

concerning life insurance separately from any other charges or values shown in the same billing.

(8) VIOLATION. Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

**Ins 2.12 Exceptions to unfair discrimination.** The following practices, without being all-inclusive, shall not be considered unfairly discriminatory as considered by s. 628.34, Stats.:

(1) Issuing life insurance policies or life annuity contracts on a salary savings, salary allotment, bank draft, pre-authorized check, or payroll deduction plan or other similar plan at a reduced rate or with special underwriting considerations reasonably related to the savings made by use of such plan.

(2) Issuing life insurance policies or annuity contracts at premiums determined by rating plans which provide for modification of premiums based on the amount of insurance; but any such rating plans shall not result in reduction in premiums in excess of the savings reasonably related to the savings made by use of the plan. All cost factors must be given proper recognition in order to preserve equity between various classes of policyholders.

(3) Issuing so-called 'family plan' life insurance policies which include insured, spouse, and their children with the premium calculated on the basis of the family unit. The rating plan must give recognition to all cost factors in order to preserve equity between various classes of policyholders.

(4) Issuing policies under the authority of s. Ins 6.75 (1) (a), with the premium calculated on the basis of the average age of those insured or calculated in some other manner which is appropriate for the coverage offered, provided that the rate must be reasonably related to the coverage provided and to the savings made by use of the rating procedure.

(5) Issuing life insurance policies or life annuity contracts at special rates or with special underwriting considerations, reasonably related to the savings made, in connection with:

(a) Employee benefit trusts or plans conforming to the requirements of s. 815.18 (31) (a), Stats.

(b) Plans used to fund retirement benefits under the Federal Self-Employed Individuals Tax Retirement Act of 1962.

(c) Plans used to fund retirement benefits for employees of certain organizations exempt from Federal income tax and public schools (so-called tax sheltered annuity plans).

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (intro.), (4) and (5) (d), eff. 6-22-76; am. (intro.), (4) and (5) (d), Register, September, 1976, No. 249, eff. 10-1-76; am. (4) and (5) (a), Register, March, 1979, No. 279, eff. 4-1-79; r. (5) (d), Register, June, 1982, No. 318, eff. 7-1-82; reprinted to correct error in (5), Register, August, 1982, No. 320.

**Ins 2.13 Separate accounts and variable contracts.** (1) PURPOSE. This rule creates standards for establishing separate accounts and for issuing

contracts on a variable basis, both as provided by ss. 611.25 and 632.45 (1), Stats.

(2) DEFINITION. (a) The term "contract on a variable basis" or "variable contract," when used in this rule, shall mean any policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in s. 632.45 (1), Stats.

(b) "Agent," when used in this rule, shall mean any person who sells or offers to sell any contract on a variable basis.

(3) QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS. (a) No company shall deliver or issue for delivery variable contracts within this state unless:

1. It is licensed or organized to do a life insurance or annuity business in this state; and

2. The commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of a company requesting authority to deliver such contracts within this state, the commissioner shall consider among other things:

a. The history and financial condition of the company;

b. The character, responsibility and fitness of the officers and directors of the company, and

c. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

(b) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the provisions of par. (a) 2. if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period at least 3 years may be deemed to have satisfied the commissioner with respect to par. (a) 2.

(c) Before any company shall deliver or issue for delivery variable contracts within this state it shall submit to the commissioner:

1. A general description of the kinds of variable contracts it intends to issue;

2. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts and

3. If requested by the commissioner, biographical data with respect to officers and directors of the company.

(4) SEPARATE ACCOUNTS. (a) A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to s. 611.25, Stats., subject to the following provisions:

1. Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to a. benefits guaranteed as to dollar amount and duration, and b. funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

2. With respect to 75% of the market value of the total assets in a separate account, no company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

3. No company shall, whether for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount in excess of 10% of the total issued and outstanding voting securities of such issuer provided that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

4. The limitations provided in subds. 2. and 3. shall not apply to the investment with respect to a separate amount in the securities of an investment company registered under the Investment Company Act of 1940, as amended provided that the investments of such investment company comply in substance with subds. 2. and 3.

(b) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account equal to the company's reserve liability with regard to the benefits guaranteed and funds guaranteed referred to in par. (a) 1. a. and b., if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(c) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(d) Notwithstanding any other provision of law, a company may:

1. With respect to any separate account registered with the securities and exchange commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940, as amended, and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

2. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board, or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board, or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

(e) No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made

1. By a transfer of cash, or

2. By a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(f) 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.

(g) Section 611.60, Stats., shall apply to the members of any separate account's committee, board, or other similar body. No officer or director of such company nor any 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 such separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued or delivered in this state until the commissioner has approved the form or until the form and rates have been filed with the commissioner for 30 days.

(b) The filing letter shall be in duplicate and shall contain the following information:

1. An identifying form number and title for each form submitted.
2. A general description of the form(s).
3. A listing of the types of policies to which rider or endorsement forms will be attached.
4. The form number and date of approval by the commissioner of any form to be superseded.

(c) One copy of all forms or rates submitted or approval shall be submitted with a copy of the application attached if the application is to be a part of the contract. If the application was previously approved, the form number and date of approval will suffice.

(d) All forms should be completed with hypothetical data to show their use and should include a correct table of values. Variable information in forms should be explained.

(e) An actuarial statement of methods used to calculate values in the contract should be included.

(6) **CONTRACTS PROVIDING FOR VARIABLE BENEFITS.** (a) Any variable contract 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 issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement to the effect that the benefits thereunder are on a variable basis, with a statement where in the contract the details of the variable provisions may be found.

(b) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of annuity payments.

(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 provisions or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

1. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace 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 period of grace shall be applied to produce the values under the contract arising therefrom;

2. A provision that, at any time within 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 under the contract arising therefrom;

3. A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. "Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. The annual net investment increment assumption shall not exceed 5%, except with the approval of the commissioner;

2. To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age.

(e) The reserve liability for variable annuities shall be established pursuant to the requirements of s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) **REQUIRED REPORTS.** (a) Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than 4 months previous to the date of mailing:

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

2. The value of the contractholder's account.

(b) The company shall submit annually to the commissioner a statement of the business of its separate account(s) in such form as required by the annual statement form designated as Life and Accident and Health—Separate Account Business (22-46). (See s. Ins 7.01 (5) (e)).

(8) **FOREIGN COMPANIES.** If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholder, Register, December, 1984, No. 348



holders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this rule.

(9) **AGENT QUALIFICATIONS.** Any person selling or offering for sale a variable contract must have a valid license as described in s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a); and have passed any one of the following alternative security examinations administered by the National Association of Securities Dealers:

1. General Securities Registered Representative Examination
2. Investment Company Products/Variable Contracts Limited Representative Qualification Examination
3. SECO/NASD Non-Member General Securities Examination
4. General Securities Principal Qualification
5. Investment Company Products/Variable Contracts Limited Principal Qualification Examination

**History:** Cr. Register, October, 1968, No. 154, eff. 11-1-68; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76; am. (6) (e), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81.

**Ins 2.14 Life insurance solicitation.** (1) The purpose of this section 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 or her 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. This section does not prohibit the use of additional material which is not in violation of this section or any other Wisconsin statute or rule. This section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(2) **SCOPE.** (a) Except as hereafter exempted, this section shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This section shall apply to any issuer of life insurance contracts including fraternal benefit societies and the State Life Insurance Fund.

(b) Unless otherwise specifically included, this section shall not apply to:

1. Annuities.
2. Credit life insurance.
3. Group life insurance.
4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employe retirement income security act of 1974 (ERISA), 29 U.S.C. ss. 1001 to 1461.

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.

(3) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) *Cash dividend*. A cash dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

(b) *Equivalent level death benefit*. The equivalent level death benefit of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. 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 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

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

(d) *Life insurance indexes*. 1. Surrender Cost Index. The Surrender Cost Index is calculated by applying the following steps:

a. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

b. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in step a.

c. 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 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without separate identifiable charge, a reasonable adjustment may be made) at 5% 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).

e. Subtract the result of step c from step d.

f. Divide the result of step e by the number of thousands of the Equivalent Level Death Benefit to arrive at the Surrender Cost Index.

2. Net Payment Cost Index. The Net Payment Cost Index is calculated in the same manner as the comparable Surrender Cost Index except that the cash surrender value and any terminal dividend are set at zero.