessing the company's compliance with the Principles and Code. The Assessment Questionnaire consists of 24 questions. An affirmative answer is required to each of the 24 questions to enable a company to qualify for IMSA membership. There are specific questions regarding each of the Principles.

The IMSA Assessment Handbook is an instruction manual providing objective, systemic, analytical guidance to the company or its independent assessor concerning the details of assessment. In order to respond affirmatively to the 24 questions that comprise the Assessment Questionnaire, the Assessment Handbook requires an affirmative response to an extensive series of questions regarding the company's policies and procedures, the communication and use of those policies and procedures, and the continuing monitoring by the company of the utility of the policies and procedures.

The Assessment Handbook includes a number of "indicators" to guide the assessor and to yield objective information to consider in formulating and evaluating an answer to each question in the Questionnaire. The indicators are intended to provide examples of how an insurer, regardless of size or complexity, may demonstrate compliance with the Principles and Code. In some cases an insurer may be able to identify alternative indicators not set forth in the Assessment Handbook, which will provide support for the requisite affirmative response to the questions.

The Assessment Handbook also includes various testing procedures by which the company and the independent assessor can examine the company and its personnel in the assessment process. The Assessment Handbook also discusses permissible sampling techniques for assessors, recognizing that reviewing all documents and interviewing all employees and participants may be impractical.

Thus, while there are only six Principles that provide the foundation of the IMSA market conduct effort and only 24 questions comprise the IMSA Assessment Questionnaire, the assessment process is designed to be both comprehensive and flexible. It is designed to compel the company and the independent assessor to produce specific evidence of compliance with both the letter and the spirit of the life insurance market conduct effort.[23]

[23]IMSA's Executive Director is Brian Atcheson. An independent board of directors sets policy for IMSA.

Appendix C

Free Look Provisions and Right to Return Requirements

Life Insurance Law Survey

This Life Insurance Law Survey identifies statutes and regulations requiring insurers to inform policyholders of their right to receive a refund of monies paid for an insurance policy or annuity. The compilation also lists the required location of the free look provision and specifies the time limitation for return of a contract by a policyholder after the contract is delivered.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
AL	Ala. Stat. Ann. § 27-19-105(f)	Long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	Ala. Admin. Code Reg. 70 § 7(C)(5)	Replacement of life insurance		In policy or in separate written notice delivered with policy	20 days	Premium
	Reg. 113 § 7(C)(1)(b)	Accelerated benefit provisions of individual and group life insurance policies		In a disclosure form provided when the policy is delivered	30 days	Premium
AK	Alaska Stat. § 21.53.050(a)	Long-term care policies		Prominently printed on 1st page or separately attached	30 days	Premium
	§ 21.57.055(7)	Credit life		In writing	30 days	Premium
AZ	Ariz. Rev. Stat. Ann. § 20-1233	Annuity contracts	Annuity contract supplemental to a settled annuity providing for payments in consideration of accumulations from the original contract and that is issued only to the original contract holders	Prominently printed on or attached to 1st page	10 days or 30 days if the contract holder is 65 or older on the date of the application	All monies paid
	§ 20-1691.07	Long-term care policies		Prominently printed on or attached to 1st page	30 days	Premium
	§ 20-1241.05(E) [**Ed. Note:** see also Ariz. Admin. Code R20-6-215.]	Replacement of life insurance policies and annuity contracts		In a notice document. The notice may be included in the notice required under § 20-1241.03, subsections C and D	30 days	Premiums/ consider-ation, including policy fees, cash surrender value plus all fees and other charges deducted from the gross premiums or consideration

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
AZ (cont.)	Ariz. Admin. Code R20-6-501	Individual disability insurance issued on or after 10/1/61	One where no provision for renewal is made	Printed on 1st page or attached thereto or endorsed in a notice in a prominent style	10 days (or longer, at insurer's option)	Premium, policy fees and other charges paid
AR	Ark. Code Ann. § 23-79-112(f)	Individual life, annuity, and accident & health policies or contract filings	Variable life policies, variable annuities	Prominently printed on 1st page of policy or contract	At least 10 days unless policy or contract specifies a greater period	Premium
	§ 23-97-213	Long-term care policies		Prominently printed 1st page or attached thereto	30 days	Premium
	Ark. Rule and Regulation 33, art. IV, § 3(a)(5)	Variable life policy		Captioned provision on the cover page or pages corresponding to the cover page	10 days	To the extent permitted by state law the refund equals the sum of (i) the difference between the premiums paid including policy fees or other charges and the amounts allocated to separate accounts and (ii) the value of the amounts allocated to separate accounts on the date the return policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund shall be the total of all premium payments.
	Ark. Rule and Regulation 60, § 8(c)(b)	Accelerated benefit provisions in life insurance policies		In a disclosure form provided when the policy is delivered. In group policies, the disclosure is part of the certificate of coverage	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
CA	Cal. Ins. Code § 10127.7	Individual life policies with a face value less than $10,000 issued on or after January 1, 1981, but prior to January 1, 1990, and any renewal thereof	Individual life policies issued in connection with credit transactions or under contractual policy change or conversion privilege provision	Printed on or attached to policy	Not less than 10 nor more than 30 days	Premium and policy fee
	Cal. Ins. Code § 10127.9	Individual life insurance issued after January 1, 1990	Individual life policies issued in connection with credit transactions or under contractual policy change or conversion privilege provision	Printed on or attached to notice	Not less than 10 nor more than 30 days	Premium and policy fee, but for variable annuities, variable life, and modified guaranteed contracts, the owner is entitled to a refund of account value and any policy fee paid.
	Cal. Ins. Code § 10127.10	Individual life insurance policies or annuity contracts issued or delivered on or after July 1, 2004 to senior citizen, 60 years or older	Individual life policies issued in connection with a credit transaction or under contractual policy change or conversion privilege provision, employer group annuity contracts and group term life insurance	On cover page or policy jacket in 12-point bold print with one-inch space on all sides or on sticker affixed to cover page or policy jacket	Not less than 30 days	Premium and policy fee for individual life, and variable contracts for which the owner did not direct the premium be invested in mutual funds. Account value refunded for variable annuities for which the owner directed the premium be invested in mutual funds.
	Cal. Ins. Code § 10232.7	Long-term care policies or certificates	Group long-term care policies	Prominently printed on 1st page of policy or certificate or attached to it	30 days	Premium and policy fee
	Cal. Ins. Code § 10509.6(d)	Replacement of life policies		In policy or separate written notice	30 days.	Premium and policy fee, but for variable annuities, variable life, and modified guaranteed contracts, the owner is entitled to a refund of account value and any policy fee paid.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
CA (cont.)	Cal. Code Regs. tit. 10, § 2522.8(a)(3)(G)	Individual investment annuities		Printed on application	10 days	All annuity purchase contributions
CO	Colo. Rev. Stat. §§ 10-7-302(1)(g) and 10-7-307	Life insurance policies	Reinsurance, group insurance, pure endowments, annuities or reversionary annuity contracts, certain term policies	Prominently printed on 1st page or attached thereto	15 days	Premium, but for variable life insurance the owner is entitled to a refund of the account value plus any policy fee or charge deducted from the policy.
	§ 10-19-111	Long-term care policies and long-term care policies issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium
	3 Colo. Code Regs. 4-1-4 § 7 A(4), § 3 B	Replacement of life policies or annuity contracts that use producers	Credit life insurance; group life insurance or group annuities; contracts issued in connection with ERISA-defined benefit plans; exercise of existing contractual right with same insurer; certain term policies; proposed life insurance meant to replace life insurance under a binding or conditional receipt	In the policy—such notice may be included in Appendix A or C.	30 days	Premium, but for variable or market value adjustment policy the owner is entitled to payment of the cash surrender value plus the fees and other charges deducted from the gross premiums.
CT	Conn. Gen. Stat. § 38a-436	Individual life policies		Printed on or attached to notice	10 days	Not specified. Policy shall be void *ab initio*.
	Conn. Agencies Regs. § 38a-457-5(c)(6)	Accelerated benefits policy with a rider providing for additional premium payments with an effective date subsequent to the effective date of the life insurance policy		Printed on or attached to policy	10 days	Not specified. Rider shall be void *ab initio*.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
CT (cont.)	§ 38a-501-11(g)	Individual long-term care insurance, including that issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium
	§ 38a-433-4(c)(1)(E)	Individual variable life insurance policies and individual guaranteed life insurance		Captioned provision	10 days	To the extent permitted by state law the refund equals the sum of (i) the difference between the premiums paid including policy fees or other charges and the amounts allocated to separate accounts and (ii) the value of the amounts allocated to separate accounts on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund shall be the total of all premium payments.
DE	Del. Code Ann. tit. 18 § 7105(f)	Long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
DE (cont.)	Del. Reg. 1204	Replacement of life insurance	Credit life insurance; group life insurance or group annuities; an application to the existing insurer and a contractual change or conversion privilege is being exercised; life insurance or annuity products issued in connection with a pension, profit-sharing, or other benefit plan qualifying for tax deductibility of premiums	In policy or separate written notice	20 days	Premium
	Reg.1203 § 5.1	Any solicitation, negotiation, or procurement of life insurance	Annuities, credit life insurance, group life insurance, life insurance policies issued in conjunction with pension and welfare plans as defined by and subject to ERISA, variable life insurance under which death benefits and cash values vary in accordance with unit values of investments held in separate accounts	In policy or policy summary	At least 10 days (If no uncondi-tional refund provision/offer, the insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary upon delivery of policy or prior to delivery of policy.)	Not specified [**Ed. Note:** See policy provisions and/or Buyer's Guide furnished.]

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
DC	D.C. Mun. Regs. tit. 26, § 2712 (a)(5)	Variable life insurance		Cover page or pages corresponding to cover page of policy	Either within 45 days of date of execution of the application or within 10 days of receipt of policy by policyholder, whichever is later	Premium
	D.C. Code Ann. § 31-3605(d)(2)	Long-term care policies		Prominently printed on first page or attached thereto	30 days	Premium
FL	Fla. Stat. Ann. § 626.99(4)(a)	Life insurance policies	Annuities, credit life insurance, group life insurance, life insurance policies issued in conjunction with pension and welfare plans subject to ERISA, variable life insurance under which death benefits and cash values vary in accordance with unit values of investments held in separate accounts	In policy or policy summary	At least 10 days (If no unconditional refund provision/offer the insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary prior to accepting the applicant's initial premium or premium deposit.)	Not specified [**Ed. Note:** Provides for an unconditional refund. See policy provisions and/or Buyer's Guide furnished.]

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
FL (cont.)	§ 626.99(4)(a)	Fixed annuities		In policy	At least 10 days (Including an unconditional refund; also, insurer shall provide a Buyer's Guide to Annuities and a Contract Summary as provided in the NAIC Model Annuity and Deposit Fund Regulation.)	Not specified [**Ed. Note:** Provides for an unconditional refund. See contract provisions and/or Buyer's Guide furnished.]
	§ 627.9407(8); Fla. Admin. Code Ann. r. 69O-157 (formerly 018-157.018)	Individual long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	r. 69B-157.114(2)(c) (formerly 4-157.114)	Group long-term care (out-of-state groups) issued on or after 3/1/03			30 days	Premium
GA	Ga. Code Ann. § 33-25-8	Individual life policies issued on or after July 1, 1979	Individual life policies issued in connection with a credit transaction	Printed on or attached to contract	10 days	Premium
	§ 33-26-4	Industrial life policies		Printed on or attached to contract	10 days	Premium
	§ 33-28-6(a)	Annuities, reversionary annuities, pure endowment contracts	Group annuity contracts	Printed on or attached to contract	10 days	Premium
	§ 33-42-6(f)	Individual long-term care policies, including those issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
HI	Haw. Rev. Stat. Ann. § 431:10-214	Individual life policies, accident and health or sickness policies	Single premium nonrenewable policies or travel accident policies	Printed on or attached to policy in 10-point bold type	10 days	Premium, but if an individual life insurance policy is returned within the 10-day period, the insurer may be reimbursed for actual medical examination expenses incurred in processing the policy or contract, provided the notice includes a statement to this effect.
	§ 431:10H-111	Long-term care policies	Group long-term care policies issued to employer or labor organization	Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
HI (cont.)	§§ 431:10D-501, 431:10D-505(a)(4)	Replacement of life insurance and annuities that use producers (direct response)	Credit life; group life insurance or group annuities; application to the existing insurer that issued the existing policy when a contractual change or a conversion privilege is exercised; when the existing policy replaced by the same insurer pursuant to a program filed with and approved by the commissioner; proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; policies used to fund an employee pension or welfare benefit plan that is covered by the ERISA; a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization; a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor	In policy or contract owner notice	30 days	Premium/consideration, including policy fees/charges, cash surrender value plus all fees and charges deducted from the gross premiums or considerations; provided that such notice may be included in forms approved by the commissioner

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
ID	Idaho Code §§ 41-1901, 41-1927 (13), 41-1935(1)	Life insurance policies and annuity contracts	Group insurance, reinsurance, pure endowments, variable life insurance, certain term policies	In policy or contract under appropriate caption and if not so printed on face page of policy, printed or stamped conspicuously on face page	20 days	Premium
	§ 41-4605(6)	Long-term care policies, including those issued pursuant to direct response solicitation		Prominently printed on 1st page or attached to it	30 days	Premium
	Idaho Admin. Code §§ 8.01.41.014, 18.01.41.015	Replacement of life and annuities; replacement life and annuities that use agents or brokers		In policy or in separate written notice	20 days	Premium
IL	215 Ill. Comp. Stat. Ann. 5/224(1)(n)	Individual life policies	Director may by rule exempt specific types of policies from these requirements	Provision or notice attached to policy	10 days	Premium and policy fees
	5/224(2)	Replacement of life insurance	Industrial and group insurance, annuities, and pure endowments with or without return of premiums or of premiums and interest; reinsurance	In policy or separate notice delivered with policy	At least 20 days	Premium
	5/229(1)(m)	Industrial life insurance	Director may by rule exempt specific types of policies from these requirements	Provision or notice attached to policy	10 days	Premium and policy fees
	5/351A-7	Long-term care policies, including those issued pursuant to direct response solicitation		Prominently printed on 1st page or attached to it	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
IL (cont.)	5/226(1)(h)	Annuities and pure endowment contracts	Reversionary annuities, survivorship annuities, or annuities contracted by employer on behalf of his employees. The Director may by rule exempt specific types of contracts from the free look provision.	Provision or notice attached to contract	10 days	Premium, including contract fees or charges. For a variable annuity, a refund equal to the sum of (i) the difference between premiums paid including contract fees or other services and the amounts allocated to separate accounts and (ii) the cash value or, if the contract does not have a cash value, the reserve for the contract, on the date the return contract is received by the insurer or agent
	Ill. Admin. Code tit. 50, § 2018.110(e)	Long-term care policy		Prominently printed on 1st page of policy	30 days	Premium
IN	Ind. Code Ann. § 27-1-12-43	Individual life insurance and individual variable life insurance sold after June 30, 1994	Credit life insurance	Prominently printed on 1st page	10 days	All money paid by the policyholder
	§ 27-1-12.6-5	Annuity contracts	Contracts issued in connection with a pension, annuity, or qualifying profit-sharing plan, if participation is a condition of employment	Conspicuously placed on face page of the contract	10 days	Value of variable annuity account or the monies paid by the purchaser to a fixed account in connection with the issuance of the contract
	§ 27-8-12-12	Individual long-term care policy		Prominently printed on or attached to 1st page	30 days	Premium
	§ 27-8-12-13	Long-term care policy or certificate issued pursuant to direct response solicitation		Printed on or attached to 1st page	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
IN (cont.)	Ind. Admin. Code tit. 760, r. 1-20-3(9)	Individual deferred annuities		Conspicuously placed on face page of the contract	10 days	All monies paid by the policyholder
	r. 1-16.1-4, r. 1-16.1-6(C)(5)	Replacement policies	Group life insurance and life insurance policies issued in connection with a pension, profit-sharing, or other benefit plan qualifying for tax deductibility of premiums, individual or group credit life insurance on existing life insurance policy in which a contractual change or conversion privilege is being exercised	In policy or separate written notice	20 days	Premium
IA	Iowa Code Ann. § 514G.7(6)	Individual long-term care policies		Prominently printed on or attached to 1st page	30 days.	Premium
	Iowa Admin. Code r. 191-15.9(507B)	Life insurance or annuity			10 days	Premium but if the transaction involved a variable product, the amount to be refunded shall be determined according to the policy language.
	r. 191-28.17(509)	Credit life insurance		Prominently printed on cover of policy, certificate or notice	15 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
IA (cont.)	r. 191-16.26(1)d(507B)	Replacement life insurance and annuities that use producers		May be included in Appendix A or Appendix C.	30 days	Premium/consideration, including policy fees or charges or, in the case of a variable or market value adjustment policy, payment of the cash surrender value provided plus the fees and charges deducted from the gross premiums or considerations or imposed under such policy or contract
KS	Kan. Admin. Regs. § 40-2-15	Individual life policies and annuity contracts		Printed on or attached to 1st page of policy in not less than 10-point bold print or in some distinguishable manner from other policy print	10 days	Premium, but for annuities, a refund of (i) the difference between the premiums paid, including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts on the date the returned policy is received by the insurer or its agent.
	§ 40-4-37f(b)	Long-term care policies or certificate		Notice printed on or attached to 1st page in at least 18-point bold face type or other manner distinguishing from other print	30 days	Premium refunded within 10 business days following receipt of the returned policy by the insurer or its agent

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
KS (cont.)	§ 40-2-12(f)(4)(A)	Replacement of life insurance and annuities	Application to existing insurer and contractual policy change or conversion privilege is being exercised; group life insurance; certain term life polices; direct mail policies; policies issued in connection with pension, profit-sharing individual retirement account, or other benefit plan qualifying for income tax deduction of premiums	In policy or separate written notice	20 days	Premium
KY	Ky. Rev. Stat. Ann. §§ 304.15-010, 304.15-050(2)	Life insurance and annuity contracts	Reinsurance, group life insurance, group annuities	In policy	Not less than 10 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
KY (cont.)	§ 304.12-030	Replacement of life insurance	Annuities; credit life insurance; group life insurance and life insurance policies issued in connection with a pension, profit-sharing, or other benefit plan qualifying for tax deductibility of premiums; variable life insurance; exercise of conversion privilege or a privilege of policy change granted by the existing insurer; nonconvertible term life insurance policy that will expire in 5 years or less and cannot be renewed; proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company	Replacing insurer must agree in writing with insured	30 days	Premium
	§ 304.14-615(6)	Long-term care policies	Certificates issued pursuant to group long-term care policies	Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
KY (cont.)	806 Ky. Admin. Regs. 15:030 § 3(3)(a)(5)	Variable life insurance		Captioned provision	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.
LA	La. Rev. Stat. Ann. § 22:170 A(10)	Individual life policies	Trip travel insurance policies which by their terms are not renewable, industrial life policies, group life policies, service insurance	Prominently printed on or attached to life policies	10 days	Premium
	§ 22:173 A(8)	Annuity or pure endowment contracts	Survivorship annuities, or group annuity contracts	Prominently printed on or attached thereto	10 days	Premium
	§ 22:1736 F(1)	Individual long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	§ 22:1736 F(2)	Long-term care policies issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
LA (cont.)	La Admin. Code tit. 37, pt. XIII § 8305 A(3)(e)	Variable life insurance		Captioned provision	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.
	§8911 A(5)	Replacement of life insurance and annuities that use producers		May be included in Appendix A or Appendix C	30 days	Premiums or considerations, including policy fees or charges, or for variable or market adjustment policy a payment of: (i) the cash surrender value; and (ii) the fees and charges deducted from the gross premiums or consider-ations or imposed under the policy.
ME	Me. Rev. Stat. Ann. tit. 24-A, §§ 2501, 2515-A, 2503	Individual life issued or delivered after December 31, 1976	Reinsurance, group life insurance, annuity contracts, life insurance policies or contracts relating to disability benefits in event of death by accident or accidental means	In policy or in separate rider attached thereto; provision set forth in policy under appropriate caption and, if not printed on face of policy, adequate notice stamped or printed conspicuously on face page	10 days	Premium
	tit. 24-A, § 5075 (4)	Long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MD	Md. Code Ann. Ins. §§ 16-101, 16-105(b)	Life insurance policies and annuity contracts	Reinsurance, group life insurance, group annuities, contracts issued to an employee in connection with the funding of a pension annuity or profit-sharing plan if participation is a condition or employment	Attached to or prominently printed on face of policy or contract	10 days	Pro rata premium for the unexpired term of the policy or annuity contract
	§ 18-119	Long-term care policies	Employer-employee group policies	In policy	30 days	All moneys within 30 business days after receipt of notice of surrender
	Md. Admin. Code § 31.09.05.06(A)(5)	Replacement of life insurance and annuities		In policy or in separate written notice	30 days	Premiums or considerations, including policy fees or charges, but for variable life insurance policy or variable annuity contract, a payment of: (i) the cash surrender value; and (ii) the fees and charges deducted from the gross premiums or considerations or imposed under the variable life insurance policy or variable annuity contract, including surrender charges.
	§ 31.14.01.04(J)	Long-term care	Employer-employee group policies	Prominently printed on 1st page of policy	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MD (cont.)	§ 31.09.05.06(A)(5)	Replacement of life insurance and annuities using producers		Not specified	30 days	Premiums or considerations, including policy fees or charges, but for variable life insurance policy or variable annuity contract, a payment of: (i) the cash surrender value; and (ii) the fees and charges deducted from the gross premiums or considerations or imposed under the variable life insurance policy or variable annuity contract, including surrender charges.
MA	Mass. Ann. Laws ch. 175 § 187H	Individual life policies with face amount less than $25,000		Printed on or attached to policy	10 days	Premium
	Mass. Regs. Code tit. 211, § 34.06(1)(d)	Replacement of life insurance and annuities		In policy or in separate written notice	20 days	Premium
	§ 95.08(1)(g)	Variable life policies		Captioned	10 days	Premium
MI	Mich. Comp. Laws Ann. §§ 500.4000, 500.4015	Individual life	Group insurance, reinsurance, industrial life policies, group annuities	Contained in policy on front page, printed or stamped and made a permanent part of policy	Not less than 10 days	Premium, including policy fees or charges
	§ 500.4073	Annuity contracts	Policies or contracts issued to an employee in connection with the funding of a pension, annuity, or qualified profit-sharing plan if participation is condition of employment	Contained in policy on front page, printed or stamped and made a permanent part of policy	Not less than 10 days	Premium, including policy fees or charges

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MI (cont.)	§ 500.3409(1)	Disability insurance	Group and blanket	Contained in policy on front page, printed or stamped and made a permanent part of policy	10 days	Premium, including policy fees or charges, but if cancelled after the 10-day period, a pro rata share of the premium is refunded.
	§ 500.3409(2)	Disability insurance for people eligible for Medicare		Printed or stamped on front page and made a permanent part of policy	30 days	Premium, including policy fees or charges, but if cancelled after the 30-day period, a pro rata share of the premium is refunded.
	§ 500.3943	Long-term care insurance, including policies issued after direct response solicitation		Prominently printed on 1st page and in summary of coverage	30 days	Premium
	Mich. Admin. Code r. 500.850(a)(iv)	Variable life insurance		Captioned provision on the cover page or pages corresponding to the cover page	Within 45 days of the execution of the application or within 10 days of receipt, whichever is later	Premium
MN	Minn. Stat. Ann. §§ 60A.06, 72A.51(Subdivision 3), 72A.52	Life and endowment insurance		Stated clearly and conspicuously in minimum 10-point bold face type in contract	10 days	Premium, but for variable annuity, a refund equal to the sum of (i) the difference between the premiums including contract fees or other charges and the amounts allocated to separate accounts and (ii) the cash value, or, if no cash value, the reserve for the contract, on the date the returned contract is received by the insurer or its agent.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MN (cont.)	§ 61A.57(d)	Replacement of life insurance		In policy or contract or in a separate written notice	20 days	Premium
	§ 62A.50 (Subdivision 2)	Long-term care policies on non-group basis, including those issued pursuant to direct response solicitation		Prominently printed on 1st page	30 days	Premium
	Minn. R. 2750.1300(A)(5)	Variable life insurance.		Captioned provision.	10 days.	Refund as required by state law [See § 72A.51.]
MS	Miss. Code Ann. § 83-7-51	Individual life insurance issued on or after July 1, 1989		Printed on or attached to policy	10 days	Premium
	Miss. Ins. Reg. 84-101 § 4(c)(1)(v)	Variable life insurance		Captioned provision	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.
	Reg. 90-102 § 6 D	Long-term care		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MS (cont.)	Reg. 99-2 §§ 1, 5A(4)	Replacement of life insurance and annuities that use producers, including those issued pursuant to direct response solicitation	Credit life, group life or group annuities where there is no direct solicitation of individuals by an insurance producer, group life insurance and annuities used to fund prearranged funeral contracts, and an application to existing insurer that issued the existing policy or contract when a contractual change or a conversion, policies or contracts used to fund an employee pension or welfare benefit plan that is covered by ERISA	May be included in Appendix A or Appendix C.	30 days	Premium/consideration, 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 plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract
MO	Mo. Ann. Stat. §§ 376.706, 376.702	Life insurance	Annuities, credit life insurance, group life insurance policies issued in connection with pension and welfare plans as defined by and subject to ERISA, variable life insurance where death benefits and cash values vary in accordance with unit values of investments held in a separate account	In policy or policy summary	At least 10 days (If no unconditional refund provision/offer the insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary prior to accepting applicant's premium or premium deposit.)	Premium
	§§ 376.1106, 376.1109 (11)	Long-term care policies delivered in the state on or after 8/28/02	Group long-term care policies	Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MO (cont.)	Mo. Code Regs. tit. 20, § 400-1.010(1)(D)	Individual life insurance and annuities	Group policies; life policies issued to college students; single premium, short duration coverage; certain graded benefit life policies	In policy	10 days	Premium
	§ 400-1.030(3)C)(1)(E)	Variable life insurance		Captioned	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MO (cont.)	§ 400-5.400(4), (7)(D)	Replacement of life insurance or annuities that use producers	Credit life; group life or group annuities; exercise of conversion privilege or a privilege of policy change granted by existing insurer; proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; transactions where replacing insurer and existing insurer are the same; policies issued in connection with a pension, profit-sharing, or other benefit plan qualifying for tax deductibility of premiums	In policy or in separate written notice	20 days	Premium
MT	Mont. Code Ann. § 33-15-415	Individual life or disability policies issued after January 1, 1996	Single premium nonrenewable policies	In policy	At least 10 days	Premium
	§ 33-22-1119	Individual long-term care policies, including those issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
MT (cont.)	Mont. Admin. R. 6.6.304, 306(1)(d)	Replacement of life insurance policies issued pursuant to direct response solicitation	Credit life insurance; group life and annuities with no direct response; application to existing insurer and contractual change or conversion privilege is being exercised; insurance policies issued in connection with pension, profit-sharing; or other benefit plan qualifying for tax deductibility of premiums; proposed life to replace life insurance under receipt issued by same company; certain term life policies	May be included in Appendix A or Appendix C.	30 days	Premium/consideration, including 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 or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract
	R. 6.6.805(1)(b)	Annuities when a buyer's guide and disclosure document are not provided at or before the time of application			15 days	Policyholder may return the annuity contract without penalty.
NE	Neb. Rev. Stat. § 44-502.05	Individual life insurance and annuities	Credit life policies	In policy or printed on face	10 days	Premium
	§ 44-4515	Individual long-term care policies		Prominently printed on 1st page or attached to it	30 days	Premium
	Neb. Admin. R. & Regs. tit. 210, ch. 19 008.04	Replacement of life insurance and annuities that use agents or brokers		In policy or in separate written notice delivered with policy	20 days	Premium
NV	Nev. Rev. Stat. Ann. §§ 688A.010, 688A.165	Life insurance, endowment and annuities	Reinsurance, group life insurance, group annuities, and industrial life insurance	In policy or notice attached to policy	10 days	Premium, including policy fees or charges

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NV (cont.)	Nev. Admin. Code § 687B.060	Individual long-term care policy		Prominently printed on 1st page or attached thereto	30 days	Premium
	§ 687B.065	Long-term care policy issued pursuant to a direct response solicitation		Prominently printed on 1st page or attached thereto.	30 days	Premium
NH	N.H. Rev. Stat. Ann. § 415-D:7	Individual long-term care policies or group certificates		Prominently printed on or attached to 1st page of policy	30 days	Premium
	N.H. Code Admin. R. Ins. § 401.01(b)(1)(o)	Individual life policies and individual annuity contracts		In conspicuous place on face page of policy	10 days	Premium
	§ 302.06(a)(4)	Replacement of life insurance and annuities that use producers		May be included in Appendix A or Appendix C.	30 days	Premium/consideration, including 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 or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract
NJ	N.J. Stat. Ann. § 17B:25-2.1	Individual life policies	Group insurance	In policy or notice attached to policy	10 days	Premium, including policy fees or charges
	N.J. Admin. Code tit. 11, § 11:4-21.3(h)	Limited death benefit policies		In policy	30 days	Premium
	§ 11:4-2.5(a)3(vi)	Replacement policies		In policy or in separate written notice	20 days	Premium
	§ 11:4-34.6(d)	Individual long-term care policies, including those issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NM	N.M. Stat. Ann. § 59A-23A-6(E)	Long-term care policies, certificates, or riders	Employer group policies, certificates or riders	Prominently printed on or attached to 1st page	30 days	Premium
	N.M. Admin. Code tit. 13, § 13.9.6.10A(4)	Replacement of life insurance or annuities that use agents or brokers		In policy or in a separate written notice	30 days	Premium/consideration, including 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 or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract
	tit. 13, § 13.9.12.8C	Annuities when a buyer's guide and disclosure document are not provided at or before the time of application			15 days	Policyholder may return the annuity contract without penalty.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NY	N.Y. Ins. Law § 3203(a)(11)	Individual life insurance policies	Group life policies	In policy or notice attached to policy	Not less than 10 days nor more than 30 days	Either (i) premium, including policy fees or other charges or (ii) if the policy provides for the adjustment of the cash surrender benefit in accordance with a market-value adjustment formula and if the policy or a notice attached to it so provides, the amount of the cash surrender benefit as adjusted assuming no surrender charge plus the amount of fees and other charges deducted premium paid or from policy value; provided that a policy sold by mail must contain a provision permitting the policy owner a 30-day period for surrender
	§ 3203(a)(11)	Life insurance policies sold by mail order	Group life policies	In policy or notice attached to policy	30 days	[**Ed. Note:** see above.]

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NY (cont.)	§ 3209(d)(7)	Any solicitation, negotiation procurement of life insurance, annuities, or funding agreements as follows: variable life insurance where death benefits or cash values vary in accordance with unit values of investments held in a separate account; individual life insurance policies subject to § 4232 and issued as of date regulation required by § 3209(f)(1) becomes effective; individual life insurance policies, other than mentioned above, issued after January 1, 1983; individual annuity contracts, individual funding agreements and group annuity contracts, if any certificate is issued to which § 4223(b)(2) applies, and which are issued after the date regulation required by § 3209(k) becomes effective	Credit life insurance; group life insurance; life insurance policies, annuity contracts and funding agreements issued in connection with pension and welfare plans as defined by and to extent covered by ERISA, funding agreements issued to other than individuals subject to § 3222(b); any group annuity unless at least one certificate is subject to § 4223(b)(2)	Applicant is to be advised	10 days	Premium
	§ 3209(b)(1)	If sold by mail, without involvement of agent		In policy	At least 30 days (if no unconditional refund provision, the insurer must include in each initial solicitation a Buyer's Guide).	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NY (cont.)	§ 3219(a)(9)	Annuities and pure endowments		In contract or certificate or attached thereto	Not less than 10 nor more than 30 days	Either (i) consideration, including fees or other charges or, if the contract or certificate, or notice attached so provides, and the contract or certificate is subject to the provisions of section 4223 and provides for determination of cash surrender benefits in accordance with a market-value adjustment formula, (ii) the cash surrender benefits provided plus the fees and other charges deducted from gross considerations or imposed under the contract or certificate
	§ 3219(a)(9)	Annuities and pure endowments if sold by mail		In contract or certificate or attached to it	30 days	[**Ed. Note:** see above.]
	N.Y. Comp. Codes R. & Regs. tit. 11, § 54.6(b)(1)(v)	Variable life policies		Captioned provision on cover page of policy or pages corresponding to the cover page	10 days	Premium
	§ 51.6(d)	Replacement of life insurance policies and annuity contracts		In policy	60 days	Premium/consideration, or in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender benefits plus the amount of fees and other charges deducted from gross considerations or imposed under the policy or contract

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NC	N.C. Gen. Stat. § 58-55-30(g)	Individual long-term care or long-term care policies issued pursuant to direct response solicitation	Annuities, credit life insurance, group life insurance policies issued in connection with pension and welfare plans as defined by and subject to ERISA, variable life insurance where death benefits and cash values vary in accordance with unit values of investments held in a separate account	Prominently printed on 1st page or attached	30 days	Premium
	§ 58-60-15	Life insurance		In policy or policy summary	At least 10 days (If no unconditional refund provision/offer, the insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary prior to accepting applicant's initial premium deposit.)	Premium
	N.C. Admin. Code, tit. 11, r. 12.0447(a)	Individual life insurance or annuity		Sticker or printed on face of policy	10 days	Premium
	r. 12.0436(1)(c), (3)(v)	Variable life insurance	Variable policies issued in connection with qualifying pension, profit-sharing, and retirement plans	Captioned on cover page of policy	Within 45 days from execution of application or within 10 days of receipt of policy by policyholder, whichever is later	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
NC (cont.)	r. 12.0604, 12.0612(a)(4)	Replacement of existing life insurance and annuity by insurer	Credit life insurance; group life and annuities with no direct response; application to existing insurer and contractual change or conversion privilege is being exercised; insurance policies issued in connection with pension, profit-sharing; or other benefit plan qualifying for tax deductibility of premiums; proposed life to replace life insurance under receipt issued by same company; certain term life policies	May be included in the notice required by 12.0611	30 days	Premium/consideration, or in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender benefits plus the amount of fees and other charges deducted from gross considerations or imposed under the policy or contract
ND	N.D. Cent. Code §§ 26.1-33-02.1, 26.1-34-01.1	Life insurance and annuity policies and certificates		Prominently printed on or attached to 1st page of policy or certificate	20 days	Premium, but for variable annuities, the refund is the value of the annuity plus expense charges.
	§ 26.1-45-09 (1)	Long-term care policies		Prominently printed on 1st page of policy or attached thereto	Within 30 days of date of delivery or 30 days of effective date, whichever occurs later	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
ND (cont.)	N.D. Admin. Code § 45-04-04-03(3)(a)(5)	Variable life insurance policies		Captioned provision on cover page of policy or pages corresponding to the cover pages	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
OH	Ohio Rev. Code Ann. § 3923.44(H)	Long-term care policies		Printed prominently on 1st page of policy or attached to it	30 days	Premium
	Ohio Admin. Code § 3901-6-05(F)(4)	Replacement of life insurance and annuities	Credit life insurance, group life insurance and life insurance policies issued in connection with a pension profit-sharing or other benefit plan qualifying for tax deductibility of premiums, an application to the insurer that issued the existing life insurance where a contractual change or a conversion privilege is exercised, proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; and registered contracts shall be exempt	In policy or in separate written notice delivered with policy	20 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
OH (cont.)	§ 3901-6-08(E)(3)(a)(v)	Variable life insurance		Captioned provision on cover page or pages corresponding to the cover page of each policy	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.
OK	Okla. Stat. Ann. tit. 36, § 4003.1	Individual life insurance or annuities	Life insurance policies issued in connection with credit transaction or issued under contractual policy change or conversion privilege contained in policy	Printed on or attached to policy	10 days	Premium or monies paid
	§ 4034(G)	Replacement of insurance		Prominent written notice attached to or as part of 1st page of policy	20 days	Premium
	§ 4426(E)	Long-term care policies		Prominently printed on 1st page or attached	30 days	Premium
OR	Or. Rev. Stat. § 743.655(5)(a)	Individual long-term care policies		Prominently printed on 1st page or attached thereto	30 days.	Premium
	§ 743.655(5)(b)	Group long-term care policies		Prominently printed in 10-point type on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
OR (cont.)	Or. Admin. R. 836-080-0001(4), 836-080-0029(1)(d)	Replacement of life insurance and annuities that use agents	Credit life, group life or group annuities when there is no direct solicitation of individuals by an agent	May be included in Appendix A or Appendix C.	30 days	Premium/consideration, including 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 or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract
PA	Penn. Stat. Ann. tit. 40 § 510c(a)(1)	Individual fixed dollar life insurance or endowment polices		Prominently printed on 1st page or attached thereto	10 days	Premium
	tit. 40 §§ 510c(a)(2), 510c(b)(2)	Individual variable life insurance policies, individual fixed dollar life insurance or endowment policies offered as replacements for existing life insurance policy or annuity contracts with the same insurer or insurer group		Prominently printed on the first page of such policy or attached thereto	At least 45 days	Premium, but for variable life, an amount equal to any of the following: (i) the stipulated payment/ premium; (ii) the difference between: (A) premiums, including policy fees or other charges and the amounts allocated to separate accounts; and (B) the cash value or, if the policy does not have a cash value, the reserve on the date of surrender attributable to the amounts so allocated; or (iii) the greater of subparagraph (i) or (ii)

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
PA (cont.)	tit. 40 §§ 510c(a)(3), 510c(b)(3)	Individual variable life insurance policies, individual fixed dollar life insurance or endowment insurance policies offered as replacements for existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract		Prominently printed on the first page of such policy or attached thereto	At least 20 days	An amount equal to any of the following: (i) the stipulated payment/ premium; (ii) the difference between: (A) premiums, including policy fees or other charges and the amounts allocated to separate accounts; and (B) the cash value or, if the policy does not have a cash value, the reserve on the date of surrender attributable to the amounts so allocated; or (iii) the greater of subparagraph (i) or (ii)
	tit. 40 § 510c(b)(1)	Individual variable life policies		Prominently printed on the first page of such policy or attached thereto	At least 10 days	An amount equal to any of the following: (i) the stipulated payment/ premium; (ii) the difference between: (A) premiums, including policy fees or other charges and the amounts allocated to separate accounts; and (B) the cash value or, if the policy does not have a cash value, the reserve on the date of surrender attributable to the amounts so allocated; or (iii) the greater of subparagraph (i) or (ii)
	tit. 40 § 510d(a)(1)	Individual fixed dollar annuities or pure endowment contracts, individual variable annuities		Prominently printed on 1st page or attached thereto	10 days	Stipulated payment or premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
PA (cont.)	tit. 40 § 510d(a)(2)	Replacement of individual fixed dollar annuities and life insurance policies with the same insurer or insurer group		Prominently printed on the first page of such policy or attached thereto	45 days	Premium
	tit. 40 § 576	Industrial life or industrial endowment insurance issued after January 1, 1982		Prominently printed on 1st page or attached thereto	10 days	Premium
	31 Pa. Code § 81.6(d)	Replacement of life policies or annuities that use agents or brokers		Prominently printed on 1st page or attached thereto	20 days	Premium
	31 Pa. Code § 82.24(1)(v)	Variable life policies		Caption provision prominently printed on 1st page	At least 10 days	Premium
RI	R.I. Gen. Laws § 27-4-6.1	Individual life policies issued after July 1, 1978, and individual annuities issued after January 1, 1995	Annuities, individual credit life, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account	Contained in policy or stamped or printed conspicuously on 1st page	A minimum of 10 days	Premium
	§ 27-34.2-6(g)	Long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	R.I. Code R. 29 §§ 5 and 7.C.	Replacement life insurance (But see § 7.C for other requirements of replacing insurer if free look is not provided.)		In “Notice Regarding Replacement of Life Insurance” and in either policy or in separate written notice delivered with policy (But see § 7.C for other requirements of replacing insurer if free look is not provided.)	20 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
SC	S.C. Code Ann. § 38-63-220(b)	Individual life policies		Clear, understandable, and conspicuous on 1st page of policy	Not less than 10 days	Premium
	§ 38-63-220(b)	Replacement of individual life policies		Clear, understandable, and conspicuous on 1st page	20 days	Premium
	§ 38-63-220(b)	Policy solicited by direct response insurer		Clear, understandable, and conspicuous on 1st page of policy	31 days	Premium
	§ 38-69-120(2)	Fixed dollar annuities; pure endowment contracts; reversionary annuities; and variable annuities	Group annuities	Clear, understandable, and conspicuous on 1st page of policy	10 days	Premium
	§ 38-69-120(2)	Replacement of annuity contracts	Group annuities	Clear, understandable, and conspicuous on 1st page	20 days	Premium
	§ 38-69-120(2)	Policy solicited by direct response insurer	Group annuities	Clear, understandable, and conspicuous on 1st page	31 days	Premium
	§ 38-72-60(E)	Individual long-term care policy		Prominently printed on 1st page or attached thereto	30 days	Premium
	S.C. Code Ann. Regs. 69-12.1, § 7(D)	Replacement of life insurance and annuities that use agents or brokers		In policy or separate notice	20 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
SC (cont.)	69-12 Part B, art. IV, § 3(a)(5)	Variable life policy		Captioned provision on the cover page or pages corresponding to the cover page	10 days	To the extent permitted by state law, the refund equals the sum of (i) the difference between premiums paid including policy fees or other charges and the amounts allocated to separate accounts; and (ii) the value of the amounts allocated to separate accounts, on the date the returned policy is received by the insurer or its agent. Until state law authorizes this method, the amount of the refund is the premium.
SD	S.D. Codified Laws § 58-15-8.1	Individual life policies issued after July 1, 1982		Printed on or attached to the face page of policy	10 days	Premium
	§ 58-15-59.1	Individual annuity contracts issued on or after July 1, 1978	Variable annuity contract	Printed on or attached to the annuity contract	10 days	Premium
	§ 58-17B-9	Long-term care policies		Prominently printed on or attached to 1st page of policy	30 days	Premium
	§ 58-28-24.1	Individual variable annuity contracts issued on or after July 1, 1978		In contract or notice attached thereto	10 days	The refund equals the sum of (i) the difference between the premiums paid and the amounts, if any, allocated to any separate accounts under the contract and (ii) the cash value of the contract on the date of surrender attributable to the amounts so allocated.

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
TN	Tenn. Code Ann. § 56-7-702(a)(17)	Industrial life policies		Clear, understandable, and conspicuous provision is required.	10 days	Premium
	§ 56-42-105(f)(1)	Individual long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	§ 56-42-105(f)(2)	Long-term care policies issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	Premium
	Tenn. Comp. R. & Regs. 0780-1-24-.04, 0780-1-24-.07(4)	Replacement of life policies that use agents	Credit life insurance, group life insurance, group annuities, proposed insurance that is to replace insurance applied for under a binding or conditional receipt issued by the same company, proposed insurance to be provided by the insurer that issued existing insurance where a contractual change or conversion privilege is being exercised, and proposed insurance offered on a direct response basis to a class or classes of existing policyholders by the same insurer, for the principal purpose	In policy or in separate written notice	20 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
TN (cont.)	0780-1-40-.04, 0780-1-40-.02	Solicitation, negotiation or procurement of life insurance	Annuities, credit life, group life issued in connection with pension and welfare plans as defined by and subject to ERISA; variable life where death benefits and cash values vary in accordance with unit values of investments held in a separate account	In policy or policy summary	At least 10 days (If no unconditional refund provision/offer, the insurer shall provide to all prospective purchasers a Buyer's Guide and Policy Summary prior to accepting the applicant's initial premium or premium deposit.)	Unconditional refund
TX	Tex. Rev. Civ. Stat. § 1651.54	Long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	Texas Admin. Code tit. 28, § 3.804(3)(A)(v)	Variable life contract		Captioned provision on cover page or pages corresponding to cover page	10 days	Premium
	§ 3.3829(a)(5)	Long-term care insurance		Captioned provision printed on 1st page or attached thereto	30 days	Premium
UT	Utah Code Ann. § 31A-22-423	Life insurance and annuities	Group policies and life policies excluded by rule of commissioner	Prominently printed on or attached to cover or front page	10 days; 20 days if replacement policy or certificate	Premium
	Utah Admin. R590-93-7(C)(5)	Replacement of life insurance and annuities that use agents			20 days	Premium
	R590-93-8(C)(5)	Replacement of life insurance and annuities issued pursuant to direct response solicitation			20 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
VT	Vt. Stat. Ann. tit. 8, § 8058 [Repealed by Laws 2004, AB 737, effective January 1, 2005.]	Individual long-term care policy, including policy issued pursuant to direct response solicitation		Prominently printed on 1st page or attached thereto	30 days	
	§ 8089 [Effective January 1, 2005.]	Individual long-term care policy, including policy issued pursuant to direct response solicitation		Prominently printed on 1st page	30 days	Premium
	Vermont Code R. I-2001-03 §§ 1.B, 5(A)(4)	Replacement of life policies and annuities using producers.	Credit life; group life or group annuities where there is no direct solicitation; group life or group annuities used to fund prearranged funeral contracts; proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; issued in connection with pension and welfare plans as defined by and subject to ERISA; structured settlements	May be included in Appendix A or Appendix C.	30 days	Premium/consideration, including 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 or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
VT (cont.)	77-2 §§ 3(B), 5(a)	Solicitation, negotiation or procurement of individual life insurance	Annuities; credit life; group life issued in connection with pension and welfare plans as defined by and subject to ERISA; variable life where death benefits and cash values vary in accordance with unit values of investments held in separate account	In policy or policy summary	At least 10 days (If no unconditional refund provision/offer, the insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary prior to accepting the applicant's initial premium or premium deposit.)	Unconditional refund
	I-88-3 Art. IV. § 3(a)(5)	Variable life insurance		Captioned provision on cover page or pages corresponding to the cover page	10 days	Premium
VA	Va. Code Ann. §§ 38.2-3300, 38.2-3301	Individual life insurance policies	Reinsurance; policies issued or granted in exchange for lapsed or surrendered policies	Printed on policy	10 days	Premium
	§ 38.2-5208	Long-term care insurance policies		Prominently printed on 1st page or attached	30 days	Premium
	§ 38.2-3342	Industrial life policies		Printed on policy	10 days	Premium
	§ 38.2-3724(D)(7)	Credit life insurance		Printed on policy or certificate	At least 10 days	Premium
	Va. Admin. Code tit. 14 § 5-80-300(1)	Variable life insurance		Printed on policy	10 days	Not specified [**Ed. Note:** must comply with free look provision in § 38.2-3301.]

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
WA	Wash. Rev. Code Ann. § 48.23.380	Individual life insurance issued after September 1, 1977	Individual life policies issued in connection with credit transactions or under a contractual change or conversion privilege provision	Printed on face of policy or attached thereto	10 days	Premium
	§ 48.20.013	Individual disability policy issued after January 1, 1968	Single premium nonrenewable policies	Printed on its face or attached thereto	10 days	Premium
	§ 48.18A.035	Individual variable contracts		Prominently displayed on 1st page	10 days	Market value of the assets purchased by its premium, less taxes and investment brokerage commissions
	§ 48.84.050	Long-term care insurance		Prominently displayed on 1st page	30 days	Premium
	§ 48.84.050	Long-term care policies solicited and sold by mail		Prominently displayed on 1st page	60 days	Premium
	Wash. Admin. Code §§ 284-23-455(4), 284-23-430	Replacement of life insurance and annuity that use agents or brokers	Credit life insurance; group life insurance or annuities; application to existing insurer or exercise of contractual change or conversion privilege	In policy or in separate written notice delivered with policy	20 days	Premium
WV	W. Va. Code § 33-6-11b	Life, sickness, and accident insurance policies, certificates, or contracts	Group annuity policies, contracts, or certificates issued in connection with qualified or exempt pension or profit-sharing plan	Prominently printed on 1st page	10 days	Premium
	§ 33-15A-6(f)(1)	Individual long-term care policies		Prominently printed on 1st page or attached thereto	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
WV (cont.)	W. Va. Regs. §§ 114-32-5.1, 114-32-5.1.1	Individual or group long-term care policies sold by direct solicitation or as replacement policies		Prominently printed on 1st page or attached thereto	30 days	Premium
	§ 114-32-5.1.2	Any other individual or group long-term care policies not described in § 114-32-5.1.1		Prominently printed on 1st page	10 days	Premium
	§§ 114-8-3, 114-8-5	Replacement life insurance	Annuities; individual credit life; group life; group credit life; variable life and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan; an application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege is exercised; existing life insurance that is a nonconvertible term life insurance policy which will expire in five years or less and cannot be renewed; proposed life insurance that is to replace life insurance	In policy or in separate written notice delivered with policy	30 days	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
WI	Wis. Sta. Ann. § 632.73(1), (3)	Individual or franchise disability	Single premium nonrenewable policies issued for terms not greater than six months and other policies exempted by rule of commissioner, or to Medicare supplement policies, Medicare replacement policies or long-term care insurance policies subject to (2m).	Conspicuously printed on 1st page or attached hereto	10 days	All payments made
	§ 632.73(2m)	Long-term care insurance	Single premium nonrenewable policies issued for terms not greater than 6 months and other policies exempted by rule of commissioner	Prominently printed on 1st page of policy or certificate or attached thereto	30 days	Premium
	Wis. Admin. Code Ins. § 2.07(5)(4)(d)	Replacement of life policies or annuity contracts		Written notice attached to or part of 1st page	20 days	Premium
	§ § 2.14(2)(b), (4)(c)	Solicitation, negotiation, or procurement of life insurance	Annuities, credit life, group life, life insurance issued in connection with pension and welfare plans as defined by and subject to ERISA, variable life where death benefits and cash values vary in accordance with unit values of investments held in separate accounts	Guarantee to the policyholder	30 days (if no 30-day right to return, insurers shall provide to all prospective purchasers a Buyer's Guide at the time the application is taken).	Premium

State	Citation	Applies to	Does Not Apply to	Provision Location	Days	Refund Amount
WY	Wyo. Stat. Ann. § 26-38-105(j)	Long-term care insurance		Prominently printed on 1st page or attached thereto	30 days	Premium
	Admin. Rules & Regs. of Wyo. Ins., ch. 12, §§ 4, 7(d), 8(c)(iv)	Replacement life insurance and annuities that use agents or brokers, replacement life insurance and annuities issued pursuant to direct response sales	Credit life insurance; group life insurance or group annuities; application to existing insurer and exercise of contractual change or conversion privilege	In policy or separate written notice delivered with policy	20 days	Premium