DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

LIFE, ACCIDENT AND HEALTH , Series 4-1

3 CCR 702-4 Series 4-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Regulation 4-1-1 VARIABLE ANNUITY CONTRACTS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, and 10-7-405, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the standards and limitations for variable annuity contracts issued by insurers authorized for such sales in Colorado.

Section 3 Applicability

This regulation is applicable to all insurance companies and fraternal benefit societies delivering or issuing for delivery in this state variable annuity contracts providing for payments which vary directly according to investment experience of any separate account or accounts maintained by the insurer as provided in §10-7-402, C.R.S.

Section 4 Definitions

A. "Net investment return" means the rate of investment return to be credited to the variable annuity contract in accordance with the terms of the contract after deductions for tax charges, if any, and for asset charges either at a rate not in excess of that stated in the contract, or in the case of a contract issued by a nonprofit corporation under which the contract holder participates fully in the investment, mortality and expense experience of the account, in an amount not in excess of the actual expense not offset by other deductions. The net investment return to be credited to a contract shall be determined at least monthly.

B. "Variable annuity" means any policy or contract that provides for annuity benefits which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, pursuant to §10-7-402, C.R.S., or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 5 Separate Account

Any domestic company issuing variable annuities shall establish one or more separate accounts pursuant to §10-7-402, C.R.S.

A. To the extent provided in the variable annuity contract, that portion of the assets of any separate account which is equal to the reserves and other contract liabilities shall not be subject to creditor claims against the insurer.

B. The company shall maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Commissioner.

C. Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflict of interest shall also apply to members of a separate account's committee, board or other similar body. No officer or director of the company nor a member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account.

D. Reserve liabilities for the variable aspects of the variable annuity contracts shall be maintained in the separate account and established under Part 3 of Article 7 of Title 10, C.R.S., in accordance with actuarial procedures that recognize the variable nature of the benefits provided. The reserve liabilities shall be limited to the market value of the assets of the separate account.

E. Except with specific prior written authorization from the Commissioner, any guaranteed contract benefit in a variable annuity contract must be purchased from, and reserved in, the general account, with the appropriate transfer of sufficient cash or cash equivalent funds for the risk being transferred.

Section 6 Variable Annuity Contracts

A. Any variable annuity providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate of evidence of variable benefits issued under the contract, shall state that such dollar amount will vary to reflect investment experience. Such contract or certificate shall contain on its first page a clear statement, in type at least as large as that used for text matter, to the effect that the benefits of the contract are on a variable basis.

B. Illustrations of benefits payable under any variable annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Nothing contained herein in this subsection is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of benefits.

C. No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the Commissioner are more favorable to the holders of contracts:

1. A provision that there shall be a grace period of not less than thirty (30) days within which any stipulated payment to the insurer may be made. During such grace period the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the grace period shall be applied to produce the values arising under the contract; and

2. A provision that, at any time within three (3) years from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values arising under the

contract.

3. A provision specifying that only the contract, application, and any documents attached thereto constitute the entire contract.

D. The contract benefits shall reflect the investment and expense experience, positive or negative, of separate account(s) established and maintained by the insurer for such contracts. The allocation and determination of the variable benefits derived from such experience must be actuarially sound and shall not exceed the total separate account assets.

E. In the case of any variable annuity contract issued in this state on or after January 1, 2011 no variable annuity contract shall be delivered or issued for delivery in this state unless it contains a full description of the method of calculation and application of investment, expense, mortality, and any other factors used in computing the dollar amount of any variable benefits under the policy.

Section 7 Nonforfeiture Benefits

A. This section applies to any variable annuity contract issued in this state on or after January 1, 2011. This section shall not apply to any:

1. Reinsurance;

2. Group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the federal "Internal Revenue Code of 1986" , as now or hereafter amended;

3. Premium deposit fund;

4. Investment annuity;

5. Immediate annuity;

6. Deferred annuity contract after annuity payments have commenced;

7. Reversionary annuity; or

8. To any contract delivered outside this state through an agent or other representative of the company issuing the contract.

B. To the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account before the annuity commencement date, the contract shall contain provisions that satisfy the requirements of Part 5 of Article 7 of Title 10, C.R.S., and shall not otherwise be subject to this section.

C. No variable annuity contract, except as stated in Subsections A and B of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or provisions which in the opinion of the Commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

1. That, upon cessation of payment of considerations under a contract or upon written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan described in the contract that complies with Subsection G. The description will include a statement

of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments;

2. If a contract provides for a lump sum settlement at maturity or at any other time, that upon surrender of the contract at or prior to the commencement of annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit described in the contract that complies with Subsection H. The contract may provide that the company reserves the right, at its option, to defer the determination and payment of a cash surrender benefit for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists that may make determination and payment impractical; and

3. A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract shall not be less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

D. Minimum Nonforfeiture Amount

1. The minimum values as specified in this section of paid-up annuity, cash surrender or death benefits available under a variable annuity contract shall be based upon the minimum nonforfeiture amounts as specified in this subsection.

2. The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest equal to the net investment return of the net considerations, as defined in Subsection 4(A) of this regulation, paid prior to such time, decreased by the following:

   a. The sum of any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest equal to the net investment return;

   b. An annual contract charge of fifty dollars ($50), accumulated at rates of interest equal to the net investment return; and

   c. The amount of any indebtedness to the company on the contract, including interest due and accrued.

E. The net considerations for a given contract year used to define the minimum nonforfeiture amount in Subsection D shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during such contract year.

F. Demonstration that a contract's nonforfeiture amounts comply with this section shall be based on the following assumptions:

1. Values should be tested at the end of each of the first twenty (20) contract years;

2. A net investment return of seven percent (7%) per year should be used;

3. If the contract provides for transfers to another separate account or to another investment division within the same separate account, one transfer per contract year should be assumed;

4. With respect to contracts providing for periodic considerations, monthly considerations of one hundred dollars ($100) should be assumed for each of the first two hundred forty (240) months; and

5. With respect to contracts providing for a single consideration, a $10,000 single consideration should be assumed.

G. Any paid-up annuity benefit available under a variable annuity contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount as specified in Subsection D of this section on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

H. For variable annuity contracts that provide cash surrender benefits, such cash surrender benefit at any time prior to the date annuity payments are to commence shall not be less than the minimum nonforfeiture amount as specified in Subsection D of this section computed after the request for surrender is received by the company. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

I. Notwithstanding the requirements of this section, a variable annuity contract may provide under the situations specified in Paragraph (1) or (2) of this subsection that the company may cancel the annuity and pay the contract holder its accumulated value and by such payment be released of any further obligation under the contract:

1. If, at the time the annuity becomes payable, the accumulated value is less than $2,000, or would provide an initial income of less than twenty dollars ($20) per month; or

2. If, prior to the time the annuity becomes payable, no considerations have been received under the contract for a period of two (2) full years and the total of the gross considerations paid prior to such time, reduced by the sum of any prior withdrawals from or partial surrenders of the contract, is less than $2,000.

J. For a variable annuity contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Subsection D of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits.

Section 8 Required Reports

A. Any company issuing individual variable annuity contracts shall mail to the contract holder at least once in each contract year at his last address known to the company a statement or statements reporting the investments held in the separate account. The company shall submit annually to the Commissioner of Insurance a statement of business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners.

B. Any company issuing individual variable annuity contracts shall mail to the contract holder at least once in each contract year at his last address known to the company a statement reporting as of a date not more than four (4) months previous to the date of mailing. In the case of a variable annuity contract under which payments have not yet commenced, the statement shall contain:

1. The number of accumulation units credited to such contract and the dollar value of a unit; or

2. The value of the contract holder's account.

Section 9 Foreign or Alien Companies

If the law or regulation in the place of domicile of a foreign or alien company provides protection to the policyholders and the public which is substantially equal to that provided by Colorado statutes and regulations, the Commissioner may consider compliance with such laws or regulations as compliance with Colorado laws and regulations. The state of entry of an alien insurer shall be deemed to be its domiciliary state for the purpose of this regulation.

Section 10 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 11 Incorporated Materials

The relevant portions of the Internal Revenue Code of 1986, as amended, are incorporated by reference. This regulation does not cover amendments to the Internal Revenue Code of 1986 that may have been promulgated after the effective date of this regulation. A copy of the relevant portions of the Internal Revenue Code of 1986, as amended, may be examined at any state publications depository library. For additional information regarding how relevant portions of the Internal Revenue Code of 1986 may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 12 Enforcement

Noncompliance with this Regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of license. Among others, the penalties provided for in §10-3-1108, C.R.S. may be applied.

Section 13 Effective Date

This amended regulation shall become effective on April 1, 2010.

Section 14 History

This regulation was originally effective July 1, 1994.

Amended regulation effective April 1, 2010.

Regulation 4-1-2 ADVERTISING AND SALES PROMOTION OF LIFE INSURANCE AND ANNUITIES

Section 1 Authority

Section 2 Scope and Purpose

Section 1 Authority

This amended regulation is promulgated under the authority of §§ 10-1-108(8), 10-1-109 and 10-3-1110, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

Section 3 Applicability

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

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

Section 4 Definitions

A. "Advertisement" means material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy including:

1. Printed and published material, audiovisual material and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, seminars (which also includes free lunch and dinner seminars), telemarketing scripts, billboards, posters and similar displays, and the Internet or any other mass communication media.

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

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

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

B. "Advertisement" for the purpose of these rules shall not include:

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

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

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

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

D. "Guaranteed policy element" means the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

E. "Insurance producer" has the same meaning as the definition found in § 10-2-103(6).

F. "Insurer" has the same meaning as the definition found in § 10-1-102(13).

G. “Lead-generating device” means any communication directed to the public that, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of life insurance policies and annuity contracts.

H. "Policy" means any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

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

J. "Preneed funeral contract or prearrangement" has the same meaning as the definition found in § 10 15-102(13)(a), C.R.S.

Section 5 Form and Content of Advertisements

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

B. No advertisement shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “deposit,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “private pension plan,” “retirement plan” , “risk-free” or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he or she will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

Section 6 Disclosure Requirements

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

B. An advertisement shall not omit material information or use words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied or that the policy or contract includes a “free look” period that satisfies or exceeds regulatory requirements, does not remedy misleading statements.

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

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

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

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

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

H. An advertisement for the types of policies described in subsections F and G of this section shall not use the words "inexpensive," "low cost," or other phrases or words of similar meaning when such policies are being marketed to persons who are fifty years of age or older, when the policies being marketed are guaranteed issue.

I. Premiums

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

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

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

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

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

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

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

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

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

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

N. No insurance producer may use terms such as “financial planner,” “investment adviser,” “financial consultant,” or “financial counseling” in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

O. Nonguaranteed Elements

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

2. An advertisement shall not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified in Colorado Insurance Regulation 4-1-8, if nonguaranteed elements are illustrated, they shall be based on the insurer’s current scale and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

3. Unless otherwise specified in Colorado Insurance Regulation 4-1-8, an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing or based upon the guaranteed policy elements.

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

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

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

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

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

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

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

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

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

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

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

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

S. Policies Sold to Students

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

2. All advertisements including, but not limited to, informational flyers used in the solicitation of

insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities shall be clearly identified as such.

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

T. Introductory, Initial or Special Offers and Enrollment Periods

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

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

3. An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised.

4. An advertisement shall not offer a policy that provides for “bonus interest” or similar inducement without clearly specifying the terms and conditions the applicant has to meet to earn such bonus. No advertisement shall promote any form of “bonus interest” as providing an off-set to the surrender charges upon replacement of existing life insurance or annuity product.

5. An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this state. The only time an enrollment period may be offered is when there has been a lapse of not less than six (6) months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date on which the enrollment period is advertised for the first time.

6. This regulation applies to all advertising media—i.e., mail, newspapers, radio, television, magazines and periodicals—by any one insurer or insurance producer. The phrase “any one insurer” includes all the affiliated companies of a group of insurance companies under common management or control.

7. This regulation does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his or her request. It also does not apply to solicitations of employees or members of a particular group or association that otherwise would be eligible under specified provisions

of the insurance code for group, blanket or franchise insurance.

8. In cases where insurance product is marketed on a direct mail basis to prospective insurance by reason of some common relationship with a sponsoring organization, this regulation shall be applied separately to each sponsoring organization.

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

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

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

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

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

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

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

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

Y. An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Section 4F that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. The fact that a life insurance policy or annuity contract is being used to fund a prearrangement as defined in Section 4F; and

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

Section 7 Identity of Insurer

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

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

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

Section 8 Jurisdictional Licensing and Status of Insurer

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

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

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

Section 9 Statements about the Insurer

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

Section 10 Severability

If any provisions of this regulation or the application thereof to any person or circumstances are for any reason held to be invalid, the remainder of the regulation shall not be affected in any way.

Section 11 Enforcement Procedures

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

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

Section 12 Enforcement

Failure to comply with this regulation is considered an unfair or deceptive trade practice pursuant to § 10 3 1104, C.R.S. Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of all applicable sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines and suspension or revocation of license.

Section 13 Conflict with Other Laws or Regulations

It is not intended that this regulation conflict with or supersede any regulations currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance including, but not limited to, laws or regulations dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, replacement of life insurance policies, illustration of life insurance policies, and annuity disclosures. Consequently, no disclosure pursuant to or required under those regulations shall be deemed to be an advertisement within the meaning of this regulation.

Section 14 Effective Date

This regulation as amended is effective May 1, 2010.

Section 15 History

Originally issued as Regulation 74-5, effective March 15, 1974.

Amended Regulation, effective July 1, 1976.

Renumbered as Regulation 4-1-2, effective June 1, 1992.

Repealed and Repromulgated in full, effective July 1, 2001.

Amended Regulation, effective March 1, 2003.

Amended Regulation, effective September 1, 2006.

Amended Regulation, effective January 1, 2007.

Amended Regulation, effective May 1, 2010.

Regulation 4-1-3 VARIABLE LIFE INSURANCE POLICIES

Section 1 Authority

Section 2 Scope and Purpose

Section 3 Applicability

Section 4 Definitions

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§10-1-109 and 10-7-405, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the standards and limitations for variable life insurance policies issued by insurers authorized for such sales in Colorado.

Section 3 Applicability

This regulation is applicable to all insurance companies and fraternal benefit societies delivering or issuing for delivery in this state variable life insurance policies providing for payments which vary directly according to investment experience of any separate account or accounts maintained by the insurer as provided in §10-7-402, C.R.S. This regulation does not apply to variable annuity contracts, which are regulated pursuant to Colorado Insurance Regulation 4-1-1 (3 CCR 702-4).

Section 4 Definitions

A. "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses and mortality and all other charges and expenses to maintain the variable death benefit equal at all times to the amount of death benefit other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account. For the purposes of this calculation, the deductions for expense charges shall be at the maximum rate permitted in the policy.

B. "Benefit base" means the amount to which the net investment return is applied.

C. "Flexible Premium Policy" means any variable life insurance policy other than a scheduled premium policy as specified in this section.

D. "General account" means all assets of the insurer other than assets in separate accounts established pursuant to §10-7-402, C.R.S., or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

E. "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability income benefits, guaranteed insurability options, family income, or term riders.

F. "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

G. "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

H. "Person" means an individual, corporation, partnership, association, trust, or fund.

I. "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

J. "Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

K. "Separate account" means a separate account established pursuant to §10-7-402, C.R.S., or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

L. "Variable death benefit" means the amount of death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

M. "Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to §10-7-402, C.R.S., or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 5 Standards of Suitability

Every insurer that enters into the variable life insurance business in this state shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. These Standards shall include procedures to assure that the sales of variable products are not unsuitable for applicants on the basis of information furnished, after reasonable inquiry of such applicants concerning their insurance and investment objectives, financial situation and needs, and taking into account any other information known to the insurer or to the agent (any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent) making the recommendation.

Section 6 Insurance Policy Requirements

A. Mandatory Policy Benefit and Design Requirements

Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

1. The policy benefits shall reflect the investment and expense experience, positive or negative, of separate account(s) established and maintained by the insurer for such policies. The allocation and determination of the variable benefits derived from such experience must be actuarially sound and shall not exceed the total separate account assets:

2. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base:

3. Any change(s) in variable death benefits of each variable life insurance policy shall be determined at least annually; and

4. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described in the policy shall be in accordance with generally accepted actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other nonforfeiture benefits must be at least equal to the minimum values required by Part 3, Article 7 of Title 10, C.R.S. for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under Part 3 of Article 7 of Title 10, C.R.S. If the policy does not state an assumed investment rate, this demonstration shall be based on the maximum interest rate permitted under Part 3 of Article 7 of Title 10, C.R.S.

B. Mandatory Policy Provisions

Every variable life insurance policy shall contain at least the following:

1. The cover page or pages corresponding to the cover page of each such policy shall contain the following:

   a. A prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit, cash values or other nonforfeiture benefits may be variable or fixed under specified conditions which may include minimum guarantees:

   b. A statement describing any guaranteed minimum benefit:

   c. The method, or a reference to the policy provision, which describes the method for determining the amount of insurance payable at death; and

   d. Such other items as are currently required for fixed benefit life insurance policies and which are appropriate for the policy and not inconsistent with this regulation:

2. A provision for a grace period as follows:

   a. For scheduled premium policies, a provision for a grace period of not less than thirty-one (31) days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

b. For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than sixty-one (61) days after the mailing date of the Report to Policyholders required by Section 9(C) of this regulation.

c. The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing day falls within the grace period, the insurer may require the payment of not more than three (3) times the charges due on that policy processing day, but only for those charges which are necessary to keep such policy in force until the next policy processing day:

3. For scheduled premium policies, a provision that the policy will be reinstated at any time within two (2) years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

    a. All overdue premiums with interest at a rate not exceeding six percent (6%) per annum compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding eight percent (8%) per annum compounded annually; or

    b. One hundred ten percent (110%) of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding six percent (6%) per annum compounded annually;

4. A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

5. A provision designating the separate account(s) to be used and stating that:

    a. The assets of such separate account(s) shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account; and

    b. The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly;

6. A provision specifying that only the policy, application, and any documents attached thereto constitute the entire insurance policy;

7. A designation of the officers of the insurer who are empowered to make an agreement or representation on behalf of the insurer and an indication that statement by the insured, or on his behalf, shall be considered as representations and not warranties;

8. An identification of the owner of the insurance policy;

9. A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

10. A statement of any conditions or requirements concerning the assignment of the policy;

11. A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

12. A provision that the policy shall be incontestable by the insurer after it has been in force for two (2) years during the lifetime of the insured. However, any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two (2) years from the date of issue of such increase. In addition, if the policy has lapsed and is subsequently reinstated, a new contestable period of two (2) years shall start on the date of reinstatement;

13. A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

    a. For up to six (6) months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account; or

    b. Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical;

14. If settlement options are provided, at least one such option shall be on a fixed basis;

15. A description of the basis for computing the cash value and the surrender value under the policy shall be included;

16. Premiums or charges for insurance benefits with incidental insurance benefits stated separately;

17. Any other policy provisions required by this regulation;

18. Such other items as are currently required for fixed benefit life insurance policies which are appropriate for the policy and are not inconsistent with this regulation; and

19. If the investment policy of the separate account is materially changed, a provision giving policyholders the right to convert, without evidence of insurability, to an alternate plan in the separate or general account.

C. Policy Loan Provisions

Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain a provision for policy loans after the policy has been in force for two (2) full years which provides the following:

1. At least seventy-five percent (75%) of the policy's cash surrender value may be borrowed.

2. Any indebtedness shall be deducted from the proceeds payable on death, or from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

3. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one (31) days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder which contains the information specified by Section 9(C) of this regulation.

4. The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding one hundred ten percent (110%) of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

5. The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

6. No policy loan provision is required if the policy is under extended term insurance nonforfeiture option.

7. Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment.

D. Policy Guarantee Provisions

Except with specific prior written authorization from the Commissioner, any guaranteed policy benefit in a variable life insurance policy must be purchased from, and reserved in, the general account, with the appropriate transfer of sufficient cash or cash equivalent funds for the risk being transferred.

E. Other Policy Provisions

The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

1. An exclusion for suicide within one year of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within one year of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

2. Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer dividend options available under general account products;

3. A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under Subsection C of this section of this regulation, except that a restriction that no more than two (2) consecutive premiums can be paid under this provision may be imposed; or

4. A provision allowing the policyholder to make partial withdrawals.

Section 7 Applications

The application for a variable life insurance policy shall contain the following:

A. A prominent statement in either contrasting color or in boldface type that the death benefit may be variable or fixed under specified conditions;

B. A prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees); and

C. Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

Section 8 Information Furnished to Applicants

An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant, and obtain a written acknowledgment of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this section shall be deemed to have been satisfied to the extent that a disclosure containing information required by this section is delivered, either in the form of: (1) a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to 15 U.S.C. Section 77(c)(a)(2) thereof.

A. A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation;

B. A statement of the investment policy of the separate account, including:

1. A description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

2. Any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted;

C. A statement of the net investment return of the separate account for each of the last ten (10) years or such lesser period as the separate account has been in existence;

D. A statement of the charges levied against the separate account during the previous year;

E. A summary of the method to be used in valuing assets held by the separate account;

F. A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder, and the beneficiary; and

G. Illustrations of benefits payable under the variable life insurance policy. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

Section 9 Reports to Policyholders

Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

A. Within thirty (30) days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to Section 6(E) of this regulation under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty (30) days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty (60) days prior to the mailing of such notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deduction, withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that:

   1. Planned periodic premiums, if any, are paid as scheduled;

   2. Guaranteed costs of insurance are deducted; and

   3. The net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next twelve (12) months unless additional premium is paid;

B. Annually, a statement or statements including:

   1. A summary of the financial statement of the separate account based on the annual statement last filed with the Commissioner;

   2. The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five (5) years when available;

   3. A list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner;

   4. Any charges levied against the separate account during the previous year; and

   5. A statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment adviser of the separate account.

C. For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day.

The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

Section 10 Reserve Liabilities for Variable Life Insurance Policies

A. Reserve liabilities for the variable aspects of the variable life insurance policies shall be maintained in the separate account and established under Part 3 of Article 7 of Title 10, C.R.S., in accordance with actuarial procedures that recognize the variable nature of the benefits provided. The reserve liabilities shall be limited to the market value of the assets of the separate account.

B. Reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

   1. The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance policy; or

   2. The aggregate total of the "attained age level" reserve on each variable life insurance policy. The "attained age level" reserve on each variable life insurance policy shall not be less than zero and shall equal the "residue," as described in Subparagraph 2(a) of this section, of the prior year's "attained age level" reserve on the policy, with any such "residue" increased or decreased by a payment computed on an attained age basis as described in Subparagraph 2(b) of this section.

      a. The "residue" of the prior year's "attained age level" reserve on each variable life insurance policy shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

      b. The payment referred to in Subsection (B)(2) of this section of this regulation shall be computed so that the present value of a level payment of that amount each year over the future premium paying period for the policy is equal to (X) minus (Y) minus (Z), where (X) is the present value of the future guaranteed minimum death benefits, (Y) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (Z) is any "residue," as described in Subparagraph 2(a) of this section, for the prior year's "attained age level" reserve on such variable life insurance policy. The amounts of future death benefits referred to in this subparagraph shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life insurance policies.

   3. The valuation interest rate and mortality table used in computing the two minimum reserves described in Paragraph (1) and (2) of this section shall conform to permissible standards for the valuation of life insurance policies. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

C. Except with specific prior written authorization from the Commissioner, any guaranteed policy benefit in a variable life insurance policy must be purchased from, and reserved in, the general account, with the appropriate transfer of sufficient cash or cash equivalent funds for the risk being transferred.

Section 11 Separate Accounts

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer.

A. Establishment and Administration of Separate Accounts

Any domestic insurer issuing variable life insurance policies shall establish one or more separate accounts pursuant to §10-7-402, C.R.S.

1. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in an amount as prescribed in Colorado Insurance Regulation 3-1-1 (3 CCR 702-3).

2. The assets of such separate accounts shall be invested in investments having a reasonably ascertainable market value with such market value determined at least as often as variable benefits are determined but in any event at least monthly.

3. To the extent provided in the policies, that portion of the assets of any separate account which is equal to the reserves and other policy liabilities shall not be subject to creditor claims against the insurer.

B. Amounts in the Separate Account

The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

C. Charges Against a Separate Account

1. The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

   a. Taxes or reserves for taxes attributable to investment gains and income of the separate account;

   b. Actual cost of reasonable brokerage fees and similar direct acquisitions and sales costs incurred in the purchase or sale of separate account assets;

   c. Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account; and

   d. Other risk charges not directly paid by the policy owner.

D. Conflicts of Interest

Rules under any provision of the Insurance Laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

E. Investment Advisory Services to a Separate Account

1. An insurer shall not enter into a policy under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless such investment advisory policy shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty (60) days' written notice to the investment adviser.

2. The Commissioner may, after notice and opportunity for hearing, by order require such investment advisory policy to be terminated if he deems continued operation there under to be hazardous to the public or the insurer's policyholders.

Section 12 Foreign or Alien Companies

If the law or regulation in the place of domicile of a foreign or alien company provides protection to the policy holders and the public which is substantially equal to that provided by Colorado statutes and regulations, the Commissioner may consider compliance with such laws or regulations as compliance with Colorado laws and regulations. The state of entry of an alien insurer shall be deemed to be its domiciliary state for the purpose of this regulation.

Section 13 Statutory Construction

Except as provided by §10-7-405, C.R.S., the provisions of the Colorado Insurance Laws applicable to life insurance policies shall apply to variable life insurance policies. This includes, but is not limited to, custodial arrangements of separate account assets, unfair methods of competition and deceptive acts or practices, annual reporting, and appropriate policy requirements contained in Parts 1 and 3 of Article 7 of Title 10, C.R.S. In addition, all federal laws and regulations governing variable life insurance policies shall apply.

Section 14 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 15 Incorporated Materials

The relevant portions of the Securities Act of 1933 and Employee Retirement Income Security Act of 1974 are incorporated by reference. This regulation does not cover amendments to the Securities Act of 1933 and Employee Retirement Income Security Act of 1974 that may have been promulgated after the effective date of this regulation. A copy of the relevant portions of the Securities Act of 1933 and Employee Retirement Income Security Act of 1974 may be examined at any state publications depository library. For additional information regarding how relevant portions of the Securities Act of 1933 and Employee Retirement Income Security Act of 1974 may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 16 Enforcement

Noncompliance with this Regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of license. Among others, the penalties provided for in §10-3-1108, C.R.S. may be applied.

Section 17 Effective Date

This amended regulation is effective January 1, 2010.

Section 18 History

This regulation was originally effective July 1, 1994.

Amended regulation effective August 1, 2006.

Amended regulation effective January 1, 2010.

Regulation 4-1-4 REPLACEMENT OF LIFE INSURANCE POLICIES AND ANNUITIES

Section 1 Authority

This regulation is promulgated under the authority of § §10-1-109 and 10-3-1110(1), Colorado Revised Statutes (C.R.S.).

Section 2 Scope and Purpose

A. The purpose of this regulation is:

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. It will:

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

   b. Reduce the opportunity for misrepresentation and incomplete disclosure; and

   c. Establish penalties for failure to comply with requirements of this regulation.

Section 3 Applicability

A. This regulation shall apply to life insurance policies and annuity contracts covering residents of this state, which are solicited and issued by insurance corporations, fraternal benefit societies, associations or other institutions, which issue life insurance or annuities.

B. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

1. Credit life insurance;

2. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of Section 9;

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

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

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

   a. Policies or contracts used to fund:

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

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

      3. a governmental or church plan defined in Section 414, a governmental or

church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; or

4. a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

b. Notwithstanding subparagraph a., this regulation shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two (2) or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;

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

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

8. 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; or

9. Structured settlements.

C. Registered contracts shall be exempt from the requirements of Sections 7(A)(2) and 8(B) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

Section 4 Definitions

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

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

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

D. "Financed purchase" means 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. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company within four (4) months before or thirteen (13) months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in Section 6(A)(5) of this regulation.

E. "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in Colorado Insurance Regulation 4-1-8.

F. "Policy summary," for the purposes of this regulation:

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

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

G. "Producer," for the purpose of this regulation, shall be defined to include agents, brokers and producers.

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

I. "Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

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

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

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

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

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

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

Section 5 Duties of Producers

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

B. If the applicant answered “yes” to the question regarding existing coverage referred to in subsection 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 or other substantially similar form which is not less favorable in any respect to the insured. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and left with the applicant.

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

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

E. Except as provided in Section 7C, in connection with a replacement transaction the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

Section 6 Duties of Insurers that Use Producers

Each insurer shall:

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

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

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

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

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

5. Procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this regulation may include, but shall not be limited to, systematic

customer surveys, interviews, confirmation letters, or programs of internal monitoring;

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

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

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

3. Annuity contract replacements as a percentage of the producer's total annual annuity contract sales;

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

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

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

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

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

F. Ascertain that the sales material and illustrations required by section 5.E. of this regulation meet the requirements of this regulation and are complete and accurate for the proposed policy or contract;

G. If an application does not meet the requirements of this regulation, notify the producer and applicant and fulfill the outstanding requirements; and

H. Maintains records in paper, photograph, micro process, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

Section 7 Duties of Replacing Insurers that Use Producers

A. Where a replacement is involved in the transaction, the replacing insurer shall:

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

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

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

4. Provide to the policy or contract owner notice of the right to return the policy or contract within thirty (30) days of the delivery of the contract and receive an unconditional full refund of all premiums or 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; such notice may be included in Appendix A or C of this regulation.

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

C. If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to section 5.E., the insurer:

1. May require with each application a statement signed by the producer that:

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

   b. States that copies of all sales material were left with the applicant in accordance with section 5.D.; and

2. May within ten (10) days of the issuance of the policy or contract:

   a. Notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with section 5.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. Shall be able to produce a copy of the letter or other verification in the policy file for at least five (5) years after the termination or expiration of the policy or contract.

Section 8 Duties of the Existing Insurer

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

A. Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five (5) years or until the conclusion of the next regular examination conducted by the Insurance Department of its state of domicile, whichever is later.

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

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

Section 9 Duties of Insurers with Respect to Direct Response Solicitations

A. In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement in Appendix B, or other substantially similar form which is no less favorable in any respect to the insured.

B. If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

1. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix C, or other substantially similar form which is not less favorable in any respect to the insured. The insurer’s obligation to obtain the applicant’s signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this paragraph; and

2. Comply with the requirements of section 7.A. 2., if the applicant furnishes the names of the existing insurers, and the requirements of subsections A.3., A.4. and B. of section 7 of this regulation.

Section 10 Violations and Penalties

A. Any failure to comply with this regulation shall be considered a violation of § 10-3-1104(1)(b), CRS. Examples of violations include:

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

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

3. The intentional incorrect recording of an answer;

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

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

B. Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this regulation.

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

D. Violations of this regulation shall subject the violators to penalties that may include the revocation or suspension of a producer's license or the company's certificate of authority, monetary fines and the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred. In addition, where the commissioner has determined that the violations were material to the sale, the insurer may be required to make restitution and restore policy or contract values.

Section 11 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of all applicable sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines and suspension or revocation of license or revocation of the insurer's certificate of authority.

Section 12 Severability

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

Section 13 Effective Date

This regulation shall be effective October 1, 2009.

Section 14 History

Originally issued as Regulation 72-7, effective April 1, 1972.

Regulation 72-7 repealed and replaced by Regulation 82-1, effective September 1, 1982.

Renumbered as Regulation 4-1-4, effective June 1, 1992.

Repealed and Repromulgated in full, effective July 1, 2001.

Amended, effective October 1, 2009.

Appendix A IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

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

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

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

A financed purchase occurs when the purchase of a new 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 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 or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

.	INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT
1.	________________	________________	________________
2.	________________	________________	________________
3.	________________	________________	________________

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

The existing policy or contract is being replaced because ______________________________.

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

____ ______________________

Applicant's Signature and Printed Name Date

____ ______________________

Producer's Signature and Printed Name Date

I do not want this notice read aloud to me. _______

(Applicants must initial only if they do not want the notice read aloud.)

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

PREMIUMS:

- Are they affordable?

- Could they change?

- You're older - are premiums higher for the proposed new policy?

- How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

- New policies usually take longer to build cash values and to pay dividends.

- Acquisition costs for the old policy may have been paid, you will incur costs for the new one.

- What surrender charges do the policies have?

- What expense and sales charges will you pay on the new policy?

- Does the new policy provide more insurance coverage?

INSURABILITY:

- If your health has changed since you bought your old policy, the new one could cost you more or you could be turned down.

- You may need a medical exam for a new policy.

- Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

- Suicide limitations may begin anew on the new coverage.

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

- How are premiums for both policies being paid?

- How will the premiums on your existing policy be affected?

- Will a loan be deducted from death benefits?

- What values from the old policy are being used to pay premiums?

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

- Will you pay surrender charges on your old contract?

- What are the interest rate guarantees for the new contract?

- Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- What are the tax consequences of buying the new policy?

- Is this a tax free exchange? (See your tax advisor.)

- Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?

- Will the existing insurer be willing to modify the old policy?

- How does the quality and financial stability of the new company compare with your existing company?

Appendix B NOTICE REGARDING REPLACEMENT: REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

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

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

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

Appendix C IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

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

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited (to give away), 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 and may reduce the amount paid upon the death of the insured.

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

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ____ YES ____ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ____ YES ____ NO

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

.	INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT
1.	________________	________________	________________
2.	________________	________________	________________
3.	________________	________________	________________

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

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

____ ________________________

Applicant's Signature and Printed Name Date

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

PREMIUMS:

- Are they affordable?

- Could they change?

- You're older—are premiums higher for the proposed new policy?

- How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

- New policies usually take longer to build cash values and to pay dividends.

- Acquisition costs for the old policy may have been paid, you will incur costs for the new one.

- What surrender charges do the policies have?

- What expense and sales charges will you pay on the new policy?

- Does the new policy provide more insurance coverage?

INSURABILITY:

- If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

- You may need a medical exam for a new policy.

- Claims on most new policies for up to the first two 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?

Regulation 4-1-5 PERMITTING SAME MINIMUM NONFORFEITURE STANDARDS FOR MEN AND

WOMEN INSURED UNDER 1980 CSO AND 1980 CET MORTALITY TABLES

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of § §10-1-109, and 10-7-305.1(8)(f), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to permit individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women to the extent necessary to comply with the U.S. Supreme Court decision in Arizona Governing Committee vs. Norris. No change in minimum valuation standards is implied by this regulation.

The purpose of the January 1, 1989 amendment to this regulation, which was to add the Alternative Rule in Section 6, is to permit the use of smoker/nonsmoker status in providing the same cash surrender values and paid-up nonforfeiture benefits to both men and women.

Section 3 Applicability

This regulation is applicable to all foreign or domestic life and fraternal insurers.

Section 4 Definitions

A. "1980 CSO Table, With or Without Ten-Year Select Mortality Factors" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, referred to in §10-7-305.1(8), C.R.S. and referred to as the Commissioners 1980 Standard Ordinary Mortality Table, With or Without Ten-Year Select Mortality Factors.

B. "1980 CSO Table (M), With or Without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for male lives from the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors.

C. "1980 CSO Table (F), With or Without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors.

D. "1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, referred to in §10-7-305.1(8)(d), C.R.S., and referred to as the Commissioners 1980 Extended Term Insurance Table.

E. "1980 CET Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 1980 CET Table.

F. "1980 CET Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 1980 CET Table.

G. "1980 CSO and 1980 CET Smoker and Nonsmoker Mortality Tables" mean the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the 1980 CSO and 1980 CET Mortality Tables by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and adopted by the National Association of Insurance Commissioners (NAIC), in December 1983.

Section 5 Rule

A. In determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this state after the operative date of §10-7-305.1, C.R.S. for that policy form,

1. A mortality table which is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) With or Without Ten-Year Select Mortality Factors may at the option of the company be substituted for the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors, and

2. A mortality table which is of the same blend as used in Paragraph (1) but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F) may at the option of the company be substituted for the 1980 CET Table.

B. The following tables will be considered as the basis for acceptable tables:

1. 100% Male 0% Female for tables to be designated as the "1980 CSO-A" and "1980 CET-A" tables.

2. 80% Male 20% Female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables.

3. 60% Male 40% Female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables.

4. 50% Male 50% Female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables.

5. 40% Male 60% Female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

6. 20% Male 80% Female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables.

7. 0% Male 100% Female for tables to be designated as the "1980 CSO-G" and "1980 CET-G" tables.

C. The tables in Subsections 5B(1) and 5B(7) above are not to be used with respect to policies issued on or after January 1, 1985, except where the proportion of persons insured is anticipated to be ninety percent (90%) or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986 must use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered as extensions of the Norris decision. This consideration has not been clearly defined by court or legislative action in all jurisdictions. The values of 1000qx for the blended tables in Subsections 5B(2) through 5B(6) are as published in the *Proceedings of the National Association of Insurance Commissioners, Volume I*, pages 396 - 400, and the method by which selection factors may be obtained is as described on page 457 of such publication. The tables in Subsection 5B(1) are the same as 1980 CSO Table (M) and 1980 CET Table (M) and the tables in Subsection 5B(7) are the same as 1980 CSO Table (F) and 1980 CET Table (F).

Section 6 Alternate Rule

A. In determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance on the life of either a male or female insured on a form of insurance with separate rates for smokers and nonsmokers delivered or issued for delivery in this state after the operative date of §10-7-305.1, C.R.S., for that policy form, in addition to the mortality tables that may be used according to Section 5,

1. A mortality table which is a blend of the male and female rates of mortality according to the 1980 CSO Smoker Mortality Table, in the case of lives classified as smokers, or the 1980 CSO Nonsmoker Mortality Table, in the case of lives classified as nonsmokers, With or Without Ten-Year Select Mortality Factors, may at the option of the company be substituted for the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors, and

2. A mortality table which is of the same blend as used in Paragraph (1) but applied to form a blend of the male and female rates of mortality according to the corresponding 1980 CET Smoker Mortality Table or 1980 CET Nonsmoker Mortality Table may at the option of the company be substituted for the 1980 CET Table.

B. The following tables will be considered as the basis for acceptable tables:

1. 100% Male 0% Female smoker tables to be designated as the "1980 CSO-SA" and "1980 CET-SA" tables.

2. 80% Male 20% Female smoker tables to be designated as the "1980 CSO-SB" and "1980 CET-SB" tables.

3. 60% Male 40% Female smoker tables to be designated as the "1980 CSO-SC" and "1980 CET-SC" tables.

4. 50% Male 50% Female smoker tables to be designated as the "1980 CSO-SD" and "1980 CET-SD" tables.

5. 40% Male 60% Female smoker tables to be designated as the "1980 CSO-SE" and "1980 CET-SE" tables.

6. 20% Male 80% Female smoker tables to be designated as the "1980 CSO-SF" and "1980 CET-SF" tables.

7. 0% Male 100% Female smoker tables to be designated as the "1980 CSO-SG" and "1980 CET-SG" tables.

8. 100% Male 0% Female non-smoker tables to be designated as the "1980 CSO-NA" and "1980 CET-NA" tables.

9. 80% Male 20% Female non-smoker tables to be designated as the "1980 CSO-NB" and "1980 CET-NB" tables.

10. 60% Male 40% Female non-smoker tables to be designated as the "1980 CSO-NC" and "1980 CET-NC" tables.

11. 50% Male 50% Female non-smoker tables to be designated as the "1980 CSO-ND" and "1980 CET-ND" tables.

12. 40% Male 60% Female non-smoker tables to be designated as the "1980 CSO-NE" and "1980 CET-NE" tables.

13. 20% Male 80% Female non-smoker tables to be designated as the "1980 CSO-NF" and "1980 CET-NF" tables.

14. 0% Male 100% Female non-smoker tables to be designated as the "1980 CSO-NG" and "1980 CET-NG" tables.

C. The tables in Subsections 6B(1), 6B(7), 6B(8) and 6B(14) above are not acceptable as blended tables unless the proportion of persons insured is anticipated to be ninety percent (90%) or more of one sex or the other. The values of 1000qx for the blended tables in Subsections 6B(2) through 6B(6) and 6B(9) through 6B(13) are as published in the1987 *Proceedings of the National Association of Insurance Commissioners, Volume I*, pages 521 - 530, and the method by which selection factors may be obtained is as described in the 1984 *Proceedings of the National Association of Insurance Commissioners, Volume I*, page 457. The tables in Subsections 6B(1) and 6B(8) are the same as 1980 CSO Table (M) and 1980 CET Table (M) smoker and nonsmoker respectively, and the tables in Subsections 6B(7) and 6B(14) are the same as 1980 CSO Table (F) and 1980 CET Table (F) smoker and nonsmoker respectively.

Section 7 Unfair Discrimination

The tables described in Sections 5 and 6 above may be used to the extent necessary to comply with the requirements of the U.S. Supreme Court decision in Arizona Governing Committee vs. Norris or other applicable laws which prohibit differentiation by sex in life insurance policies. To that extent the use of the tables will not be a violation of §10-3-1104, C.R.S.

Section 8 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 9 Incorporated Materials

The 1980 CSO and 1980 CET Tables shall mean the 1980 CSO and 1980 CET Tables as adopted on the effective date of this regulation and does not include later amendments to or editions of the 1980 CSO and 1980 CET Tables. Copies of the 1980 CSO and 1980 CET Tables may be examined at any state publications depository library. For additional information regarding how the 1980 CSO and 1980 CET Tables may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 10 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of certificates of authority. Among others, the penalties provided in § 10-3-1108, C.R.S. may be applied.

Section 11 Effective Date

The effective date of this regulation is March 2, 2010.

Section 12 History

New Regulation 4-1-5 effective January 1, 1985.

Amended Regulation 4-1-5 effective January 1, 1989.

Amended Regulation 4-1-5 effective December 31, 1992.

Amended Regulation 4-1-5 effective March 2, 2010.

Regulation 4-1-6 PERMITTING SMOKER/NONSMOKER MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§10-1-109, 10-7-305.1(8)(f) and 10-7-309(1)(a)(III), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to permit the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

Section 3 Applicability

This regulation is applicable to all foreign or domestic life and fraternal insurers.

Section 4 Definitions

A. "1980 CSO Table, With or Without Ten-Year Select Mortality Factors" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, referred to in §10-7-305.1(8), C.R.S. and referred to as the Commissioners 1980 Standard Ordinary Mortality Table, With or Without Ten-Year Select Mortality Factors. The same select factors will be used for both smokers and nonsmokers tables.

B. "1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, referred to in §10-7-305.1(8)(d), C.R.S., and referred to as the Commissioners 1980 Extended Term Insurance Table.

C. "1958 CSO Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, referred to in §10-7-309(1)(a), C.R.S., and referred to as the Commissioners 1958 Standard Ordinary Mortality Table.

D. "1958 CET Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, referred to in §10-7-305(4)(b), C.R.S., and referred to as the Commissioners 1958 Extended Term Insurance Table.

E. "Smoker and nonsmoker mortality tables" refers to the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in Subsections A through D of this section which were developed by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and the California Insurance Department staff as published in the *1984 Proceedings of the National Association of Insurance Commissioners, Volume I*, pages 402 - 413.

F. "Composite mortality tables" refers to the mortality tables defined in Subsections A through D of this section as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

Section 5 Alternate Tables

A. In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of §10-7-305.1, C.R.S. for that policy form and before January 1, 1989, at the option of the company and subject to the conditions stated in section 6 of this regulation,

   1. The 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors, and

   2. The 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table

Provided that for any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, such minimum values may be calculated according to an age not more than six (6) years younger than the actual age of the insured.

Provided further that the substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989.

B. In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of §10-7-305.1, C.R.S. for that policy form, at the option of the company and subject to the conditions stated in section 6 of this regulation,

1. The 1980 CSO Smoker and Nonsmoker Mortality Tables, With or Without Ten-Year Select Mortality Factors, may be substituted for the 1980 CSO Table, With or Without Ten-Year Select Mortality Factors, and

2. The 1980 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table.

Section 6 Conditions

For each plan of insurance with separate rates for smokers and nonsmokers an insurer may;

A. Use composite mortality tables to determine minimum reserve liabilities and minimum cash values and amounts of paid-up nonforfeiture benefits,

B. Use smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by §10-7-313, C.R.S. and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits, or

C. Use smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

Section 7 Severability

If any provision of this regulation or the application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 8 Incorporated Materials

The 1958 CSO, 1958 CET, 1980 CSO and 1980 CET Tables shall mean the 1958 CSO, 1958 CET, 1980 CSO and 1980 CET Tables as adopted on the effective date of this regulation and does not include later amendments to or editions of the 1958 CSO, 1958 CET, 1980 CSO and 1980 CET Tables. Copies of the 1958 CSO, 1958 CET, 1980 CSO and 1980 CET Tables may be examined at any state publications depository library. For additional information regarding how the 1958 CSO, 1958 CET, 1980 CSO and 1980 CET Tables may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 9 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of certificates of authority. Among others, the penalties provided in § 10-3-1108, C.R.S. may be applied

Section 10 Effective Date

The effective date of this regulation is March 2, 2010.

Section 11 History

New regulation 4-1-6 effective January 1, 1985.

Amended Regulation 4-1-6 effective March 2, 2010.

Regulation 4-1-7 FOR RECOGNIZING A NEW ANNUITY MORTALITY TABLE FOR USE IN DETERMINING LIABILITIES FOR ANNUITIES

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of § §10-1-109 and 10-7-309(2)(a), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table “a,” the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

Section 3 Applicability

This regulation is applicable to all foreign or domestic life and fraternal insurers.

Section 4 Definitions

A. "1983 Table 'a’" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners (NAIC). [See *1982 Proceedings of the NAIC II*, page 454.] This regulation does not include later amendments or editions of this table.

B. "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners [See *1984 Proceedings of the NAIC I*, pages 414 to 415.] This regulation does not include later amendments or editions of this table.

C. “1994 GAR Table” means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown at XLVII Transactions of the Society of Actuaries 866-867 (1995), and adopted as a recognized mortality table for annuities in December 1996 by the National Association of Insurance Commissioners. [See *1996 Proceedings of the NAIC, third quarter*, pages 9, 40, 908, 1202, 1236-1237.] This regulation does not include later amendments or editions of this table.

D. “Annuity 2000 Mortality Table” means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown at XLVII Transactions of the Society of Actuaries 240 (1995) and adopted as a recognized mortality table for annuities in December 1996 by the National Association of Insurance Commissioners. [See *1996 Proceedings of the NAIC, third quarter*, pages 9, 40, 908, 1202, 1236-1237.] This regulation does not include later amendments or editions of this table.

Section 5 Individual Annuities or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this section, the 1983 Table “a” is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1981.

B. Except as provided in Subsection C of this section, either the 1983 Table “a” or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1985.

C. Except as provided in Subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after March 2, 2001.

D. The 1983 Table “a” without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after March 2, 2001, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

2. Settlements involving similar actions such as workers' compensation claims; or

3. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

Section 6 Group Annuity or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this section, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1981, under a group annuity or pure endowment contract.

B. Except as provided in Subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1985 under a group annuity or pure endowment contract.

C. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after March 2, 2001 under a group annuity or pure endowment contract.

Section 7 Application of the 1994 GAR Table

In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} \, (1 - AA_x)^n$$

where the q_x^{1994} and AA_x s are as specified in the 1994 GAR Table.

Section 8 Severability

If any provision of this regulation or the application to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected.

Section 9 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines, issuance of cease and desist orders, and/or other suspensions or revocations of license. Among others, the penalties provided in §10-3-1108, C.R.S. may be applied.

Section 10 Effective Date

The effective date of this regulation is March 2, 2010.

Section 11 History

This regulation was originally effective January 1, 1985.

Amended regulation 4-1-7, effective March 2, 2001.

Amended regulation 4-1-7, effective March 2, 2010.

Appendix A 1994 Group Annuity Reserving (1994 GAR) Table

Appendix A

1994 Group Annuity Reserving (1994 GAR) Table

Age (x)	Male		Female		Age (x)	Male		Female	
	q_x	AA_x	q_x	AA_x		q_x	AA_x	q_x	AA_x
1	0.000592	0.020	0.000531	0.020	31	0.000821	0.005	0.000373	0.008
2	0.000400	0.020	0.000346	0.020	32	0.000839	0.005	0.000397	0.008
3	0.000332	0.020	0.000258	0.020	33	0.000848	0.005	0.000422	0.009
4	0.000259	0.020	0.000194	0.020	34	0.000849	0.005	0.000449	0.010
5	0.000237	0.020	0.000175	0.020	35	0.000851	0.005	0.000478	0.011
6	0.000227	0.020	0.000163	0.020	36	0.000862	0.005	0.000512	0.012
7	0.000217	0.020	0.000153	0.020	37	0.000891	0.005	0.000551	0.013
8	0.000201	0.020	0.000137	0.020	38	0.000939	0.006	0.000598	0.014
9	0.000194	0.020	0.000130	0.020	39	0.000999	0.007	0.000652	0.015
10	0.000197	0.020	0.000131	0.020	40	0.001072	0.008	0.000709	0.015
11	0.000208	0.020	0.000138	0.020	41	0.001156	0.009	0.000768	0.015
12	0.000226	0.020	0.000148	0.020	42	0.001252	0.010	0.000825	0.015
13	0.000255	0.020	0.000164	0.020	43	0.001352	0.011	0.000877	0.015
14	0.000297	0.019	0.000189	0.018	44	0.001458	0.012	0.000923	0.015
15	0.000345	0.019	0.000216	0.016	45	0.001578	0.013	0.000973	0.016
16	0.000391	0.019	0.000242	0.015	46	0.001722	0.014	0.001033	0.017
17	0.000430	0.019	0.000262	0.014	47	0.001899	0.015	0.001112	0.018
18	0.000460	0.019	0.000273	0.014	48	0.002102	0.016	0.001206	0.018
19	0.000484	0.019	0.000280	0.015	49	0.002326	0.017	0.001310	0.018
20	0.000507	0.019	0.000284	0.016	50	0.002579	0.018	0.001428	0.017
21	0.000530	0.018	0.000286	0.017	51	0.002872	0.019	0.001568	0.016
22	0.000556	0.017	0.000289	0.017	52	0.003213	0.020	0.001734	0.014
23	0.000589	0.015	0.000292	0.016	53	0.003584	0.020	0.001907	0.012
24	0.000624	0.013	0.000291	0.015	54	0.003979	0.020	0.002084	0.010
25	0.000661	0.010	0.000291	0.014	55	0.004420	0.019	0.002294	0.008
26	0.000696	0.006	0.000294	0.012	56	0.004949	0.018	0.002563	0.006
27	0.000727	0.005	0.000302	0.012	57	0.005581	0.017	0.002919	0.005
28	0.000754	0.005	0.000315	0.012	58	0.006300	0.016	0.003359	0.005
29	0.000779	0.005	0.000331	0.012	59	0.007090	0.016	0.003863	0.005
30	0.000801	0.005	0.000351	0.010	60	0.007976	0.016	0.004439	0.005

1994 Group Annuity Reserving (1994 GAR) Table (continued)

Age (x)	Male		Female		Age (x)	Male		Female	
	q_x	AA_x	q_x	AA_x		q_x	AA_x	q_x	AA_x
61	0.008986	0.015	0.005093	0.005	91	0.167260	0.004	0.128751	0.003
62	0.010147	0.015	0.005832	0.005	92	0.182281	0.003	0.141973	0.003
63	0.011471	0.014	0.006677	0.005	93	0.198392	0.003	0.155931	0.002
64	0.012940	0.014	0.007621	0.005	94	0.215700	0.003	0.170677	0.002
65	0.014535	0.014	0.008636	0.005	95	0.233606	0.002	0.186213	0.002
66	0.016239	0.013	0.009694	0.005	96	0.251510	0.002	0.202538	0.002
67	0.018034	0.013	0.010764	0.005	97	0.268815	0.002	0.219655	0.001
68	0.019859	0.014	0.011763	0.005	98	0.285277	0.001	0.237713	0.001
69	0.021729	0.014	0.012709	0.005	99	0.301298	0.001	0.256712	0.001
70	0.023730	0.015	0.013730	0.005	100	0.317238	0.001	0.276427	0.001
71	0.025951	0.015	0.014953	0.006	101	0.333461	0.000	0.296629	0.000
72	0.028481	0.015	0.016506	0.006	102	0.350330	0.000	0.317093	0.000
73	0.031201	0.015	0.018344	0.007	103	0.368542	0.000	0.338505	0.000
74	0.034051	0.015	0.020381	0.007	104	0.387885	0.000	0.361016	0.000
75	0.037211	0.014	0.022686	0.008	105	0.407224	0.000	0.383597	0.000
76	0.040858	0.014	0.025325	0.008	106	0.425599	0.000	0.405217	0.000
77	0.045171	0.013	0.028366	0.007	107	0.441935	0.000	0.424846	0.000
78	0.050211	0.012	0.031727	0.007	108	0.457553	0.000	0.444368	0.000
79	0.055861	0.011	0.035362	0.007	109	0.473150	0.000	0.464469	0.000
80	0.062027	0.010	0.039396	0.007	110	0.486745	0.000	0.482325	0.000
81	0.068615	0.009	0.043952	0.007	111	0.496356	0.000	0.495110	0.000
82	0.075532	0.008	0.049153	0.007	112	0.500000	0.000	0.500000	0.000
83	0.082510	0.008	0.054857	0.007	113	0.500000	0.000	0.500000	0.000
84	0.089613	0.007	0.060979	0.007	114	0.500000	0.000	0.500000	0.000
85	0.097240	0.007	0.067738	0.006	115	0.500000	0.000	0.500000	0.000
86	0.105792	0.007	0.075347	0.005	116	0.500000	0.000	0.500000	0.000
87	0.115671	0.006	0.084023	0.004	117	0.500000	0.000	0.500000	0.000
88	0.126980	0.005	0.093820	0.004	118	0.500000	0.000	0.500000	0.000
89	0.139452	0.005	0.104594	0.003	119	0.500000	0.000	0.500000	0.000
90	0.152931	0.004	0.116265	0.003	120	1.000000	0.000	1.000000	0.000

Appendix B Annuity 2000 Mortality Table

Appendix B

Annuity 2000 Mortality Table

Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female*	Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female*	Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female*
5	0.291	0.171	43	1.362	0.781			
6	0.270	0.141	44	1.547	0.855	81	50.643	35.985
7	0.257	0.118	45	1.752	0.939	82	55.651	40.552
8	0.294	0.118	46	1.974	1.035	83	61.080	45.690
9	0.325	0.121	47	2.211	1.141	84	66.948	51.456
10	0.350	0.126	48	2.460	1.261	85	73.275	57.913
11	0.371	0.133	49	2.721	1.393	86	80.076	65.119
12	0.388	0.142	50	2.994	1.538	87	87.370	73.136
13	0.402	0.152	51	3.279	1.695	88	95.169	81.991
14	0.414	0.164	52	3.576	1.864	89	103.455	91.577
15	0.425	0.177	53	3.884	2.047	90	112.208	101.758
16	0.437	0.190	54	4.203	2.244	91	121.402	112.395
17	0.449	0.204	55	4.534	2.257	92	131.017	123.349
18	0.463	0.219	56	4.876	2.689	93	141.030	134.486
19	0.480	0.234	57	5.228	2.942	94	151.422	145.689
20	0.499	0.250	58	5.593	3.218	95	162.179	156.846
21	0.519	0.265	59	5.988	3.523	96	173.279	167.841
22	0.542	0.281	60	6.428	3.863	97	184.706	178.563
23	0.566	0.298	61	6.933	4.242	98	196.946	189.604
24	0.592	0.314	62	7.520	4.668	99	210.484	201.557
25	0.616	0.331	63	8.207	5.144	100	225.806	215.013
26	0.639	0.347	64	9.008	5.671	101	243.398	230.565
27	0.659	0.362	65	9.940	6.250	102	263.745	248.805
28	0.675	0.376	66	11.016	6.878	103	287.334	270.326
29	0.687	0.389	67	12.251	7.555	104	314.649	295.719
30	0.694	0.402	68	13.657	8.287	105	346.177	325.576
31	0.699	0.414	69	15.233	9.102	106	382.403	360.491
32	0.700	0.425	70	16.979	10.034	107	423.813	401.054
33	0.701	0.436	71	18.891	11.117	108	470.893	447.860
34	0.702	0.449	72	20.967	12.386	109	524.128	501.498
35	0.704	0.463	73	23.209	13.871	110	584.004	562.563
36	0.719	0.481	74	25.644	15.592	111	651.007	631.645
37	0.749	0.504	75	28.304	17.564	112	725.622	709.338
38	0.796	0.532	76	31.220	19.805	113	808.336	796.233
39	0.864	0.567	77	34.425	22.328	114	899.633	892.923
40	0.953	0.609	78	37.948	25.158	115	1000.000	1000.000
41	1.065	0.658	79	41.812	28.341	* Based on 50% of Female Improvement Scale G.		
42	1.201	0.715	80	46.037	31.933			

Appendix C   1983 Table a

Appendix C

1983 Table a

Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female	Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female	Age Nearest Birthday (x)	$1000q_x$ Male	$1000q_x$ Female
5	0.377	0.194	42	1.673	0.867	79	51.755	32.328
6	0.350	0.160	43	1.886	0.942	80	57.026	36.395
7	0.333	0.134	44	2.129	1.026	81	62.791	40.975
8	0.352	0.134	45	2.399	1.122	82	69.081	46.121
9	0.368	0.136	46	2.693	1.231	83	75.908	51.889
10	0.382	0.141	47	3.009	1.356	84	83.230	58.336
11	0.394	0.147	48	3.343	1.499	85	90.987	65.518
12	0.405	0.155	49	3.694	1.657	86	99.122	73.493
13	0.415	0.165	50	4.057	1.830	87	107.577	82.318
14	0.425	0.175	51	4.431	2.016	88	116.316	92.017
15	0.435	0.188	52	4.812	2.215	89	125.394	102.491
16	0.446	0.201	53	5.198	2.426	90	134.887	113.605
17	0.458	0.214	54	5.591	2.650	91	144.873	125.227
18	0.472	0.229	55	5.994	2.891	92	155.429	137.222
19	0.488	0.244	56	6.409	3.151	93	166.629	149.462
20	0.505	0.260	57	6.839	3.432	94	178.537	161.834
21	0.525	0.276	58	7.290	3.739	95	191.214	174.228
22	0.546	0.293	59	7.782	4.081	96	204.721	186.535
23	0.570	0.311	60	8.338	4.467	97	219.120	198.646
24	0.596	0.330	61	8.983	4.908	98	234.735	211.102
25	0.622	0.349	62	9.740	5.413	99	251.889	224.445
26	0.650	0.368	63	10.630	5.990	100	270.906	239.215
27	0.677	0.387	64	11.664	6.633	101	292.111	255.953
28	0.704	0.405	65	12.851	7.336	102	315.826	275.201
29	0.731	0.423	66	14.199	8.090	103	342.377	297.500
30	0.759	0.441	67	15.717	8.888	104	372.086	323.390
31	0.786	0.460	68	17.414	9.731	105	405.278	353.414
32	0.814	0.479	69	19.296	10.653	106	442.277	388.111
33	0.843	0.499	70	21.371	11.697	107	483.406	428.023
34	0.876	0.521	71	23.647	12.905	108	528.989	473.692
35	0.917	0.545	72	26.131	14.319	109	579.351	525.658
36	0.968	0.574	73	28.835	15.980	110	634.814	584.462
37	1.032	0.607	74	31.794	17.909	111	695.704	650.646
38	1.114	0.646	75	35.046	20.127	112	762.343	724.750
39	1.216	0.691	76	38.631	22.654	113	835.056	807.316
40	1.341	0.742	77	42.587	25.509	114	914.167	898.885
41	1.492	0.801	78	46.951	28.717	115	1000.000	1000.000

Appendix D 1983 Group Annuity Mortality (1983 GAM) Table

Appendix D

1983 Group Annuity Mortality (1983 GAM) Table

Age	q_x		Age	q_x		Age	q_x	
	Male	Female		Male	Female		Male	Female
5	0.000342	0.000171	41	0.001370	0.000716	76	0.049388	0.027185
6	0.000318	0.000140	42	0.001527	0.000775	77	0.054758	0.030672
7	0.000302	0.000118	43	0.001715	0.000842	78	0.060678	0.034459
8	0.000294	0.000104	44	0.001932	0.000919	79	0.067125	0.038549
9	0.000292	0.000097	45	0.002183	0.001010	80	0.074070	0.042945
10	0.000293	0.000096	46	0.002471	0.001117	81	0.081484	0.047655
11	0.000298	0.000104	47	0.002790	0.001237	82	0.089320	0.052691
12	0.000304	0.000113	48	0.003138	0.001366	83	0.097525	0.058071
13	0.000310	0.000122	49	0.003513	0.001505	84	0.106047	0.063807
14	0.000317	0.000131	50	0.003909	0.001647	85	0.114836	0.069918
15	0.000325	0.000140	51	0.004324	0.001793	86	0.124170	0.076570
16	0.000333	0.000149	52	0.004755	0.001949	87	0.133870	0.083870
17	0.000343	0.000159	53	0.005200	0.002120	88	0.144073	0.091935
18	0.000353	0.000168	54	0.005660	0.002315	89	0.154859	0.101354
19	0.000365	0.000179	55	0.006131	0.002541	90	0.166307	0.111750
20	0.000377	0.000189	56	0.006618	0.002803	91	0.178214	0.123076
21	0.000392	0.000201	57	0.007139	0.003103	92	0.190460	0.135630
22	0.000408	0.000212	58	0.007719	0.003443	93	0.203007	0.149577
23	0.000424	0.000225	59	0.008384	0.003821	94	0.217904	0.165103
24	0.000444	0.000239	60	0.009158	0.004241	95	0.234086	0.182419
25	0.000464	0.000253	61	0.010064	0.004703	96	0.248436	0.201757
26	0.000488	0.000268	62	0.011133	0.005210	97	0.263954	0.222044
27	0.000513	0.000284	63	0.012391	0.005769	98	0.280803	0.243899
28	0.000542	0.000302	64	0.013868	0.006386	99	0.299154	0.268185
29	0.000572	0.000320	65	0.015592	0.007064	100	0.319185	0.295187
30	0.000607	0.000342	66	0.017579	0.007817	101	0.341086	0.325225
31	0.000645	0.000364	67	0.019804	0.008681	102	0.365052	0.358897
32	0.000687	0.000388	68	0.022229	0.009702	103	0.393102	0.395843
33	0.000734	0.000414	69	0.024817	0.010922	104	0.427255	0.438360
34	0.000785	0.000443	70	0.027530	0.012385	105	0.469531	0.487816
35	0.000860	0.000476	71	0.030354	0.014128	106	0.521945	0.545886
36	0.000907	0.000502	72	0.033370	0.016160	107	0.586518	0.614309
37	0.000966	0.000536	73	0.036680	0.018481	108	0.665268	0.694885
38	0.001039	0.000573	74	0.040388	0.021092	109	0.760215	0.789474
39	0.001128	0.000617	75	0.044597	0.023992	110	1.000000	1.000000
40	0.001238	0.000665						

Regulation 4-1-8 CONCERNING THE DISCLOSURE REQUIREMENTS FOR LIFE INSURANCE ILLUSTRATIONS

Section 1 Authority

Section 2 Scope and Purpose

Section 3 Applicability

Section 1 Authority

This regulation is issued based upon the authority granted the commissioner under § § 10-1-109 and 10-3-1110(1), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms, used in the illustration, in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

Section 3 Applicability

This regulation applies to all group and individual life insurance policies and certificates except, variable life insurance, individual and group annuity contracts, credit life insurance, or life insurance policies whose death benefits on any individual will not exceed $10,000 during the term of the policy.

Section 4 Definitions

For the purposes of this regulation:

A. "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

B. "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

C. "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety-five (95) days.

D. "Disciplined current scale" means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. The disciplined current scale standards established by the Actuarial Standards Board should be consulted in the preparation of illustrations only to the extent these standards:

1. Are consistent with all provisions of this regulation;

2. Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

3. Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and

4. Do not permit assumed expenses to be less than minimum assumed expenses.

E. "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

F. "Guaranteed elements" and "non-guaranteed elements."

1. "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

2. "Non-guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

G. "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

1. The disciplined current scale; or

2. The currently payable scale.

H. "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and that is one of the three (3) types defined below:

1. "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

2. "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

3. "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

I. "Illustration actuary" means an actuary meeting the requirements of Section 11C of this regulation who certifies to illustrations.

J. "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this regulation, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five (5) years and 100 percent policy persistency thereafter.

K. "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

1. Fully allocated expenses;

2. Marginal expenses; and

3. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies.

Marginal expenses may be used only if greater than a generally recognized expense table. If a generally recognized expense table is not used, fully allocated expenses must be used.

L. "Non-term group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

1. Every plan of coverage was selected by the employer or other group representative;

2. Some portion of the premium is paid by the group or through payroll deduction; and

3. Group underwriting or simplified underwriting is used.

M. "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.

N. "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

O. "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

Section 5 Policies to be Illustrated

A. Each insurer marketing policies to which this regulation is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

B. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited. Insureds who purchased a policy without an illustration may subsequently request an in-force illustration for that policy.

C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this regulation is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

D. Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this regulation, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

Section 6 General Rules and Prohibitions

A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this regulation, be clearly labeled "life insurance illustration" and contain the following basic information:

1. Name of insurer;

2. Name and business address of producer or insurer’s authorized representative, if any;

3. Name, age and sex of proposed insured, except where a composite illustration is permitted under this regulation;

4. Underwriting or rating classification upon which the illustration is based;

5. Generic name of policy, the company product name, if different, and form number;

6. Initial death benefit; and

7. Dividend option election or application of non-guaranteed elements, if applicable.

B. When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

1. Represent the policy as anything other than a life insurance policy;

2. Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;

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

4. Use an illustration that does not comply with the requirements of this regulation;

5. Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;

6. Provide an applicant with an incomplete illustration;

7. Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;

8. Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up to describe a plan for using non-guaranteed elements to pay a portion of future premiums;

9. Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or

10. Use an illustration that is not "self-supporting."

C. If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Section 7 Standards for Basic Illustrations

A. Format. A basic illustration shall conform to the following formatting requirements:

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

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

3. The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.

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

5. The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

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

7. If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer’s illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.

8. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (*e.g*., "see page one for guaranteed elements.")

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

10. The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as

applicable.

11. Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

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

    a. The benefits and values are not guaranteed;

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

    c. Actual results may be more or less favorable.

13. If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

14. If the applicant informs the producer that he/she plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration shall reflect those plans and the impact on future policy benefits and values.

B. Narrative Summary. A basic illustration shall include the following:

1. A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

2. A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

3. A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

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

5. A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

C. Numeric Summary.

1. Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and

values shall be based on the contract premium. This summary shall be shown for at least policy years five (5), ten (10) and twenty (20) and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five (5), ten (10), twenty (20) and thirty (30). The numeric summary bases are:

a. Policy guarantees;

b. Insurer’s illustrated scale;

c. Insurer’s illustrated scale used but with the non-guaranteed elements reduced as follows:

(1) Dividends at fifty percent (50%) of the dividends contained in the illustrated scale used;

(2) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(3) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

2. In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three (3) bases in Subsection (c)(1), above.

D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this regulation.

1. A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

2. A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

E. Tabular Detail.

1. A basic illustration shall include the following for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

a. The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

b. The corresponding guaranteed death benefit, as provided in the policy; and

c. The corresponding guaranteed value available upon surrender, as provided in the policy.

2. For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

3. Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 8 Standards for Supplemental Illustrations

A. A supplemental illustration may be provided so long as:

1. It is appended to, accompanied by or preceded by a basic illustration that complies with this regulation;

2. The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

3. It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and

4. For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

B. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 9 Delivery of Illustration and Record Retention

A. Policies that are illustrated or are modified prior to delivery must comply with either of the following two subsections.

1. If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy, and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

2. If the policy is issued other than as applied for, a revised basic illustration conforming to the policy, as issued, shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer, or other authorized representative of the insurer, no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

3. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A

copy shall be provided to the insurer and the policy owner.

B. If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form, the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued, will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail, from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 10 Annual Report: Notice to Policy Owners

A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

1. For universal life policies, the report shall include the following:

    a. The beginning and end date of the current report period;

    b. The policy value at the end of the previous report period and at the end of the current report period;

    c. The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);

    d. The current death benefit at the end of the current report period on each life covered by the policy;

    e. The net cash surrender value of the policy as of the end of the current report period;

    f. The amount of outstanding loans, if any, as of the end of the current report period; and

    g. For fixed premium policies:

        If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

h. For flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

2. For all other policies, where applicable:

a. Current death benefit;

b. Annual contract premium;

c. Current cash surrender value;

d. Current dividend;

e. Application of current dividend; and

f. Amount of outstanding loan.

3. Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer."

B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: " **IMPORTANT POLICY OWNER NOTICE:** You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Sections 6A, 6B, 7A and 7E of this regulation. No signature or other acknowledgment of receipt of this illustration shall be required.

D. If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 11 Annual Certifications

All annual reports, certifications, and appointments required by this section shall be delivered to the attention of the: Rates and Forms Section, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202.

A. The board of directors of each insurer shall appoint one or more illustration actuaries.

B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Regulation on Life Insurance Illustrations, promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this regulation.

C. The illustration actuary shall:

1. Be a member in good standing of the American Academy of Actuaries;

2. Be familiar with the standard of practice regarding life insurance policy illustrations;

3. Not have been found by the commissioner, following appropriate notice and hearing, to have:

   a. Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

   b. Been found guilty of fraudulent or dishonest practices;

   c. Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

   d. Resigned or been removed as an illustration actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards.

4. Notify the commissioner of any action taken by a commissioner of another state similar to that under Paragraph (3) above;

5. Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five (5) years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

6. Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

   a. Fully allocated expenses;

   b. Marginal expenses; or

   c. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies.

D. The illustration actuary shall file a certification with the board and with the commissioner:

1. Annually for all policy forms for which illustrations are used; and

2. Before a new policy form is illustrated.

3. If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of his or her inability to certify.

F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

1. That the illustration formats meet the requirements of this regulation and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

2. That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this section.

G. The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

Section 12 Severability

If any section or portion of a section of this regulation, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the regulation, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

Section 13 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspension or revocation of certificates of authority. Among others, the penalties provided in § 10-3-1108, C.R.S., may be applied.

Section 14 Effective Date

This regulation shall become effective July 1, 2010.

Section 15 History

Originally issued as Regulation 4-1-8, effective April 1, 1997.

Amended Regulation effective November 1, 2000.

Amended Regulation 4-1-8, effective July 1, 2010.

Regulation 4-1-9 VALUATION OF LIFE INSURANCE POLICIES (Including the Introduction and Use of New Select Mortality Factors)

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of § §10-1-109 and 10-7-313.7, C.R.S.

Section 2 Scope and Purpose

A. The purpose of this regulation is to clarify the provisions of the Standard Nonforfeiture and Valuation Act (Part 3, Article 7 of Title 10, C.R.S.) by providing:

1. Tables of select mortality factors and rules for their use;

2. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and

3. Rules concerning a minimum standard for the valuation of plans with secondary guarantees.

B. The method for calculating basic reserves defined in this regulation will constitute the Commissioners' Reserve Valuation Method for policies to which this regulation is applicable.

Section 3 Applicability

This regulation shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this regulation, subject to the following exceptions and conditions.

A. Exceptions

1. This regulation shall not apply to any individual life insurance policy issued on or after the effective date of this regulation if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this regulation, that guarantees the premium rates of the new policy. This regulation also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

2. This regulation shall not apply to any universal life policy that meets all of the following requirements:

    a. The secondary guarantee period, if any, is five (5) years or less;

    b. The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in Section 4F of this regulation and the applicable valuation interest rate; and

    c. The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period.

3. This regulation shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

4. This regulation shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

5. This regulation shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

B. Conditions

1. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of Section 6 of this regulation.

2. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of Section 7 of this regulation.

Section 4 Definitions

A. “Basic reserves” means reserves calculated in accordance with the principles of §10-7-310, C.R.S.

B. “Contract segmentation method” means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in Subsection F of this section, (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after the effective date of this regulation and promulgated by regulation by the Commissioner for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Section 5B of this regulation.

The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ...; *t* is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount for year *t* of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

, However, R_t may be increased or decreased by one percent in any policy year, at the company's option, but R_t shall not be less than one;

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of Section 5B(2) of this regulation if Section 5B(3) is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

C. "Deficiency reserves" means the excess, if greater than zero, of:

1. Minimum reserves calculated in accordance with the principles of §10-7-313, C.R.S., over

2. Basic reserves.

D. "Guaranteed gross premiums" means the premiums under a policy of life insurance that are guaranteed and determined at issue.

E. "Maximum valuation interest rates" means the interest rates defined in §10-7-309.5, C.R.S. (Computation of Minimum Standard by Calendar Year of Issue) that are to be used in determining the minimum standard for the valuation of life insurance policies.

F. "1980 CSO valuation tables" means the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

G. "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Section 7A(3) of this regulation, if any, or else the minimum premium described in Section 7A(4).

H. “Segmented reserves” means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

1. The present value of the death benefits within the segment, plus

2. The present value of any unusual guaranteed cash value (see Section 6D) occurring at the end of the segment, less

3. Any unusual guaranteed cash value occurring at the start of the segment, plus

4. For the first segment only, the excess of the item (a) over item (b), as follows:

   a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

   b. A net one year term premium for the benefits provided for in the first policy year.

2. The length of each segment is determined by the “contract segmentation method,” as defined in this section.

3. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

4. For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

I. “Tabular cost of insurance” means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

J. “Ten-year select factors” means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

K. “Unitary reserves” means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

1. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

2. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of item (a) over item (b), as follows:

a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

b. A net one year term premium for the benefits provided for in the first policy year.

3. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

L. “Universal life insurance policy” means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

Section 5 General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves

A. At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the Commissioner for this purpose). If select mortality factors are elected, they may be:

1. The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

2. The select mortality factors in the Appendix; or

3. Any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the Commissioner for the purpose of calculating basic reserves.

B. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the Commissioner). If select mortality factors are elected, they may be:

1. The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

2. The select mortality factors in the Appendix of this regulation;

3. For durations in the first segment, X percent of the select mortality factors in the Appendix, subject to the following:

a. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

b. X shall not be less than twenty percent (20%);

c. X is such that, when using the valuation interest rate used for basic reserves, item (1) is greater than or equal to item (2);

(1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

d. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date;

e. The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Subsection B(3) of this section;

f. The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of Subsection B(3) of this section; and

g. The appointed actuary shall specifically take into account the adverse effect on expected morality and lapsation of any anticipated or actual increase in gross premiums

h. If X is less than one hundred percent (100%) at any duration for any policy, the following requirements shall be met:

(1) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of Colorado Insurance Regulation 3-1-8;

(2) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

(3) The appointed actuary shall annually opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of Subsection B(3) of this section. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

4. Any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the Commissioner for the purpose of calculating deficiency reserves.

C. This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten (10) years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

D. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

E. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:

1. Reserves calculated ignoring the guarantee,

2. Reserves assuming the guarantee was made at issue, and

3. Reserves assuming that the policy was issued on the date of the guarantee.

F. The Commissioner may require that the company document the extent of the adequacy of reserve for specified blocks, including but not limited to, policies issued prior to the effective date of this regulation. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of Colorado Insurance Regulation 3-1-8.

Section 6 Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)

A. Basic Reserves

Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in Paragraph (1) or (2) below may be made:

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

B. Deficiency Reserves

1. The deficiency reserve at any duration shall be calculated:

a. On a unitary basis if the corresponding basic reserve determined by Subsection A of this section is unitary;

b. On a segmented basis if the corresponding basic reserve determined by Subsection A of this section is segmented; or

c. On the segmented basis if the corresponding basic reserve determined by Subsection A of this section is equal to both the segmented reserve and the unitary reserve.

2. This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Section 5B) and rate of interest.

3. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Section 5B of this regulation.

4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

C. Minimum Value

Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

D. Unusual Pattern of Guaranteed Cash Surrender Values

1. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

a. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

(2) The mandatory expiration date of the policy; and

b. The net premium for a given year during the *n* year period is equal to the product of the net to gross ratio and the respective gross premium; and

c. The net to gross ratio is equal to item (1) divided by item (2) as follows:

(1) The present value, at the beginning of the *n* year period, of death benefits payable during the *n* year period plus the present value, at the beginning of the *n* year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the *n* year period.

(2) The present value, at the beginning of the *n* year period, of the scheduled gross premiums payable during the *n* year period.

3. For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

a. One hundred ten percent (110%) of the scheduled gross premium for that year;

b. One hundred ten percent (110%) of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

c. Five percent (5%) of the first policy year surrender charge, if any.

E. Optional Exemption for Yearly Renewable Term (YRT) Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 6C.

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph (a) above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the Commissioner for this purpose.

5. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

F. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 6C.

3. Deficiency reserves.

    a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

    b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph (a) above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the Commissioner for this purpose.

5. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

    a. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

    b. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

6. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

    a. The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or

    b. The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

    c. After the initial period of coverage, the policy meets the conditions of Paragraph (5) above.

7. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this regulation.

G. Exemption from Unitary Reserves for Certain *n* -Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

1. The policy consists of a series of *n* -year periods, including the first period and all renewal periods, where *n* is the same for each period, except that for the final renewal period, *n* may be truncated or extended to reach the expiry age, provided that this final renewal period is less than 10 years and less than twice the size of the earlier *n* -year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2. The guaranteed gross premiums in all *n* -year periods are not less than the corresponding net premiums based upon the 1980 CSO valuation tables with or without the ten-year select mortality factors; and

3. There are no cash surrender values in any policy year.

H. Exemption from Unitary Reserves for Certain Juvenile Policies

Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

1. At issue, the insured is age twenty-four (24) or younger;

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

Section 7 Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period

A. General

1. Policies with a secondary guarantee include:

   a. A policy with a guarantee that the policy will remain in force at the original schedule of benefits subject only to the payment of specified premiums;

   b. A policy in which the minimum premium at any duration is less than the corresponding one year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the Commissioner for this purpose; or

   c. A policy with any combination of Subparagraph (a) and (b), above.

2. A secondary guarantee period is the period for which the policy is guaranteed to remain in

force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date, of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Subsections B and C below shall be recalculated from issue to reflect these changes.

3. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4. For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

5. The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Sections 5B(2), (3), and (4) of this regulation may not be used to calculate the one-year valuation premiums.

6. The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

B. Basic Reserves for the Secondary Guarantees

Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Section 4B of this regulation.

C. Deficiency Reserves for the Secondary Guarantees

Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in Section 6B of this regulation with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

D. Minimum Reserves

The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. The minimum reserves required by other rules or regulations governing universal life plans.

Section 8 Severability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 9 Incorporated Materials

The 1980 CSO Table adopted by the NAIC shall mean the 1980 CSO Table as adopted on the effective date of this regulation and does not include later amendments to or editions of the 1980 CSO Table. A copy of the 1980 CSO Table may be examined at any state publications depository library. For additional information regarding how the 1980 CSO Table may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 10 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of license. Among others, the penalties provided for in §10-3-1108, C.R.S. may be applied.

Section 11 Effective Date

This amended regulation is effective November 1, 2010.

Section 12 History

New regulation, effective January 1, 2000.

Amended regulation effective March 2, 2010.

Amended regulation effective November 1, 2010.

Appendix SELECT MORTALITY FACTORS

This appendix contains tables of select mortality factors which are referred to in Sections 5A(2) and 5B(2) of this regulation and that are the bases to which the respective percentages of Section 5B(3) are applied.

The six tables of select mortality factors contained herein include: (1) male aggregate, (2) male nonsmoker, (3) male smoker, (4) female aggregate, (5) female nonsmoker, and (6) female smoker.

These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are eighty percent (80%) of the appropriate male table in this appendix, plus twenty percent (20%) of the appropriate female table in this appendix.

Male, Aggregate

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	70	71	71	77	83	88	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100
25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100
34	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100
41	34	41	53	58	62	63	65	64	64	66	68	70	74	76	77	82	86	91	95	100
42	34	43	53	58	61	62	63	63	63	64	66	69	72	75	77	82	86	91	95	100
43	34	43	54	59	60	61	63	62	62	64	66	67	72	74	77	82	86	91	95	100
44	34	44	54	58	59	60	61	60	61	62	64	67	71	74	77	82	86	91	95	100
45	34	45	53	58	59	60	60	60	59	60	63	66	71	74	77	82	86	91	95	100
46	31	43	52	56	57	58	59	59	59	60	63	67	71	74	75	80	85	90	95	100
47	32	42	50	53	55	56	57	58	59	60	65	68	71	74	75	80	85	90	95	100
48	32	41	47	52	54	56	57	57	57	61	65	68	72	73	74	79	84	90	95	100
49	30	40	46	49	52	54	55	56	57	61	66	69	72	73	74	79	84	90	95	100
50	30	38	44	47	51	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100

Male, Aggregate

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	28	37	42	46	49	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
52	28	35	41	45	49	51	54	56	57	61	66	71	72	74	75	80	85	90	100	100
53	27	35	39	44	48	51	53	55	57	61	67	71	74	75	76	81	86	100	100	100
54	27	33	38	44	48	50	53	55	57	61	67	72	74	75	76	81	100	100	100	100
55	25	32	37	43	47	50	53	55	57	61	68	72	74	75	78	100	100	100	100	100
56	25	32	37	43	47	49	51	54	56	61	67	70	73	74	100	100	100	100	100	100
57	24	31	38	43	47	49	51	54	56	59	66	69	72	100	100	100	100	100	100	100
58	24	31	38	43	48	48	50	53	56	59	64	67	100	100	100	100	100	100	100	100
59	23	30	39	43	48	48	51	53	55	58	63	100	100	100	100	100	100	100	100	100
60	23	30	39	43	48	47	50	52	53	57	100	100	100	100	100	100	100	100	100	100
61	23	30	39	43	49	49	50	52	53	75	100	100	100	100	100	100	100	100	100	100
62	23	30	39	44	49	49	51	52	75	75	100	100	100	100	100	100	100	100	100	100
63	22	30	39	45	50	50	52	75	75	75	100	100	100	100	100	100	100	100	100	100
64	22	30	39	45	50	51	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	22	30	39	45	50	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	22	30	39	45	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	22	30	39	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	23	32	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	23	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Male, Non-Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100
26	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100
27	51	52	55	58	60	60	61	61	62	63	64	66	67	66	67	74	80	87	93	100
28	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100
29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100

Male, Non-Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Male, Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100
29	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100
41	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
42	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
43	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
44	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
45	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
46	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
47	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
48	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
49	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
50	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100

Male, Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
52	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
53	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
54	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
55	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
56	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100
57	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100	100
58	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100	100
59	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100	100
60	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100	100
61	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100	100
62	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100	100
63	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100	100
64	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Aggregate

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100
43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100

Female, Aggregate

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Non-Smoker

Issue	Duration																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100
29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100
41	28	35	39	45	49	52	55	55	58	57	58	59	58	59	60	68	76	84	92	100
42	27	35	39	44	49	52	54	55	56	57	57	57	58	60	61	69	77	84	92	100
43	27	34	39	44	47	50	53	53	55	55	56	57	56	60	61	69	77	84	92	100
44	26	34	38	42	47	50	52	53	54	55	55	55	56	61	62	70	77	85	92	100
45	26	33	38	42	45	48	51	51	52	53	54	55	56	61	62	70	77	85	92	100
46	24	32	37	40	43	47	49	51	52	53	54	55	56	60	61	69	77	84	92	100
47	24	30	35	39	42	45	47	49	51	53	54	55	56	59	60	68	76	84	92	100
48	23	30	35	37	40	44	47	49	50	53	54	55	55	59	57	66	74	83	91	100
49	23	29	33	35	39	42	45	48	50	53	54	55	55	57	56	65	74	82	91	100
50	21	27	32	34	37	41	44	48	50	53	54	55	55	56	55	64	73	82	91	100

Female, Non-Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	21	26	30	34	37	41	44	48	49	51	53	53	54	55	55	64	73	82	91	100
52	20	25	30	33	37	41	44	47	48	50	50	51	51	55	53	62	72	81	100	100
53	19	24	29	32	37	41	43	47	48	48	49	49	51	52	52	62	71	100	100	100
54	18	24	29	32	37	41	43	45	47	47	47	49	49	51	51	61	100	100	100	100
55	18	23	28	32	37	41	43	45	45	45	46	46	47	50	50	100	100	100	100	100
56	18	23	28	32	36	39	42	44	44	45	46	46	46	49	100	100	100	100	100	100
57	18	23	28	31	35	38	41	42	44	44	45	45	46	100	100	100	100	100	100	100
58	17	23	26	31	35	36	38	41	41	42	45	45	100	100	100	100	100	100	100	100
59	17	23	26	30	33	35	38	39	40	41	44	100	100	100	100	100	100	100	100	100
60	17	23	26	30	32	34	36	38	39	40	100	100	100	100	100	100	100	100	100	100
61	17	22	25	29	32	33	35	36	38	80	100	100	100	100	100	100	100	100	100	100
62	16	22	25	28	30	32	34	35	80	80	100	100	100	100	100	100	100	100	100	100
63	16	20	24	28	30	32	34	80	80	80	100	100	100	100	100	100	100	100	100	100
64	14	21	24	27	29	30	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	15	19	23	25	28	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	15	19	23	25	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	15	19	22	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	13	18	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	13	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Smoker

Issue	Duration																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98	100
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98	100
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98	100
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98	100
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	100
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	100
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	100
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	100
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	100
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	100
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	100
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	100
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	100
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	100
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	100
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	100
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	100
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	100
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	100
39	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98	100
40	41	50	57	66	72	77	81	83	84	85	86	86	86	89	89	91	93	96	98	100
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98	100
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98	100
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100

Female, Smoker

Issue Age	Duration 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Regulation 4-1-10 RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

Section 1 Authority

Section 2 Scope and Purpose

Section 3 Applicability

Section 4 Definitions

Section 5 2001 CSO Mortality Table

Section 6 Conditions

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of § § 10-1-109(1), 10-7-305.1(8)(f), and 10-7-309(1)(a)(III), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with § § 10-7-309(1), 10-7-305.1(8)(f), and 10-7-313, C.R.S., and Sections 5A and 5B of Colorado Regulation 4-1-9.

Section 3 Applicability

This regulation is applicable to all foreign or domestic life and fraternal insurers.

Section 4 Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. This table may also be found in Appendix A of the Final Report of the American Academy of Actuaries' Commissioners Standard Ordinary Task Force, dated June 2002. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

B. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

C. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

D. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

E. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

Section 5 2001 CSO Mortality Table

A. At the election of the company, for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after February 1, 2004, and before the date specified in Subsection B of this section, to which §§10-7-309(1)(a)(III) and 10-7-305.1(8)(f), C.R.S., and Sections 5A and 5B of Colorado Regulation 4-1-9 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which §§10-7-309(1)(a)(III) and 10-7-305.1(8)(f), C.R.S. and Sections 5A and 5B of Colorado Regulation 4-1-9 are applicable.

C. It should be noted that there is no new Commissioners Extended Term (CET) Table being proposed to replace the 1980 CET Table. Therefore, the new minimum basis for the computation of values related to extended term benefits will be the 2001 CSO Mortality Table.

Section 6 Conditions

A. For each plan of insurance with separate rates for smokers and nonsmokers, an insurer may use:

1. Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

2. Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by §10-7-313, C.R.S., and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

3. Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

B. For plans of insurance without separate rates for smokers and nonsmokers, the composite mortality tables shall be used.

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 7 of this regulation and Section 5 of Colorado Regulation 4-1-9 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Section 6 of Colorado Regulation 3-1-8. The Commissioner may exempt a company from this requirement if it only does life insurance business in this state and in no other state.

Section 7 Applicability of the 2001 CSO Mortality Table to Colorado Regulation 4-1-9

A. The 2001 CSO Mortality Table may be used in applying Colorado Regulation 4-1-9 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in Section 5 of this regulation (unless otherwise noted, the references in this section are to Colorado Regulation 4-1-9.)

1. Section 3A(2)(b): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

2. Section 4B: All calculations are made using the 2001 CSO Mortality Table, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Section 7A(4) of this regulation. The value of "$q_{x+k+t-1}$ "is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Section 5A: The 2001 CSO Mortality Table is the minimum standard for basic reserves.

4. Section 5B: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Sections 5B(3)(a) to (i). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

5. Section 6C: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

6. Section 6E(4): The calculations specified in Section 6E shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

7. Section 6F(4): The calculations specified in Section 6F shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

8. Section 6G(2): The calculations specified in Section 6G shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

9. Section 7A(1)(b): The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

B. Nothing in this section shall be construed to expand the applicability of Colorado Regulation 4-1-9 to include life insurance policies exempted under Section 3A of Colorado Regulation 4-1-9.

Section 8 Gender-Blended Tables

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after February 1, 2004, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of this regulation.

B. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002. This table may be found in Appendix J3 of the Final Report of the American Academy of Actuaries' Commissioners Standard Ordinary Task Force, dated June 2002.

C. It shall not, in and of itself, be a violation of § 10-3-1104, C.R.S., for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

Section 9 Severability

If any provision of this regulation or application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 10 Incorporated Materials

The 2001 CSO Mortality Table shall mean the 2001 CSO Mortality Table as adopted on the effective date of this regulation and does not include later amendments to or editions of the 2001 CSO Mortality Table. A copy of the 2001 CSO Mortality Table may be examined at any state publications depository library. For additional information regarding how the 2001 CSO Mortality Table may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 11 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines, issuance of cease and desist orders, and/or other suspensions or revocations of licenses. Among others, the penalties provided for in § 10-3-1108, C.R.S. may be applied.

Section 12 Effective Date

The effective date of this regulation is March 2, 2010.

Section 13 History

New regulation effective February 1, 2004.

Amended Regulation 4-1-10, effective March 2, 2010.

Regulation 4-1-11 CONCERNING SUITABILITY IN ANNUITY TRANSACTIONS

Section 12 History

Section 1 Authority

This regulation is issued under the authority of § § 10-1-109(1) and 10-3-1110(1), Colorado Revised Statutes.

Section 2 Scope and Purpose

The purpose of this regulation is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

Section 3 Applicability

A. This regulation shall apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase, exchange or replacement recommended.

B. Unless otherwise specifically included, this regulation shall not apply to recommendations involving:

1. Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this regulation; and

2. Contracts used to fund:

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

b. A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

c. A government or church plan defined in section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC;

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

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

f. Formal prepaid funeral contracts.

C. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Section 4 Definitions

A. "Annuity" means a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

B. "CE credit" means one (1) credit hour as defined in Colorado Insurance Regulation 1-2-4, section 4.B.

C. "Continuing education provider" means an individual or entity that is offering continuing education courses pursuant to Colorado Insurance Regulation 1-2-4, section 5.C.

D. "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

E. "Insurer" has the same meaning as the definition found in § 10-1-102(13), C.R.S.

F. "Insurance producer" has the same meaning as the definition found in § 10-2-103(6), C.R.S.

G. "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice.

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

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

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

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

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

I. "Suitability information" means that it is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. Age;

2. Annual income;

3. Financial situation and needs, including the financial resources used for the funding of the annuity;

4. Financial experience;

5. Financial objectives;

6. Intended use of the annuity;

7. Financial time horizon;

8. Existing assets, including investment and life insurance holdings;

9. Liquidity needs;

10. Liquid net worth;

11. Risk tolerance; and

12. Tax status.

Section 5 Duties of Insurers and of Insurance Producers

A. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

1. The consumer has been reasonably informed of various features of the annuity such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk;

2. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, death benefit or living benefit;

3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

4. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:

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

   b. The consumer would benefit from product enhancements and improvements; and

   c. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding thirty-six (36) months.

B. Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

C. Except as permitted under section 5, subsection D., an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

D. No insurer or producer obligation.

1. Except as provided under paragraph 2. of this subsection, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subsection A. or C. related to any annuity transaction if:

   a. No recommendation is made;

b. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

c. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

d. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

2. An insurer's issuance of an annuity subject to paragraph 1. shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

E. An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:

1. Make a record of any recommendation subject to section 5, subsection A. of this regulation;

2. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

3. Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

F. Supervision.

1. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this regulation, including, but not limited to, the following:

a. The insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant insurance producer training materials;

b. The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of section 6 of this regulation;

c. The insurer shall provide product-specific training and training materials, which explain all material features of its annuity products to its insurance producers;

d. The insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that a recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

e. The insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

f. The insurer shall annually provide a report to senior management, including to the senior manager responsible for the audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and the corrective action taken or recommended, if any.

2. Contracting of supervisory duties.

a. Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph 1. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section 10 of this regulation regardless of whether an insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph b. of this paragraph.

b. An insurer's supervision system under paragraph 1. shall include supervision of contractual performance under this subsection. This includes, but is not limited to, the following:

(1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(2) Annually obtaining a certification from a senior manager, who has responsibility for the contracted function, which states that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

3. An insurer is not required to include, in its system of supervision, an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

G. An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

1. Truthfully responding to an insurer's request for confirmation of suitability information;

2. Filing a complaint; or

3. Cooperating with the investigation of a complaint.

H. FINRA compliant sales.

1. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transaction shall satisfy the requirements under this regulation. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

2. For paragraph 1. to apply, an insurer shall:

a. Monitor the FINRA member broker-dealer using information collected in the normal course of the insurer's business; and

b. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

I. The requirements of section 5 are intended to supplement and not replace the disclosure requirements in Colorado Insurance Regulation 4-1-12.

Section 6 Insurance Producer Training

A. An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

B. Training requirement.

1. Initial requirement.

a. An insurance producer who engages in the sale of annuity products shall complete a one-time four (4) credit hour training course approved by the Division and provided by a Division-approved continuing education provider.

b. Insurance producers who hold a life insurance line of authority on April 1, 2011 and who desire to sell annuities shall complete the requirements of this subsection by October 1, 2011. Individuals who obtain a life insurance line of authority on or after April 1, 2011 may not engage in the sale of annuities until the annuity training required under this subsection has been completed.

2. The minimum length of the training required under this subsection shall be sufficient to qualify for a least four (4) CE credits, but may be longer.

3. The training required under this subsection shall include information on the following topics:

a. The types of annuities and various classifications of annuities;

b. Identification of the parties to an annuity;

c. How fixed, variable and indexed annuity contract provisions affect consumers;

d. The application of income taxation of qualified and non-qualified annuities;

e. The primary uses of annuities; and

f. Appropriate sales practices, replacement and disclosure requirements.

4. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

5. A provider of an annuity training course intended to comply with this subsection shall register as a continuing education provider in Colorado and comply with the rules and guidelines applicable to continuing education courses as set forth in Colorado Insurance Regulation 1-2-4, section 5.C.

6. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance in accordance with Colorado Insurance Regulation 1-2-4, section 5.C.

7. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with Colorado Insurance Regulation 1-2-4, section 5.D.

8. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirement of this subsection.

9. An insurer shall verify that an insurance producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer shall satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

Section 7 Recordkeeping

A. Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

B. Records that are required to be maintained by this regulation may be maintained in paper, photographic, micro-process, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

Section 8 Incorporated Materials

Colorado Insurance Regulation 1-2-4, 3 CCR 702-1 published by the Colorado Division of Insurance shall mean Colorado Insurance Regulation 1-2-4, 3 CCR 702-1 as published on the effective date of this regulation and does not include later amendments to or editions of Colorado Insurance Regulation 1-2-4, 3 CCR 702-1. Colorado Insurance Regulation 1-2-4, 3 CCR 702-1 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202 or by visiting the Colorado Division of Insurance website at www.dora.state.co.us/insurance/. Certified copies of Colorado Insurance Regulation 1-2-4, 3 CCR 702-1 are available from the Division of Insurance for a fee.

Section 9 Severability

If any provision of this regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application for such provision to other persons or circumstances shall not be affected thereby.

Section 10 Enforcement

A. Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocations of license or certificates of authority. Among others, the penalties provided for in § 10-3-1108, C.R.S., may be applied.

B. Compliance Mitigation.

1. The commissioner may order:

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this regulation;

b. An insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation; and

c. A general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale, of annuities to consumers, to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation.

2. Any applicable penalty under this section 10 for a violation of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered.

Section 11 Effective Date

This amended regulation shall be effective August 1, 2011.

Section 12 History

Original regulation effective October 1, 2004.

Emergency regulation 04-E-12 effective October 8, 2004 deferred effective date to January 1, 2005.

Amended, effective August 1, 2006.

Repealed and repromulgated regulation effective April 1, 2011.

Amended regulation effective August 1, 2011.

Regulation 4-1-12 CONCERNING THE DISCLOSURE REQUIREMENTS FOR ANNUITY TRANSACTIONS

Section 8. Severability

Section 9. Incorporated Materials

Section 10. Effective Date

Section 11. History

Section 1. Authority

This regulation is issued under the authority of Sections 10-1-109 and 10-3-1110(1), Colorado Revised Statutes.

Section 2. Scope and Purpose

The purpose of this regulation is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. The regulation specifies the minimum information which must be disclosed and the method for disclosing it in connection with the sale of annuity contracts. The goal of this regulation is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

Section 3. Applicability

This regulation applies to all group and individual annuity contracts and certificates except:

A. Registered or non-registered variable annuities or other registered products;

B. Immediate and deferred annuities that contain no non-guaranteed elements;

C.

1. Annuities used to fund:

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

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

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

    d. A non-qualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

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

D. Structured settlement annuities;

E. Charitable gift annuities; and

F. Funding agreements.

Section 4. Definitions

A. “Charitable gift annuity” shall have the same meaning as the definition found in § 10-1-102(4)(a) through (c)(II), C.R.S.

B “Contract owner” means the owner named in the annuity contract or certificate holder in the case of a group annuity contract.

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

D. “Funding agreement” means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

E. “Generic name” means a short title descriptive of the annuity contract being applied for or illustrated such as “single premium deferred annuity.”

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

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

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

Section 5. Standards for the Disclosure Document and Buyer’s Guide

A. When an insurer or an insurance producer receives an application for an annuity contract, the insurer or insurance producer shall provide the applicant the disclosure document described in Subsection B and the Buyer's Guide to Fixed Deferred Annuities, hereafter “the Buyer’s Guide,” in the current form prescribed by the National Association of Insurance Commissioners (NAIC) or in language approved by the commissioner of insurance.

1. Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall at or before the time of application be given both the disclosure document described

in Subsection B and the Buyer's Guide.

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

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

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

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

    b. With respect to an application received via the Internet:

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

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

    c. A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the Colorado Division of Insurance for a free annuity Buyer’s Guide. In lieu of the forgoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity Buyer’s Guide.

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

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

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

2. The insurer’s name and address;

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

    a. The guaranteed, non-guaranteed and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate;

b. An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

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

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

e. How values in the contract can be accessed;

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

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

h. Impact of any rider, such as a long-term care rider.

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

5. Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

C. Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

Section 6. Report to Contract Owners

For annuities in the payout period with changes in non-guaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

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

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

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

D. The amounts of outstanding loans, if any, as of the end of the current report period.

Section 7. Enforcement

In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Section 10-3-1104, Colorado Revised Statues.

Section 8. Severability

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

Section 9. Incorporated Materials

The Buyer's Guide to Fixed Deferred Annuities published by the National Association of Insurance Commissioners "the Buyer's Guide" shall mean the Buyer's Guide as published on the effective date of this regulation and does not include later amendments to or editions of the Buyer's Guide. A copy of the Buyer's Guide may be examined at any state publications depository library. For additional information regarding how the Buyer's Guide may be obtained or examined contact Paula Sisneros, Compliance Director, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202.

Section 10. Effective Date

This regulation shall apply to contracts sold on or after January 1, 2007.

Section 11. History

New regulation effective September 1, 2006.

Am ended regulation effective January 1, 2007.

Regulation 4-1-13 PERMITTING THE RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109 and 10-7-309(1)(a)(III), C.R.S. and Sections 5A and 5B of Colorado Insurance Regulation 4-1-9.

Section 2 Scope and Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with §10-7-309(1)(a)(III), C.R.S. and Sections 5A and 5B of Colorado Insurance Regulation 4-1-9.

Section 3 Applicability

This regulation is applicable to all foreign or domestic life and fraternal insurers.

Section 4 Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)* and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection B of this section. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

3. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

4. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

B. "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for super preferred nonsmoker, preferred nonsmoker, residual standard nonsmoker, preferred smoker, and residual standard smoker splits of the 2001 CSO Nonsmoker and Smoker Tables as adopted by the NAIC at the September, 2006 National Meeting and published in the *NAIC Proceedings (3rd Quarter 2006)*. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

C. "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

Section 5 2001 CSO Preferred Class Structure Table

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality

Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after February 1, 2004 and prior to January 1, 2007, the 2001 CSO Preferred Class Structure Mortality Table may be substituted with the consent of the Commissioner and subject to the conditions of Section 6 of this regulation. In determining such consent, the Commissioner shall consider the consent of the insurance regulatory authority of the company's state of domicile. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of Colorado Insurance Regulation 4-1-10.

Section 6 Conditions

A. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

B. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basis table.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

C. Unless exempted by the Commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the Commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the Commissioner, statistical reports showing mortality and such other information as the Commissioner may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the Commissioner or the Commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the Commissioner.

Section 7 Severability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 8 Incorporated Materials

The 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table shall mean the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table as adopted on the effective date of this regulation and does not include later amendments to or editions of the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table. A copy of the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table may be examined at any state publications depository library. For additional information regarding how the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table may be obtained or examined contact the Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 9 Enforcement

Noncompliance with the Regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws, which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of licenses. Among others, the penalties provided for in §10-3-1108, C.R.S. may be applied.

Section 10 Effective Date

This amended regulation is effective November 1, 2010.

Section 11 History

New regulation, effective February 1, 2007.

Amended regulation 4-1-13, effective March 2, 2010.

Amended regulation 4-1-13, effective November 1, 2010.

Regulation 4-1-14 MILITARY SALES PRACTICES

Section 1 Authority

Section 2 Scope and Purpose

Section 3 Applicability

Section 4 Definitions

Section 5 Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

Section 6 Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

Section 7 Severability

Section 8 Enforcement

Section 9 Effective Date

Section 10 History

Section 1 Authority

This regulation is promulgated by the Commissioner of Insurance under the authority of § § 10-1-109 and 10-7-116, C.R.S.

Section 2 Scope and Purpose

A. The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Section 3 Applicability

A. This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

B. Exemptions

1. This regulation shall not apply to solicitations or sales involving:

    a. Credit insurance;

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

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

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

    e. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 *et seq.* or contracts offered by state sponsored life insurance (SSLI) as authorized by Public- Law 93-289, title 37 U.S.C. sec. 707, et. seq.;

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

    g. Contracts used to fund:

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

        (2) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(5) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(6) Prearranged funeral contracts.

2. Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations or a successor directive.

3. For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

Section 4 Definitions

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

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

C. "Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

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

E. "Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

F. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

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

1. is a service member, or

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

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

I. "Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

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

K. "Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

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

1. accumulated value or cash value or secondary guarantees provided by a universal life policy nor does it include cash values provided by a universal life policy;

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

3. a premium deposit fund which:

    a. contains only premiums paid in advance which accumulate at interest;

    b. imposes no penalty for withdrawal;

    c. does not permit funding beyond future required premiums;

    d. is not marketed or intended as an investment; and

    e. does not carry a commission, either paid or calculated.

M. "Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

N. "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Section 5 Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

A. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

1. Knowingly soliciting the purchase of any life insurance product "door to door" or without first

establishing a specific appointment for each meeting with the prospective purchaser.

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

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

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

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

6. Posting unauthorized bulletins, notices or advertisements.

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

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

B. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

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

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

Section 6 Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

A. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

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

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

depository institution:

a. provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. §4301 *et. seq.* and the regulations promulgated there under; and

b. permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

3. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection 6 A 2.

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

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

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

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

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

B. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

1. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

   Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial

Services (MSFS), or Masters of Science Financial Planning (MS).

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

C. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

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

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

D. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

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

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

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

E. The following acts or practices by an insurer and/or insurance producer regarding disclosures are declared to be false, misleading, deceptive or unfair:

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

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

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

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

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

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

    b. either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Colorado Regulation 4-1-8 shall be deemed sufficient to meet this requirement for a written disclosure.

F. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

1. Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable. Sale of a life insurance product which includes a side fund to a service member in pay grades E-1 through E-4 or their equivalent, who is currently enrolled in SGLI, is presumed unsuitable.

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

    a. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

    b. "Other military survivor's benefits" include, but are not limited to the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor's Housing Benefits and Allowances, Federal Income Tax Forgiveness and Social Security Survivors Benefits.

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

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

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

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

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

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

Section 7 Severability

If any provision of this regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of such provision shall not be affected thereby.

Section 8 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines and/or suspension or revocation of license.

Section 9 Effective Date

This regulation shall become effective on January 1, 2008.

Section 10 History

Emergency Regulation 07-E-1 effective August 3, 2007.

New Regulation effective January 1, 2008.

Regulation 4-1-15 PRENEED LIFE INSURANCE MINIMUM MORTALITY STANDARDS FOR DETERMINING RESERVE LIABILITIES AND NONFORFEITURE VALUES

Section 10 Effective Date

Section 11 History

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of § §10-1-109, and 10-7-313.7, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish, for preneed insurance products, minimum mortality standards for reserves and nonforfeiture values, and to require the use of the Commissioners' 1980 Standard Ordinary (CSO) Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. It is not the purpose of this regulation to change the minimum interest rate standards or the methods used in determining the minimum standards for reserves and nonforfeiture values for preneed insurance products.

Section 3 Applicability

This regulation shall apply to all preneed insurance contracts and to similar policies and certificates issued on or after January 1, 2009.

Section 4 Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). This table may also be found in Appendix A of the Final Report of the American Academy of Actuaries' Commissioners Standard Ordinary Task Force, dated June 2002. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

B. "Preneed insurance," for purposes of this regulation, is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, as a guarantee or consideration for a prearrangement agreement or preneed contract for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

C. "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO), without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law. Unless the context indicates otherwise, the "Ultimate 1980 CSO" includes variations of the 1980 CSO without ten-year (10-year) selection factors, approved by the NAIC, such as the smoker and nonsmoker versions and the composite version of the mortality tables.

Section 5 Minimum Valuation Mortality Standards

For preneed insurance and similar policies and contracts, the minimum standard for mortality in the determination of reserve liabilities and nonforfeiture values shall be the Ultimate 1980 CSO.

Section 6 Transition Rules

A. For preneed insurance policies issued on or after the effective date of this regulation and before January 1, 2012, the 2001 CSO Mortality Table may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits.

B. If an insurer elects to use the 2001 CSO Mortality Table as the minimum standard for any policy issued on or after the effective date of this regulation and before January 1, 2012, the insurer shall meet the following requirements:

1. The insurer shall annually provide a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed insurance policies issued on or after the effective date of this regulation and using the 2001 CSO Mortality Table as the minimum standard, develops adequate reserves. The certification shall be provided with the annual statutory financial statement filed with the Commissioner along with the Statement of Actuarial Opinion. For the purposes of this certification, the preneed insurance policies using the 2001 CSO Mortality Table as the minimum standard cannot be aggregated with any other policies;

2. The certification required in Paragraph 1 of this subsection shall be supported by information regarding the adequacy of reserves for preneed insurance policies issued on or after the effective date of this regulation and using the 2001 CSO Mortality Table as the minimum standard for reserves. The supporting information shall be included in an actuarial report or in the actuarial memorandum which documents the company's asset adequacy analysis in support of the Statement of Actuarial Opinion;

3. The actuarial report in Paragraph 2 of this subsection or the actuarial memorandum shall include a complete list of all the preneed insurance policy forms that use the 2001 CSO Mortality Table as the minimum standard.

C. Preneed insurance policies issued on or after January 1, 2012 shall use the Ultimate 1980 CSO as the minimum standard for mortality in the determination of reserve liabilities and nonforfeiture values.

Section 7 Severability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected thereby.

Section 8 Incorporated Materials

The 2001 CSO Mortality Table and the Ultimate 1980 CSO adopted by the NAIC shall mean the 2001 CSO Mortality Table and the Ultimate 1980 CSO as adopted on the effective date of this regulation and does not include later amendments to or editions of the 2001 CSO Mortality Table or the Ultimate 1980 CSO. A copy of the 2001 CSO Mortality Table and the Ultimate 1980 CSO may be examined at any state publications depository library. For additional information regarding how the 2001 CSO Mortality Table and the Ultimate 1980 CSO may be obtained or examined contact Craig Chupp, Chief Actuary, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202.

Section 9 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of certificates of authority. Among others, the penalties provided for in § §10-3-109(3) and 10-3-1108, C.R.S. may be applied.

Section 10 Effective Date

This regulation is effective February 1, 2009.

Section 11 History

Emergency regulation 08-E-9 was effective January 1, 2009.

New regulation is effective February 1, 2009.

Editor's Notes

3 CCR 702-4 has been divided into smaller sections for ease of use. Versions prior to 09/01/2011 and rule history are located in the first section, 3 CCR 702-4. Prior versions can be accessed from the History link that appears above the text in 3 CCR 702-4. To view versions effective after 09/01/2011, select the desired part of the rule, for example 3 CCR 702-4 Series 4-1, or 3 CCR 702-4 Series 4-6.

History

[For history of this section, see Editor's Notes in the first section, 3 CCR 702-4]