

**1200 Life Insurance and Annuities**

**1203 Life Insurance Solicitation Regulation [Formerly Regulation 29]**

**1.0 Authority**

This rule is adopted and promulgated by the Administrative Procedures Act, 29 **Del.C.** §§6411 through 6418; and 18 **Del.C.** §314 which authorizes the Insurance Commissioner to "...make reasonable rules and regulations necessary for or as an aid to the administration or effectuation of any provision of this Title."

**2.0 Purpose**

- 2.1 The purpose of this regulation is to require insurers to deliver to purchasers of life insurance, information which will improve the buyer's ability to select the most appropriate plan of life insurance for his needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.
- 2.2 This regulation does not prohibit the use of additional material which is not in violation of this regulation or any other Delaware statute or regulation.

**3.0 Scope**

- 3.1 Except as hereafter exempted, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this State. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.
- 3.2 Unless otherwise specifically included, this regulation shall not apply to:
  - 3.2.1 Annuities.
  - 3.2.2 Credit life insurance.
  - 3.2.3 Group life insurance.
  - 3.2.4 Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the Federal Employee Retirement Income Security Act of 1974 (ERISA).
  - 3.2.5 Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

**4.0 Definitions**

- 4.1 For the purposes of this regulation, the following definitions shall apply:

**"Buyer's Guide"** A Buyer's Guide is a document which contains, and is limited to, the language approved by the National Association of Insurance Commissioners in its Life Insurance Buyer's Guide or language approved by the Commissioner.

**"Cash Dividend"** A Cash Dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

**"Equivalent Level Annual Dividend"** The Equivalent Level Annual Dividend is calculated by applying the following steps:

  - Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.
  - Divide each accumulation of Step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in Step 1 over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

- Divide the results of Step 2 by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

**“Equivalent Level Death Benefit”** The Equivalent Level Death Benefit of policy or term life insurance rider is an amount calculated as follows:

- Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent interest compounded annually to the end of the tenth and twentieth policy years respectively.
- Divide each accumulation of Step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 1 over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

**“Generic Name”** Generic name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

**“Life Insurance Cost Indexes” means:**

- Life Insurance Surrender Cost Index. The Life Insurance Surrender Cost Index is calculated by applying the following steps:
  - Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.
    - For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in Step a.
    - Divide the result of Step b. (Step a. for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step b. (Step a. for guaranteed cost policies) over the respective periods stipulated in Step a. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
    - Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in Step a. and dividing the result by the respective factors stated in Step c (this amount is the annual premium payable for a level premium plan).
    - Subtract the result of Step c. from Step d.
    - Divide the result of Step e. by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.
- Life Insurance Net Payment Cost Index. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.

**“Policy Summary”** A policy summary is not required to include information available in the policy form or illustrations. If an illustration subject to the provisions of the Delaware Insurance regulation 1210 is used in the sale of a policy, delivery of a policy summary is not required. A policy summary may not include any element that is not guaranteed. For the purposes of this regulation, Policy Summary means a written statement describing the elements of the policy including but not limited to:

- A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.
- The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.
- The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.
- The Generic Name of the basic policy and each rider.
- The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including,

but not necessarily limited to, the years for which Life Insurance Cost Indexes are displayed and at least one age from sixty through sixty-five or maturity whichever is earlier:

- The annual premium for the basic policy.
  - The annual premium for each optional rider.
  - Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.
  - Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.
  - Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)
  - Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.
  - The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary includes the maximum annual percentage rate.
  - Life Insurance Cost Indexes for ten and twenty years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.
  - The Equivalent Level Annual Dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed.
  - A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the Equivalent Level Annual Dividend as follows: An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide.
  - A statement in close proximity to the Life Insurance Cost Indexes as follows: An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide.
  - The date on which the Policy Summary is prepared. The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in section 4.1.7.5 shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

## **5.0 Disclosure Requirements**

- 5.1 The insurer shall provide, to all prospective purchasers, a Buyer's Guide and a Policy Summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least ten days or unless the Policy Summary contains such an unconditional refund offer, in which event the Buyer's Guide and Policy Summary must be delivered with the policy or prior to delivery of the policy.
- 5.2 The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser upon request.

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- 5.3 In the case of policies whose Equivalent Level Death Benefit does not exceed \$5,000, the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in sections 4.1.7, 4.1.7.2, 4.1.7.3, 4.1.7.4, 4.1.7.5.1, 4.1.7.5.2, 4.1.7.5.3, 4.1.7.6, 4.1.7.7, 4.1.7.10, and 4.1.7.11.

**6.0 General Rules**

- 6.1 Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.
- 6.2 An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.
- 6.3 Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.
- 6.4 Any reference to policy dividends must include a statement that dividends are not guaranteed.
- 6.5 A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.
- 6.6 A presentation of benefits shall not display guaranteed and non-guaranteed benefits as a single sum unless they are shown separately in close proximity thereto.
- 6.7 A statement regarding the use of the Life Insurance Cost Indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.
- 6.8 A Life Insurance Cost Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.
- 6.9 For the purposes of this regulation, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

**7.0 Failure to Comply**

- 7.1 Failure of an insurer to provide or deliver a Buyer's Guide, or a Policy Summary as provided in section 5.0 shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy. In each such instance, the insurer shall, after hearing, be subjected to the penalties as prescribed in 18 **Del.C.** §106.

**8.0 Effective Date**

- 8.1 This rule shall apply to all solicitations of life insurance which commence on or after July 1, 1971.