



Legislative & Regulatory Report

NATIONAL ALLIANCE OF LIFE COMPANIES *An Association of Life and Health Insurance Companies*

January 31, 2010

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The news in this publication, including links to background and supplemental information on state websites, is available on the NALC members website at <http://members.nalc.net>.

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Connecticut

Suitability in Annuity Transactions

Notice of Intent to Amend Regulations

In accordance with section 4-168(a) of the Connecticut General Statutes, notice is hereby given that the Insurance Commissioner, pursuant to the authority of section 38a-432a of the Connecticut General Statutes, proposes to amend sections 38a-432a-1 to 38a-432a-7, inclusive, of the Regulations of Connecticut State Agencies, and to add a new section 38a-432a-8 of the Regulations of Connecticut State Agencies.

Statement of Purpose: To modify Sections 38a-432a-1 to 38a-432a-7, inclusive of the Regulations of Connecticut State Agencies, in accordance with a National Association of Insurance Commissioners (NAIC) model to strengthen standards and procedures for suitable annuity recommendations, and to strengthen the requirements of insurers to establish a system to supervise recommendations so that the needs and financial objectives of consumers are appropriately addressed. These amendments establish a regulatory framework that holds insurers responsible for ensuring that the annuity transactions are suitable, whether or not the insurer contracts with a third party to supervise or monitor the recommendations made in the marketing and sale of annuities. These amendments also add a new section 38a-432a-8 to set uniform training standards in the sale of annuities for producers.

All interested persons are invited to submit written data, views or arguments in connection with the proposed action within thirty days following publication of this notice in the Connecticut Law Journal. This regulation will be published on February 1, 2011. Send comments to the State of Connecticut, Insurance Department, Attention: Mark R. Franklin, Esq., P.O. Box 816, Hartford CT 06142-0816; email: mark.franklin@ct.gov.

The notice and regulation are available at <http://www.ct.gov/cid/cwp/view.asp?a=2479&q=254494>.

Kansas

Notice of Hearing on Proposed Administrative Regulations

Audited Financial Reports; Filing Requirements

A public hearing will be conducted at 1:30 p.m., February 18, 2011, in the third floor conference room, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, to consider the adoption of a proposed rule and regulation.

The notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to John Wine, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, 66612-1678, via facsimile at 785-291-3673, or via email at jwine@ksinsurance.org. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing.

K.A.R. 40-1-37 - Audited financial reports; filing requirements: This regulation is being proposed to amend the current regulation relating to annual financial reports filed by insurance companies. K.S.A. 40-225 directs the commissioner to make amendments or additions to the reporting requirements prescribed by the National Association of Insurance Commissioners (NAIC). This proposed amendment to K.A.R. 40-1-37 adopts by reference the November 22, 2010 "Policy and Procedure Requiring Annual Audited Financial Reports" which is the current NAIC model regulation with Kansas-specific revisions. Companies currently voluntarily comply with the NAIC model regulation.

Because these national standards already exist, most companies will not change current practice or experience any fiscal impact. There would be minimal impact on companies required to update their procedures, although these updates would be required by other states as well. The proposed amended regulation will not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses or the general public.

The proposed amended regulation achieves the stated purpose of prescribing the financial reporting requirements by the most effective and least costly method in accordance with K.S.A. 40-225 and K.S.A. 40-222b and therefore no other methods were considered.

The notice is available at <http://www.ksinsurance.org/legal/regs2010.htm>. The NAIC model is available at http://www.ksinsurance.org/legal/regulations/Proposed%20Regs/2010%20Proposed%20Regs/40-1-37_Attachment.pdf.

Maine

Retained Asset Accounts (Bulletin 376)

The purpose of this Bulletin is to establish disclosure standards regarding the payment of life insurance benefits to a beneficiary by means of a "retained asset account." "Retained Asset Account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity benefits. Insurers shall implement these standards no later than June 1, 2011.

1. Explanation of Settlement Options

The insurer shall provide the beneficiary, at the time a claim is made, written information describing the settlement options available under the policy and how to obtain specific details relevant to the options.

2. Supplemental Contract

If the insurer settles benefits through a retained asset account, the insurer shall provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and obligations of the insurer under the supplemental contract.

3. Disclosures for Retained Asset Accounts to Beneficiaries

The insurer shall provide the following written disclosures to the beneficiary before the account is selected, if optional, or established, if not:

- A. Payment of the full benefit amount is accomplished by delivery of the "draft book"/ "check book".
- B. One draft or check may be written to access the entire amount, including interest, of the retained asset account at any time.
- C. Whether other available settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum balance requirements.
- D. A statement identifying the account as either a checking or draft account and an explanation of how the account works.
- E. Information about the account services provided and contact information where the beneficiary may request and obtain more details about such services.
- F. A description of fees charged, if applicable.
- G. The frequency of statements showing the current account balance, the interest credited, drafts/checks written and any other account activity.

- H. The minimum interest rate to be credited to the account and how the actual interest rate will be determined.
- I. The interest earned on the account may be taxable.
- J. Retained asset account funds held by insurance companies are not guaranteed by the Federal Deposit Insurance Corporation (FDIC), but are guaranteed by the State Guaranty Associations. The beneficiary should be advised to contact the National Organization of Life and Health Insurance Guaranty Associations (www.nolhga.com) to learn more about the coverage limitations to his or her account.
- K. A description of the insurer's policy regarding retained asset accounts that may become inactive.

The bulletin is available at http://www.maine.gov/pfr/insurance/bulletins/index_by_number.shtml. Anyone having questions about this Bulletin should contact the Bureau of Insurance at (207) 624-8475 or toll-free in Maine at (800) 300-5000.

Michigan

Bulletins

The following bulletins issued by the Michigan Office of Financial and Insurance Regulation. The can be found at http://www.michigan.gov/dleg/0,1607,7-154-10555_12900---,00.html.

Safeguarding Customer Information (Bulletin 2010-21-Ins)

Michigan resident and non-resident insurance producers are required under Section 500.547 of the Insurance Code to "adopt policies and procedures for administrative, technical, and physical safeguards for the protection of customer records and information." The intent of this bulletin is to emphasize the importance of protecting customers' nonpublic personal financial information.

Under administrative rule R 500.553, producers must implement a comprehensive written information security program for the protection of customer information. Standards for developing and implementing safeguards to protect the security, confidentiality, and integrity of customer information are found in administrative rules R 500.555 - R 500.560.

Failure to have in place an appropriate security program to protect customer information and prevent unauthorized access to or use of that information is "an unfair or deceptive act or practice in the business of insurance" under Section 500.2013 that may subject a producer to disciplinary action.

The Office of Financial and Insurance Regulation makes the following recommendations to producers:

- Never just throw away old records or leave them in an abandoned office. Documents containing customer information that are discarded in trash containers create the potential for identity theft. Customer information is especially vulnerable to inadvertent disclosure when producers change office locations and records are simply discarded.
- Consult with insurance companies. Every insurance company has guidelines on how to store customer records and methods for properly disposing of those records (shredding, offsite storage, etc.).
- Periodically review your information security program and make adjustments in light of new circumstances (changes in technology, changes in the sensitivity of the customer information, new internal or external threats, etc.). Train office staff in the elements of your information security program and emphasize the need to safeguard customer information.

Producers are also reminded that a breach of the security of a database containing personal customer information may subject them to penalties under the Identity Theft Protection Act, MCL Section 445 .61 e/ seq. The sections of the Insurance Code, the administrative rules referenced in this bulletin, and additional information on producers' responsibilities to safeguard customer information, can be found at www.michigan.gov/ofir.

Corporate Insurance Agency Names (Bulletin 2011-01-INS)

In 1980, it was the Attorney General's opinion that a corporate insurance agency could not use the word "insurance" in its name, unless it was used in conjunction with the word "agency," so that the public would not be misled to believe that the agency was an insurance company. See OAG, 1979-1980, No. 5756, p. 922 (August 19, 1980).

On February 10, 2010, in Opinion No. 7242, the Attorney General reviewed the use of the word "insurance" in agency names and concluded:

It is my opinion ... that section 213(1) of the Business Corporation Act, 1972 PA 284, MCL 450.1213(1), does not require a corporate insurance agency that includes the word "insurance" in its name to also include the word "agency," and a corporate agency is free to use the word "insurance" in its name so long as the name, taken as a whole, does not imply that the agency is an insurance or surety company.

As a result of Attorney General Opinion No. 7242, the Office of Financial and Insurance Regulation (OFIR) no longer requires a corporate insurance agency name using the word "insurance" to also use the word "agency." However, OFIR will review all agency insurance license applications to ensure that the name is neither misleading nor implies that the agency is an insurance or surety company.

This bulletin supersedes the section "Title Agency Names" in Bulletin 2001-07-INS, "Title Insurance Agent Obligations and Agency Requirements," issued July 10, 2001.

New Hampshire

Proposed Rule: Actuarial Opinion and Memorandum

Notice is hereby given of a public hearing to be held on February 4, 2011, at 9:00 a.m. at the New Hampshire Insurance Department Conference Room, 21 South Fruit Street, Suite 14, Concord, New Hampshire for the purposes of considering changes to Chapter Ins 2400: Actuarial Opinion and Memorandum. Interested persons may present oral comments at the hearing or send written comments by February 11, 2011, to Chiara Dolcino, General Counsel, at the address above or by e-mail to chiara.dolcino@ins.nh.gov.

The purpose of this rule is to prescribe: (1) Requirements for statements of actuarial opinion that are to be submitted in accordance with RSA 410, and for memoranda in support thereof; (2) Rules applicable to the appointment of an appointed actuary; and (3) Guidance as to the meaning of "adequacy of reserves."

This rule applies to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this state. It shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions .

The notice and rule are available at <http://www.nh.gov/insurance/legal/index.htm>.

New York

Proposed Regulations

The New York Insurance Department published notices of intent to repromulgate or amend several regulations on January 12. The notices were published on January 12, and the department has not scheduled a public hearing. Instead, there is a 45-day comment period, which ends on March 1, 2011. You may forward your comments on the proposals to the names listed below for each proposed regulation.

The notices are available at <http://www.ins.state.ny.us/rproindx.htm>, and include the full text and a summary of the regulations.

Regulation 118: Audited Financial Statements

The purpose of this regulation is to apply audit and reporting standards upon insurers, fraternal benefit societies and managed care organizations. These standards are modeled on the standards required by the Sarbanes-Oxley Act of 2002.

Submit questions or comments on the proposed changes to Ann Logan at alogan@ins.state.ny.us.

Regulation 147: Valuation Of Life Insurance Reserves

This amendment is necessary to help ensure the solvency of life insurers doing business in New York. This amendment to Regulation No. 147 incorporates both the NAIC revisions to the model regulation and the interpretation of the Actuarial Guideline.

Submit questions or comments on the proposed changes to Jennifer Roig at jroig@ins.state.ny.us, or Frederick Andersen at fanderse@ins.state.ny.us.

Regulation 172: Financial Statement Filings And Accounting Practices And Procedures

The purpose of this regulation is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by regulated insurers, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements that must be filed with the Department.

Submit questions or comments on the proposed changes to Sam Wachtel at swachtel@ins.state.ny.us.

Regulation 179: Recognition of the 2001 CSO Mortality Table for Use In Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use In Determining Minimum Reserve Liabilities

This amendment extends the use of the 2001 CSO Preferred Structure Mortality Table to policies issued on or after January 1, 2004. Use of this table allows for the reserves to better match the risks associated with different underwriting classifications. However, use of the 2001 CSO Preferred Class Structure Mortality Table is not mandatory. While the anticipated impact of this amendment will vary by insurer and product, some insurers may experience a material reduction in reserves for policies issued on a preferred basis.

Submit questions or comments on the proposed changes to Jennifer Roig at jroig@ins.state.ny.us, or Frederick Andersen at fanderse@ins.state.ny.us.

Ohio

Retained Asset Accounts (Bulletin 2011-01)

The purpose of this bulletin is to establish best practices for disclosure standards regarding the payment of life insurance benefits to a beneficiary by means of a "retained asset account."

"Retained Asset Account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity benefits.

Section 1. Explanation of Settlement Options

The insurer should provide the beneficiary, at the time a claim is made, written information describing the settlement options available under the policy and how to obtain specific details relevant to the options.

Section 2. Supplemental Contract

If the insurer settles benefits through a retained asset account, the insurer should provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and obligations of the insurer under the supplemental contract.

Section 3. Disclosures for Retained Asset Accounts to Beneficiaries

The insurer should provide the following written disclosures to the beneficiary before the account is selected, if optional, or established, if not:

- A. Payment of the full benefit amount is accomplished by delivery of the "draft book"/"check book".
- B. One draft or check may be written to access the entire amount, including interest, of the retained asset account at any time.
- C. Whether other available settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum balance requirements.
- D. A statement identifying the account as either a checking or draft account and an explanation of how the account works.
- E. Information about the account services provided and contact information where the beneficiary may request and obtain more details about such services.
- F. A description of fees charged, if applicable.
- G. The frequency of statements showing the current account balance, the interest credited, drafts/checks written and any other account activity.
- H. The minimum interest rate to be credited to the account and how the actual interest rate will be determined.
- I. The interest earned on the account may be taxable.
- J. Retained asset account funds held by insurance companies are not guaranteed by the Federal Deposit Insurance Corporation (FDIC), but are guaranteed by the State Guaranty Associations. The beneficiary should be advised to contact the National Organization of Life and Health Insurance Guaranty Associations (www.nolhga.com) to learn more about the coverage limitations to his or her account.
- K. A description of the insurer's policy regarding retained asset accounts that may become inactive.

"STOLI" (Bulletin 2011-02)

Section 3916.05(B) of the Revised Code requires insurance companies that issue life insurance policies in this state to include questions in their life insurance applications that are reasonably structured to identify and

prevent stranger originated life insurance ("STOLI"). The Superintendent has promulgated a rule that sets forth requirements for life insurers to comply with the provisions of section 3916.05(B) of the Revised Code.

Rule 3901-9-04 of the Ohio Administrative Code requires that by November 5, 2011, life insurers must file with the Superintendent amended application forms for life insurance products currently in use in this state. This may be accomplished by submitting an amended filing or by submitting an addendum to a previously filed application form. All form filings must be submitted electronically through SERFF and must be accompanied by the form filing fee of \$50.00 per filing.

Life insurers using application forms subject to Rule 3901-9-04 must file a completed Certification of Filing Compliance form. The Certification must be on a form provided by the Superintendent and must be signed by a duly authorized officer of the company. The form must confirm compliance with the filing requirement. The Certification form must be submitted electronically through SERFF and must be accompanied by the form filing fee of \$50.00. The completed Certification form must be received by the Superintendent on or before November 5, 2011.

Insurance companies' application forms filed with the Interstate Insurance Product Regulation Commission are not subject to Rule 3901-9-04, and are not subject to this certification process. A copy of the Superintendent's Certification of Filing Compliance form is attached to this Bulletin. A copy of the Superintendent's Life Insurer Application Form STOLI Question Review Guidelines is also attached to this Bulletin. These forms are also available on the Department's website: www.insurance.ohio.gov.

These bulletins are available at <http://www.insurance.ohio.gov/Legal/Bulletins/Pages/BulletinIndex.aspx>.