LIFE INSURANCE (A) COMMITTEE

Reference:
1987 Proc. I p. 609
1987 Proc. II p. 625

William D. Hager, Chairman—Iowa
Margurite C. Stokes, Vice Chairman—D.C.

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The Life Insurance (A) Committee met in Regency D of the Hyatt Regency Phoenix in Phoenix, Ariz., at 1:30 p.m. on Dec. 9, 1987. A quorum was present and William D. Hager (Iowa) chaired the meeting. The following committee members or their representatives were present: Margurite C. Stokes, Vice Chair (D.C.); Roxani Gillespie (Calif.); George Dale (Miss.); Constance B. Foster (Pa.); Doyce R. Lee (Texas); and Steven T. Foster (Va.).

1. Adopt Pittsburgh Minutes

Upon motion duly made and seconded, the minutes of the Sept. 15, 1987, Pittsburgh meeting were adopted (Attachment Four).

2. Report of Universal & Other New Plans Task Force

Dale Creech (Ky.) reported on behalf of Commissioner Gil McCarty that the Universal & Other New Plans Task Force recommended two items for adoption:

1. A model regulation for interest indexed annuity contracts; and
2. An amendment to the first paragraph of footnote three of page six of the NAIC Universal Life Insurance Model Regulation.

The task force also recommended continuation. The committee deferred action on the task force's recommendations until the report of the Life and Health Actuarial (EX5) Task Force.

3. Report of Life Cost Disclosure Task Force

Patrick Kelly (D.C.) reported on behalf of Superintendent Margurite Stokes, chair of the Life Cost Disclosure Task Force. Mr. Kelly indicated that the task force heard a report of the American Academy

of Actuaries on computing the yield index, whereupon the task force adopted a motion approving a study recommended by the Academy to solicit data concerning a comparison of certain interest-sensitive products under both the interest-adjusted index and the yield index. The task force also amended the Life Insurance Disclosure Model Regulation as recommended by the Academy and the proposals recommended by the American Council of Life Insurance (ACLI) in its report to the task force.

Upon motion duly made and seconded, the report of the Life Cost Disclosure Task Force was adopted.

4. Report of Life and Health Actuarial (EX5) Task Force

John Montgomery (Calif.) reported that the task force made two recommendations:

1. Adoption of the Model Regulation for Interest-Indexed Annuity Contracts; and
2. Adoption of an amendment to the Universal Life Insurance Model Regulation concerning certain fixed premium plans.

He also indicated that the Life and Health Actuarial (EX5) Task Force report to the A Committee contained a disclosure draft on actuarial guidelines for structured settlements. He indicated that the guidelines are intended to be adopted at the June meeting. Mr. Montgomery also stated that the report recommends deletion of two projects listed on page seven of the report, Projects 1e and 3d.

Upon motions duly made and seconded, the committee adopted the Model Regulation for Interest-Indexed Annuity Contracts, adopted the clarifying change to the NAIC Universal Life Insurance Model Regulation regarding certain fixed premium policies, and approved the deletion of the two projects listed on page seven of the Life and Health Actuarial report.

Upon motion duly made and seconded, the committee also received the remainder of the Life and Health Actuarial Task Force's report.

5. Report of Subgroup on Prepaid Funeral Plans

David Lyons (Iowa) reported that the Subgroup on Prepaid Funeral Plans met with the advisory committee in Phoenix on Dec. 8 (Attachment One). He outlined the subgroup's intention which is to move for final adoption of two proposals in June 1988. One proposal is a model provision addressing disclosure of certain items in cases in which a life insurance product or annuity contract is used to fund a pre-need arrangement. The second proposal is the development of a comprehensive pre-need statute. Mr. Lyons commented that an exposure draft to address the disclosure problem has been prepared and is attached. He commented on the fact that there was significant agreement between the advisory committee and subgroup as to the concept, but that more research and defining of the approach is necessary before adoption. Therefore, he stated that release of the exposure draft should be accompanied by the minutes of the subgroup's meeting to reflect the concern that the proposal may be dramatically changed between now and the Santa Fe meeting. He also outlined a timetable for completion of the subgroup's work as follows:

1. Minutes of the subgroup meeting will be provided to the advisory committee immediately following the Phoenix meeting. The comments submitted from the advisory committee to the subgroup will be reviewed and summarized by Dec. 21, 1987.

2. The advisory committee has indicated that it will complete its research by approximately Jan. 15.

3. The advisory committee will submit its research to the subgroup, tentatively by Jan. 29.

4. The advisory committee is tentatively scheduled to meet on Feb. 23 in Kansas City and the subgroup will meet on Feb. 24 in Kansas City.

5. A meeting of the subgroup and advisory committee is tentatively scheduled for March 13 in Santa Fe.

Mr. Lyons requested that the committee authorize the subgroup to expose the draft with a caveat that the minutes of the subgroup will be attached explaining the fact that the proposal may change. He also asked that the remainder of the subgroup's report containing time frames be adopted by the committee. Commissioner Hager asked for comments from the committee members and from the audience. John Montgomery requested clarification of items two through six on the subgroup's report, specifically whether they relate to the disclosure issue only. Mr. Lyons responded that the comprehensive model is intended to be exposed in June and that the disclosure related statute is intended to be adopted in June. Mr. Montgomery made a motion requesting the subgroup to prepare a draft of substantive regulations on prepaid funeral plans by June 1988. The motion carried unanimously.

Upon motion duly made and seconded, the committee authorized the exposure of the draft amending the NAIC Rules Governing the Advertising of Life Insurance. Also upon motion duly made and seconded, the remainder of the report and time frames suggested therein were adopted.

6. Action on Model Annuity and Deposit Fund Disclosure Regulation

Commissioner Hager called upon Anthony T. Spano (ACLI) who had requested technical revisions to the model regulation. Copies of the revised regulation were distributed. Commissioner Hager asked Mr. Spano whether the deletions and additions reflected therein contained substantive changes and whether the changes would alter the way the regulation would apply to consumers or insurers. Mr. Spano responded that it would not and that the corrections alleviated practical concerns of the industry.

Upon motion duly made and seconded, the committee adopted the amendments to the Model Annuity and Deposit Fund Disclosure Regulation (Attachment Two).

7. Any Other Matters Brought Before the Task Force

Jack Blaine (ACLI) distributed a letter and accompanying materials concerning notice and consent to blood testing for the AIDS virus. Mr. Blaine commented that 12 states have legislation which requires informed consent. He suggested that the NAIC prepare a uniform model for use by all states. He stated that a draft model accompanied the material submitted to the committee. Mr. Blaine explained that two labs perform AIDS testing and while the medical doctors draw the blood they utilize kits to perform the testing. With multiplicity of consent forms there is a possibility for error to occur. Commissioner Hager asked if the same level of disclosure would be provided to the insured but would just be provided in a manner consistent with other states. Mr. Blaine responded that that is the intent of the ACLI's proposal. Commissioner Foster asked if the Life Insurance (A) Committee or the Accident and Health Insurance (B) Committee should form a working group to deal with technical issues such as this concerning AIDS. Commissioner Hager commented that there probably is a need for a committee to address the technical issues other than the joint AIDS committee which is already addressing solvency issues. Commissioner Hager suggested that the committee receive the report and take the proposal under advisement.

Upon motion duly made and seconded, the report from the ACLI was received and will be discussed at the next meeting (Attachment Three).

Commissioner Hager asked Commissioner Foster to communicate with the Executive Committee with respect to forming a subgroup either in the B Committee or the A Committee regarding the technical issues relating to AIDS.

Having no further business, the Life Insurance (A) Committee adjourned at 11:45 a.m.

William D. Hager, Chair, Iowa; Margurite C. Stokes, Vice Chair, D.C.; Roxani Gillespie, Calif.; Sherman A. Bernard, La.; George Dale, Miss.; Constance B. Foster, Pa.; Doyce R. Lee, Texas; Steven T. Foster, Va.; Fred E. Wright, W.Va.

ATTACHMENT ONE

Subgroup on Prepaid Funeral Plans
Phoenix, Arizona
December 8, 1987

The Subgroup on Prepaid Funeral Plans of the Life Insurance (A) Committee met with its advisory committee on Dec. 8 in the Curtis B Room of the Phoenix Hyatt. Members of the subgroup in attendance were: Arkansas, Iowa, Nevada and Texas.

Lee Norrgard (American Association of Retired Persons, AARP), chair of the advisory committee, reviewed the subgroup's proposal to amend the NAIC Rules Governing the Advertising of Life Insurance (Attachment One-A). He reported that the advisory committee met twice since receiving the proposal. He reported that the advisory committee did not reach a consensus on either the form or the substance of the pre-need disclosure rule and also reported that a final report is not available at this time. The advisory committee noted the variety and diversity of the insurance-funded premium plans marketed or to be marketed and the variety and diversity of pre-need regulation in the various states. Mr. Norrgard stated that because of the diversity of the products which are marketed, the advisory committee did not reach a consensus on scope of the proposal.

Some members of the advisory committee felt that a clear distinction between the role of life insurance and the sale of funeral goods and services should be made. There was, however, consensus that there should be a definition of insurance-funded, pre-need contracts, but the advisory committee was unable to provide such a definition at this time. The advisory committee also expressed the concern that the amendment to the NAIC Model Rules Governing the Advertising of Life Insurance is not the appropriate place to address the concerns of the subgroup, but the advisory committee did not offer suggestions at this time regarding placement of such a regulation to address the issue. The advisory committee offered to provide to the subgroup a summary of specific state laws and regulations covering pre-need sales, funeral sales, pre-need trust and life insurance products which fund pre-need contracts. In addition, the advisory committee offered to summarize the variety of insurance funded mechanisms and other means of financing pre-need funerals. The advisory committee expressed their support of a final proposal by June 1988.

Members of the subgroup identified the regulatory concerns which are primarily disclosure related. Terry Rankin (Nev.) commented that because the Federal Trade Commission has scheduled a study of funeral plans in 1988, and because of the number of complaints which have been received in state departments in this area, she felt it was necessary to proceed with a statute addressing disclosure by June 1988. David Simmons (Ark.) and Roy Ray (Texas) concurred in that they too agreed that an initial disclosure approach is desired by June 1988. Various comments were heard concerning the specifics of the subgroup's approach but were generally limited to the appropriateness of the approach and its general scope. Frances Sylvester (Ariz.) expressed her support for a disclosure statute of this type. She stated that the concern in her department is disclosure to consumers in cases in which a life insurance policy or annuity contract is utilized to fund a pre-need contract.

The consensus of the subgroup is to:

1. Expose the proposed amendment to the NAIC Rules Governing the Advertising of Life Insurance (Attachment One-A), emphasizing that it is a preliminary proposal. Other approaches such as a stand-alone statute or an amendment to the NAIC model concerning unfair trade practices are being considered.

2. Distribute minutes of the Life Insurance (A) Committee meeting scheduled for Dec. 9 to members of the subgroup and advisory committee by Dec. 21, 1987, along with a review of the advisory committee materials which have been submitted.

3. The advisory committee will complete research by Jan. 15.

4. The advisory committee will submit research to the subgroup by Jan. 29.

5. The advisory committee will meet on Feb. 23 and the subgroup will meet on Feb. 24, both tentatively scheduled for Kansas City.

6. A subgroup and advisory committee will meet tentatively on March 13 in Santa Fe.

Having no further business, the Subgroup on Prepaid Funeral Plans adjourned at 4:45 p.m.

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ATTACHMENT ONE-A

PROPOSAL TO AMEND THE NAIC
RULES GOVERNING THE ADVERTISING OF LIFE INSURANCE
DRAFT: 11/19/87

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An additional subsection to Section V, Disclosure Requirements, is added as follows:

25. An advertisement for the sale of a pre-need funeral contract which is tied to or otherwise funded by a life insurance or annuity policy shall adequately disclose the following:

A. the fact that a life insurance policy or annuity is involved,

B. the name of the insurance company represented by the agent,

C. an explanation of the tie-in nature of the sale,

D. any restrictions on refunds in the event of cancellation or any other consequences of surrendering the policy,

E. all relevant information concerning the price of the funeral services, including an indication that the price is either fixed at the time of purchase or to be determined at the time of need,

F. all relevant information concerning the difference between the face value of the life insurance policy and the amount actually needed to fund the funeral contract,

G. in the event that the life policy involved is financed, all pertinent consequences which may result from failure to make payments,

H. any geographical limitations on delivery of the services,

I. any restrictions on assignments, beneficiaries or use of the proceeds, and

J. the amount of sales commission.

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ATTACHMENT TWO

MODEL ANNUITY AND DEPOSIT FUND DISCLOSURE REGULATION

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Section 1. Authority

This rule is adopted and promulgated by [title of supervisory authority] pursuant to sections [insert sections corresponding

to Section 4(1)(a) of the Model Unfair and Deceptive Acts and Practices in the Business of Insurance Act] of the Insurance Code.

Section 2. Purpose

A. The purpose of this regulation is to require insurers to deliver to prospects for annuity contracts, for annuity riders to life insurance policies, ~~or for deposit funds accepted in conjunction with life insurance policies,~~ or for deposit funds accepted in conjunction with life insurance policies or annuity contracts, information which helps the prospect select an annuity or deposit fund, or both, appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans.

B. ~~The~~ This regulation does not prohibit the use of additional material which is not in violation of this regulation or any other (State) statute or regulation.

Section 3. Scope

A. To the extent hereinafter provided, this regulation shall apply to any solicitation, negotiation or procurement of annuity contracts, or deposit funds accepted in conjunction with individual life insurance policies or with annuity contracts which are subject to this regulation, occurring within this state. The regulation shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies. For the purpose of this regulation, annuity contracts include annuity ~~contracts~~ riders to life insurance policies.

B. This regulation shall apply to:

(1) Individual deferred annuities and group annuities other than contracts exempted by Section 3C below.

(2) Deposit funds (i.e. arrangements under which amounts to accumulate at interest are paid in addition to life insurance premiums or annuity considerations under provisions of individual life insurance policies or annuity contracts).

C. This regulation shall not apply to:

(1) Individual deferred annuity contracts and group annuity contracts which are: (a) variable annuities; (b) contracts registered with the Federal Securities and Exchange Commission; (c) contracts which have variable annuity features available at the option of the contract owner;

(2) Group annuity contracts whose cost is borne in whole or in part by the annuitant's employer or by an association of which the annuitant is a member. The cost of a contract shall not be deemed to be borne by an annuitant's employer to the extent the annuitant's salary is reduced or the annuitant foregoes a salary increase;

(3) Immediate annuity contracts;

(4) Policies or contracts issued in connection with employee benefit plans as defined by Section 3(3) of the federal Employee Retirement Income Security Act of 1974 (ERISA) as amended from time to time;

(5) Individual retirement accounts and individual retirement annuities as described in Section 408 of the federal Internal Revenue Code;

(6) A single advance payment of specific premiums equal to the discounted value of such premiums;

(7) A policyholder's deposit account established primarily to facilitate payment of regular premiums and where the anticipated balance of such account does not exceed twice the sum of the premiums payable in one year on all policies for which premiums are being paid from such account.

Section 4. Buyer's Guide to Annuities

For purposes of this regulation, "Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in the Appendix to this regulation or ~~by~~ language approved by [state regulatory authority.]

Section 5. Contract Summary

A. For purposes of this regulation, "Contract Summary" means a written statement describing the elements of the annuity contract and deposit fund, including but not limited to where applicable, the following items:

(1) A prominently placed title as follows: "Contract Summary" (This shall be followed by an identification of the annuity contract or deposit fund, or both, to which the summary applies.);

(2) 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 Contract Summary;

(3) The full name and home office or administrative office address of the insurer which will issue the annuity contract or administer the deposit fund;

(4) One of the options under the contract available for annuity payout. This form of annuity payout should be used for providing information ~~to~~ in Items 6, 7 and 9 of this section;

(5) A prominent statement that the contract does not provide cash surrender values ~~of~~ if such is the case;

(6) The amount of the guaranteed annuity payments at the scheduled commencement of the annuity, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrender of the contract and no indebtedness to the insurer on the contract;

(7) On the same basis as for Item 6 except for guarantees, illustrative annuity payments not greater in amount than those based on (a) the current dividend scale and the interest rate currently used to accumulate dividends under such contracts, or the current excess interest rate credited by the insurer, and (b) current annuity purchase rates. A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate;

(8) For annuity contracts or deposit funds for which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years, together with a reference to the schedule of guaranteed cash surrender values required by Item (9)(c) of this section;

(9) The following amounts, where applicable, for the first ten contract years and representative contract years thereafter sufficient to clearly illustrate the patterns of considerations and benefits, including but not limited to, the twentieth contract year and at least one ~~year~~ age from 60-70 and at the scheduled commencement of annuity payments:

(a) The gross annual or single consideration for the annuity contract. Any additional considerations for optional benefits, such as disability premium waiver, should be shown separately.

(b) Scheduled annual or single deposit for the deposit fund, if any.

(c) The total guaranteed death benefit and cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year. Values for a deposit fund must be shown separately from those for a basic contract.

(d) The total illustrative death benefit and cash surrender value or paid-up annuity at the end of the year, not greater in amount than that based on (1) the current dividend scale and the interest rate currently used to accumulate dividends under such contracts or the current excess interest rate credited by the insurer, and (2) current annuity purchase rates. A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate.

(10) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are ~~the~~ illustrations and are not guaranteed;

(11) The following items should be shown with regard to the consideration for the basic annuity contract or deposit fund. Considerations applicable to optional benefits, such as disability premium waiver, should be excluded.

(a) A statement of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to any surrender penalties, discontinuance fees, partial surrender ~~to~~ or withdrawal penalties or fees, transaction fees, and account maintenance fees.

(b) A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

(c) The yield on gross considerations at the end of 10 years (if the annuity payments have not yet commenced) and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on both a guaranteed and illustrative basis. They represent the effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrative cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(12) The date on which the Contract Summary is prepared.

B. The Contract Summary must be a separate document. All information required to be disclosed must be set out in

such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year. Amounts in Items ~~(4)~~, (6), (7), (9), and ~~13~~ (11)(c) of this section shall, in the case of flexible premium annuity contracts, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be $100 a month or $1,000 per year. If not specified in the contract, annuity payments shall be assumed to commence at age 65 or ten years from issue, whichever is later. Zero amounts shall be displayed as zero and shall not be displayed as blank spaces.

Section 6. Disclosure Requirements

A. The insurer shall provide to all prospective purchasers a Buyer's Guide to Annuities and a Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or in the case of a deposit fund, prior to acceptance of the applicant's initial consideration for the associated life insurance policy or annuity contract, unless the annuity contract or associated life insurance policy for which application is made provides for an unconditional refund period of at least ten days or unless the Contract Summary contains such an unconditional refund offer, in which event the Buyer's Guide to Annuities and the Contract Summary must be delivered with or prior to the delivery of the annuity contract or associated life insurance policy.

B. The insurer shall provide a Buyer's Guide to Annuities and a Contract Summary to any prospective purchaser upon request.

Section 7. General Rules

A. 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 at least three years following the date of its last authorized use.

B. An agent shall inform the prospective purchaser, prior to commencing a sales presentation, that the agent is acting as a life insurance agent and shall inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

C. 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.

D. Any reference to dividends or to excess interest credits must include a statement that such dividends or excess interest credits are not guaranteed.

E. A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence.

F. Sales promotion literature and contract forms shall not state or imply that annuity contracts or deposit funds are the same as savings accounts or deposits in banking or savings institutions. The use of passbooks which resemble savings bank passbooks is prohibited.

Section 8. Failure to Comply

Failure of an insurer to provide or deliver a Buyer's Guide to Annuities and a Contract Summary as provided in Section 6 shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an annuity contract or of an insurance policy.

Section 9. Effective Date

This rule shall apply to all solicitations which commence on or after [insert a date at least six months following adoption by the regulatory authority].

APPENDIX—BUYER'S GUIDE TO ANNUITIES

WHAT IS AN ANNUITY?

An annuity is a series of payments made at regular intervals. You can buy annuity contracts from life insurance companies. In return for premiums that you pay, the company will pay you an annuity. The main reason to buy an annuity contract is to obtain an income, usually for retirement purposes. An annuity contract is not a life insurance policy or a health insurance policy. It is not a savings account or savings certificate, nor should it be bought for short term purposes.

TYPES OF ANNUITY CONTRACTS

Annuity contracts may be classified in a number of ways. The most common classifications are set out below.

Annuity contracts may be either immediate or deferred. Immediate annuity contracts provide income payments that start shortly after you pay the premium. Deferred annuity contracts provide income payments that start later, often many years later.

Annuity contracts may be either single premium or installment premium. Single premium contracts require you to pay the company only one premium. Installment premium contracts are designed for a series of premiums. Most of these are flexible premium contracts; they allow you to pay as much as you wish whenever you wish, within specified limits. Others are scheduled premium contracts, which specify the size and frequency of your premiums.

Annuity contracts may be either individual or group. Individual contracts cover only one or two persons. Group contracts cover a specified group of people.

Annuity contracts may be fixed, variable, or a combination of both. During the deferred period of a fixed annuity contract, premiums (less charges) are accumulated at rates of interest set by the company. The amount of each annuity payment is determined when payments begin. During the deferred period of a variable annuity, the value of the accumulated premiums (less charges) varies with the performance of a specified pool of investments. The amount of annuity payments also varies with the performance of the pool. Combination annuities allow you to put part of your premium in a fixed annuity and part in a variable annuity.

Some companies offer deposit fund arrangements under the provisions of their life insurance policies or annuity contracts. These arrangements allow you to pay amounts, in addition to your premiums, which will be accumulated at interest in much the same way as under a deferred fixed annuity contract. The balance of this Buyer's Guide deals specifically with deferred fixed annuity contracts and, therefore, is generally applicable to deposit fund arrangements also.

ANNUITY CONTRACT FEATURES

Your value in the contract consists of the premiums you have paid, less charges, plus interest credited. This value is used to calculate the amount of most benefits that you will receive. Charges, interest, and benefits are explained below.

CHARGES

Considerable diversity exists in the types and amounts of charges. Some charges may be fixed at issue; others may be changed by the company from time to time. A typical contract might contain one or more of the following types of charges. Companies may refer to these charges by different names.

Percentage of Premium Charge. This charge, often called a "load," is deducted from each premium paid. The percentage may reduce after the contract has been in force for a certain number of years or after total premiums paid have reached a certain level.

Contract Fee. This is a flat dollar amount charged either once at issue or annually.

Transaction Fee. This is a charge per premium payment or other transaction.

Surrender Charge. This charge is usually a percentage of the value of the contract or of premiums paid. The percentage may be reduced or eliminated after the contract has been in force for a certain number of years. Sometimes the charge takes the form of a reduction in the interest rate credited. In some cases, the charge is eliminated if the interest rate declared by the company falls below a certain level.

INTEREST

The interest rate used to accumulate contract values may never be less than the guaranteed rate ~~started~~ stated in the contract. In practice, the interest rate actually used by a company, usually referred to as the "current" rate, is often higher. The company may change the current rate from time to time, but it cannot be lower than the guaranteed rate. Companies differ substantially in their methods of determining the current rate.

BENEFITS

Annuity contracts provide a number of benefits. While the annuity income benefit is the primary one, the other benefits set out below are also important.

ANNUITY INCOME BENEFIT

Income payments are usually made monthly, although other frequencies are available. The amount of the annuity payments is based on both the value of the contract and the contract's "benefit rate" when annuity payments begin. This benefit rate depends on your age and sex, and the annuity form you have chosen.

Annuity contracts contain a table of guaranteed benefit rates. Most companies periodically develop "current" benefit

rates as well; these rates are subject to change by the company at any time. When annuity payments begin, the company will determine the amount of each payment according to the current benefit rates then in effect if these are more favorable to you. If the guaranteed benefit rates would provide higher income payments, those rates will be used. Once payments begin, they are unaffected by any future benefit rate changes.

The most commonly available annuity forms are:

Straight Life. The annuity is paid as long as you are alive. There are no further payments to anyone after your death.

Life With Period Certain. The annuity is paid as long as you are alive. If you die before the end of the period referred to as the "certain period," the annuity will be paid to your beneficiary for the rest of that period. Typical certain periods are 10 ~~to~~ or 20 years.

Joint and Survivor. The annuity is paid as long as either you or another named annuitant is still alive. In some variations, the annuity is decreased after the first death. A period certain also may be available with this form.

DEATH BENEFIT

Most contracts provide that, if you die before the annuity payments start, the contract value will be paid to your beneficiary. Some contracts provide that the death benefit will be the total premiums paid if that amount is greater than the value of the contract at death.

SURRENDER BENEFIT

Most annuity contracts allow you to surrender your contract if income payments have not yet started. Upon surrender, the contract terminates. The surrender benefit is equal to your contract value less surrender charge, if any.

Many annuity contracts also provide that you may withdraw a portion of your contract value, under certain conditions, without terminating the contract. A surrender charge may be deducted from the amount withdrawn.

WAIVER OF PREMIUM BENEFIT

Some companies offer a benefit which will pay premiums for you if you become disabled. A charge is made for this benefit.

HOW MUCH SHOULD I BUY?

Before buying, ask yourself these questions:

1. How much annuity income will I need in addition to social security, pensions, savings, and investments?

2. Will I need an income only for myself or for someone else also?

3. How much can I afford to pay in premiums?

4. How will the annuity contract fit in with my total financial planning?

HOW TO BUY AN ANNUITY

Buying an annuity contract is a major financial decision which should be considered carefully.

CONTRACT SUMMARY

You will receive a Contract Summary when an annuity contract is delivered to you, or you can ask for one now. You should review this statement thoroughly.

Accumulated values and surrender values under the contract are illustrated for various years on this statement. During the first few years, these values may be less than the premiums paid. This is why an annuity contract should not be purchased for short-term purposes.

Also illustrated is the yield on gross premiums at the end of 10 years and at the time income payments are scheduled to begin. Since it takes into account not only the interest credited under the contract, but also the effect of all charges, the yield on gross premiums is a figure you can use to compare annuity contracts. Be careful in comparing this figure with yields available on investments. The tax treatment of annuity earnings is usually substantially different from that of earnings from investments. Also, only annuity contracts offer life income and waiver of premium benefits.

As stated at the beginning of this guide, the main reason to buy an annuity contract is to obtain an income. Therefore, you should also review the life income figures shown in the Contract Summary.

You will note that all values and income figures are shown on both a "guaranteed" and a "current" basis. Illustrations on the guaranteed basis show the minimum values and income which could be paid under the contract. Illustrations on the current basis show the values and income which would be paid if the current interest and benefit rates for the contract were to continue in effect for the period shown. Since it is impossible to predict the future course of interest and benefit rates, you will have to decide for yourself how much to rely on the current basis values when making your purchase decision.

OTHER POINTS TO CONSIDER

Be certain that you understand the effect of all charges that will be made under the contract.

Check whether the annuity contract allows you to change the amount of your premium payments. Find out what happens if you stop paying premiums altogether. You may want to obtain and compare Contract Summaries for similar contracts from several companies. Comparing these should help you select a good buy.

If you are buying an annuity contract for an Individual Retirement Account (IRA) or another tax deferred retirement program, make sure that you are eligible. Also, make sure that you understand any restrictions connected with the program.

If you are shown a presentation which illustrates tax savings, find out what assumptions are used. Be sure the assumptions apply in your case.

A good agent can help you choose the right annuity contract. Remember that the quality of service that you can expect from the life insurance company and the agent is an important factor also.

READ THE CONTRACT

When you receive your new annuity contract, read it carefully. Ask the agent and company for an explanation of anything you do not understand.

If you have a specific complaint or cannot get the answers you need from the agent or company, please contact your state insurance department.

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ATTACHMENT THREE

American Council of Life Insurance
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2599

November 24, 1987

The Hon. William D. Hager
Commissioner of Insurance
State of Iowa
Division of Insurance
Lucas State Office Building
Des Moines, IA 50319

Re: Proposed Form of Notice & Consent for Blood Testing for AIDS Virus

Dear Bill:

As I mentioned to you on the telephone, there are now some 12 states which have enacted various requirements for "informed consent" in connection with testing of blood of applicants for life and health insurance for the presence of the AIDS virus antibodies. While in the process of drafting a form to meet the requirements of a new statute in Maine, it occurred to us that the NAIC may have an interest in developing a model form that could be used as the basis for complying with the numerous state requirements.

During 1987, seven states proposed legislation which would have imposed disparate informed consent requirements as part of the public health laws. In several instances, the definition of informed consent included elements which would have been difficult to accomplish within the insurance underwriting context. In addition, several insurance departments are proposing rules which prescribe an informed consent document solely for use in that state. The likelihood of continued activity in this area underscores the need for a uniform informed consent form.

The draft enclosed, and explanation, were prepared by a group that included company medical directors, underwriters and lawyers. While a lot of time and thought has gone into the project, we appreciate the need for review by regulators and would like to request at the meeting of the NAIC Life Insurance (A) Committee that the form be accepted for consideration as an exposure draft. I understand the Health Insurance Association of America is making a similar request for the Accident and Health Insurance (B) Committee, and perhaps a joint task force as was done in connection with the development of the

underwriting guidelines, would be the appropriate way to proceed. Of course, if an advisory group is needed we'll be glad to participate.

As you requested, I'm also enclosing a copy of the form currently used by one of the medical laboratories and a list of the states which have adopted informed consent requirements.

Please feel free to call me, or Russ Iuculano (202-624-2186), if you have any questions or need additional information.

Sincerely,
Jack H. Blaine
Vice President, State Relations and
General Counsel

****

EXAMINER _____
ADDRESS _____
_____
_____

INSURER _____
ADDRESS _____
_____
_____

NOTICE AND CONSENT FOR BLOOD TESTING
WHICH MAY INCLUDE AIDS VIRUS (HIV)
ANTIBODY/ANTIGEN TESTING

To determine your insurability, the insurer named above (the insurer) has requested that you provide a sample of your blood for testing and analysis. All tests will be performed by a licensed laboratory.

Unless precluded by law, tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. The HIV antibody test that we perform is actually a series of tests done by a medically accepted procedure. The HIV antigen test directly identifies AIDS viral particles. These tests are extremely reliable. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats) and screening for liver or kidney disorders, diabetes and immune disorders.

All test results will be treated confidentially. They will be reported by the laboratory to the insurer. When necessary for business reasons in connection with insurance you have or have applied for with the insurer, the insurer may disclose test results to others such as its affiliates, reinsurers, employees, or contractors. If the insurer is a member of the Medical Information Bureau Inc., and if the test results for HIV antibodies/antigens are other than normal, the insurer will report to the Medical Information Bureau, Inc. a generic code which signifies only a non-specific blood test abnormality. If your HIV test is normal, no report will be made about it to the Medical Information Bureau, Inc. Other test results may be reported to the Medical Information Bureau Inc. in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There will be no other disclosure of test results or even that the tests have been done except as may be required or permitted by law or as authorized by you.

If your HIV test results are normal, no routine notification will be sent to you. If the HIV test results are other than normal, the insurer will contact you. The insurer may also contact you if there are other abnormal test results which, in the insurer's opinion, are significant. The insurer may ask you for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the results.

Positive HIV antibody/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS-related conditions. Federal authorities say that persons who are HIV antibody-antigen positive should be considered infected with the AIDS virus and capable of infecting others.

Positive HIV antibody or antigen test results or other significant blood abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.

I have read and I understand this notice and consent for blood testing which may include HIV antibody/antigen testing. I voluntarily consent to the withdrawal of blood from me by needle, the testing of that blood and the disclosure of the test results as described above.

I understand that I have the right to request and receive a copy of this authorization. A photocopy of this form will be as valid as the original.

_____
Proposed Insured

_____
Date of Birth

_____
Signature of Proposed Insured
or Parent/Guardian

_____
Date

_____
State of Residence

****

American Council of Life Insurance Task Force Report
on Uniform Informed Consent Form for Blood Testing

To promote informed consent when blood testing is part of the underwriting process for insurance, a special American Council of Life Insurance Task Force was formed for the purpose of drafting a uniform informed consent form for blood testing that would conform with existing state requirements in this area, as well as provide a model form which could be used when an individual is asked to provide a blood sample for the purpose of testing. The need for such a form was brought to the forefront by AIDS concerns and the role that Human Immunodeficiency Virus (HIV) plays in a balanced underwriting process. The task force has attempted to provide accurate disclosure of the purpose, content, use and meaning of the tests which may be performed on an individual's blood sample. It was also aware of the significance that must be placed upon the confidentiality of the results of such tests and the records that subsequently are produced.

Following is an explanation of the basic features of the blood testing informed consent form.

Purpose and Explanation of Blood Test

The form is intended to be a model form for the life and health insurance industry when blood tests are required by the insurer as part of the underwriting process. These tests are performed by licensed laboratories after a blood sample is obtained by medical or paramedical personnel representing the insurer. The model form discloses the name of the insurer which has requested the blood test as well as the medical or paramedical personnel that will draw the blood sample. It also notes that the purpose of the tests is to help in determining the individual's insurability.

The form provides examples of the types of tests which may be performed on the blood sample. Further, as a result of the importance and highly sensitive nature of the HIV test, specific notice is given that the HIV test may be performed.

Confidentiality of Blood Test Results

The insurance industry has gone to great lengths to protect the confidentiality of all personal and medical records of insurance applicants and policyholders. In response to recommendations made by the Federal Privacy Protection Study Commission, the insurance industry together with the National Association of Insurance Commissioners (NAIC) developed the NAIC Model Insurance Information and Privacy Protection Act (Privacy Act). The Privacy Act, or close facsimiles, have been enacted in 13 states. In addition, most major insurance companies voluntarily comply with the Privacy Act's requirements on a nationwide basis.

The model blood testing form notes those individuals or entities who may have access to the results of blood tests and to whom disclosures of that information may be made. In the December 1986 report to the Accident and Health Insurance (B) and Life Insurance (A) committees of the NAIC on the recommended guidelines of the NAIC Advisory Committee on AIDS, a great deal of the discussion concerning confidentiality centered on the Medical Information Bureau, Inc. (MIB). The model blood testing form discloses that if an insurer is a member company of MIB, a generic code signifying a non-specific blood abnormality will be reported to MIB for any test result for HIV antibodies or antigens which is considered other than normal. This would encompass all test results which are positive for the presence of HIV antibodies or antigens, as well as those test results which are considered indeterminant under the latest FDA-approved series of two Elisa tests and a Western Blot test.

The form also indicates that the individual will be notified regarding any abnormal HIV test results. It provides for the permissive practice on the part of insurers to disclose abnormal test results to a health care professional selected by the individual. These notification provisions provide the individual with a clear picture of the procedures regarding notification of adverse blood test results.

Blood Test Results and Their Meaning

With the advent of AIDS and the resultant blood tests to detect the presence of the virus, there has been some confusion and misinformation regarding these tests and their meaning. The task force recognizes this problem and has attempted to provide concise, accurate information regarding these tests to an insurance applicant who is being tested. In this manner, the individual will be aware, prior to the test being performed, of the ramifications of abnormal test results regarding his/her insurance application. Further, the form contains accurate and appropriate information regarding the meaning of positive HIV blood test results.

Consent and Authorization

After providing the individual with information regarding the purpose, content, use and meaning of blood tests, the individual is asked to affirm that he/she has read and understands the contents of the form. If the individual signs the form, he/she is providing such affirmation and consents to the drawing of blood and the testing of that blood sample. The model form also gives the individual the right to obtain a copy of the form.

The model form is primarily designed for insurers to obtain informed consent for certain blood tests. Insurers should be allowed to supplement this form for consent to perform other tests and where appropriate, to continue to use their existing consent forms in conjunction with this new blood testing form.

THIS FORM MUST BE COMPLETED, SIGNED, AND SUBMITTED WITH EACH BLOOD KIT.

COMPANY

INSURANCE COMPANY FULL NAME
(Include City/State of Home Office)

CO: _____

CITY: _____ STATE: _____

AMOUNT OF INSURANCE APPLIED FOR: _____

INS. AGENCY _____ CITY _____ STATE _____

APPLICANT

LAST NAME

FIRST NAME MIDDLE INITIAL

APPLICANTS RESIDENCE: CITY STATE

DATE OF BIRTH MO DAY YR ☐ MALE ☐ FEMALE

DATE OF LAST FOOD/DRINK MO DAY YR TIME OF LAST FOOD AM PM

DATE BLOOD WAS DRAWN MO DAY YR TIME DRAWN AM PM

EXAMINER

NAME: _____

ADDRESS: _____

CITY/STATE: _____

EXAMINER: PLEASE MAIL URINE SPECIMEN WITH KIT

HORL will perform some or all of these tests (if permitted by law) based on standing instructions from the insurance company specified above.

Blood Profile	T-Cell Count & Ratio
Hemoglobin A1c	Apolipoprotein
Full Drug Screen	CBC
Cocaine Screen	Nicotine
HIV Antibody Screen	Other _____

AUTHORIZATION

APPLICANT MUST READ AND SIGN AUTHORIZATION

I hereby authorize the examiner to withdraw blood from me by needle from a vein and Home Office Reference Laboratory, Inc. of Lenexa, Kansas to perform blood and urine tests as may be necessary to underwrite my application for insurance coverage. These may include, but are not limited to, tests for cholesterol and related blood lipids, diabetes, liver or kidney disorders, infection by the AIDS virus (if permitted by law), immune disorders, or the presence of medications, drugs, nicotine, or their metabolites.

Without a court order or a written authorization from me, these results will be made known only to the insurance company and/or its reinsurers (if involved in the underwriting process) and possibly the MIB, Inc. in the manner described in the prenotice which was given to me as part of the application process. These organizations and HORL will be the only ones maintaining this information in any type of file or data bank except as required by law.

_____ _____

Signature of Applicant Date

Summary of AIDS-Related Laws, Regulations and Bulletins
Affecting the Ability to Underwrite for AIDS
(as of October 12, 1987)

American Council of Life Insurance
Russell P. Iuculano, Senior Counsel

I. Jurisdictions Which Prohibit HIV Testing

1. California - LAW. Calif. Health & Safety Code Sec. 199.21(f)

2. District of Columbia - LAW. D.C. Code Sec. 35-224 et seq.

* 3. ~~Massachusetts (All Health Insurance and Group Insurance) Regulation 211 CMR 36.00, eff. Oct. 2, 1987~~

4. New Jersey - (Group Health Insurance only) Bulletin 86-1, eff. April 28, 1986

** 5. ~~New York (Health Insurance only), 11 NYCRR 52, eff. Sept. 4, 1987~~

6. Wisconsin (Group Insurance only) - LAW. Wisc. Stat. Sec. 631.90

II. Jurisdictions Which Prohibit Use of HIV Tests Taken Prior to Application

1. California - Ins. Dept. Bull. '86-3 (Oct. 10, 1986)

2. Connecticut - Bull. No. PF-16 (July 25, 1986)

3. District of Columbia - LAW. D.C. Code Sec. 35-224

4. Florida (applies to tests conducted under state's declaration of threat to public health) - LAW. Fla. Stat. Sec. 381.606

5. Hawaii - LAW. 1987 Senate Bill 833 (eff. June 24, 1987)

6. Maine - LAW. Me. Rev. Stat. tit 5, Sec. 19204

* 7. ~~Massachusetts Reg. 211 CMR 36.00 (eff. Oct. 2, 1987)~~

* 8. New Jersey - Bull. No. '85-3 (undated)

** 9. ~~New York (Health Ins. only), 11 NYCRR 52, (eff. Sept. 4, 1987)~~

10. Wisconsin (alternate test sites only). Rule Ins. 3.53 (eff. June 1, 1987)

III. Jurisdictions Which Require Informed Consent Prior to HIV Testing

1. Delaware - Reg. No. 56; Bulletin 87-1 (eff. March 21, 1987)

2. District of Columbia - LAW. D.C. Code Sec. 35-226

3. Florida - Bull. No. 87-206 (July 9, 1987)

4. Hawaii - LAW. 1987 Senate Bill 1007 (eff. June 25,1987)

5. Illinois - 1987 S.B. 100/H.B. 100 (eff. Sept. 21, 1987)

6. Kansas - Temporary Reg. Sec. 40-1-36 (eff. Sept. 17, 1987)

7. Maine - LAW. 1987 House Bill 1379 (eff. July 7, 1987)

8. Maryland - Md. Insurance Review, Vol. 2, No. 2 (June 1986)

* 9. ~~Massachusetts - Reg. 211 CMR 36.00 (eff. Oct. 2, 1987)~~

10. New Jersey - Bull. No. 86-1 (April 28, 1986)

11. Oregon - LAW. 1987. House Bill 2067 (eff. July 11, 1987)

12. South Dakota - Bull. '87-1 (May 6, 1987)

13. Wisconsin - Rule Ins. 3.53 (eff. June 1, 1987)

IV. Jurisdictions Which Require Pre or Post Testing Counseling

1. Kansas (pre-test) Temporary Reg. Sec. 40-1-36 (eff. Oct. 1, 1987)

2. Maine (post-test) LAW. 1987 House Bill 1379. (eff. July 7, 1987)

* 3. ~~Massachusetts (pre and post test). Reg. 211 CMR 36.00 (eff. Oct. 2, 1987)~~

V. Jurisdictions Which Have Adopted NAIC Model Guidelines on AIDS Underwriting

1. Delaware. Bull. '87-1. (March 21, 1987)

2. Florida. Bull. '87-206 (July 9, 1987)

3. South Dakota. Bull. '87-1 (May 6, 1987)

4. Wisconsin. Rule Ins. 6.67 (eff. June 1, 1987)

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* On Oct. 2, 1987, the Superior Court for Suffolk County issued an order preliminarily enjoining the implementation and enforcement of the Massachusetts AIDS regulation, 211 CMR, pending a determination on the merits. Life Insurance Association of Massachusetts, et al. v. Roger Singer, Commissioner of Insurance, Civil Action No. 87-5321.

** On Aug. 28, 1987, the Supreme Court of Albany County granted a stay of the effectiveness of the New York AIDS regulation, 11 NYCRR 52, pending a determination of its constitutionality. On Sept. 15, 1987, the Appellate Division of the New York Supreme Court upheld the stay. Health Insurance Association of America et al. v. Superintendent of Insurance, No. 55358.

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AIDS-Related Laws, Regulations and Bulletins
Affecting the Ability to Underwrite for AIDS

California

1. HIV Testing Prohibition. The results of a blood test to detect antibodies to the probable causative agent of AIDS shall not be used in any instance for the determination of insurability. California Health and Safety Code Sec. 199.21(f).

2. Use of Prior HIV Test History Prohibited. Insurers may not ask about prior blood tests or the results of the tests, or whether the applicant has been told not to donate blood. Insurance Department Bulletin 86-3 (Oct. 10, 1986).

3. Sexual Orientation Discrimination Prohibited. Insurers may not discriminate in the availability of insurance on the basis of sexual orientation. Title 10, California Administrative Code Sec. 2560.3.

Connecticut

1. Use of Prior HIV Test History Prohibited. No inquiry relating to prior AIDS tests may be used. Insurance Department Bulletin No. PF-16 (July 25, 1986).

Delaware

1. Informed Consent Required. When requested to take an AIDS-related test, the use of such a test must be revealed to the applicant and his or her written consent obtained. Reg. No. 56; Bulletin 87-1 (eff. March 21, 1987).

2. NAIC Model Guidelines Adopted. Sexual orientation may not be used in the underwriting process or in the determination of insurability. Also regulates medical/lifestyle questions and underwriting standards. Bulletin '87-1 (March 21, 1987).

3. Application Questions Regulated. Insurer permitted to ask diagnostic and predictive questions about AIDS, including questions about prior blood tests. Questions may not be vague, subjective, unfairly discriminatory, overly technical or ask the applicant's opinion. Reg. No. 56.

District of Columbia

1. All AIDS-Related Testing Prohibited. For five years from Aug. 7, 1986, an insurer may not deny coverage or consider in the determination of rates the results of any test to screen for the probable causative agent of AIDS, ARC or HTLV-III infection. D.C. Code Sec. 35-224.

2. Use of Prior HIV Test History Prohibited. For five years from Aug. 7, 1986, an insurer may not require an individual to disclose whether he has taken an AIDS test. D.C. Code Sec. 35-224.

3. Sexual Orientation Discrimination Prohibited. An insurer may not use sexual orientation, occupation, age, sex, marital status for purpose of seeking to predict whether an individual may in the future develop AIDS or ARC. D.C. Code Sec. 35-224.

Florida

1. Use of Certain Prior HIV Test History Prohibited. The results of a serologic test conducted under a declaration by the Dept. of Health and Rehabilitation Services that a threat to public health exists may not be used to determine if a person may be insured for life or health insurance. Fla. Stat. Sec. 381.606(5).

2. Informed Consent Required. When requested to take an AIDS-related test, the use of such a test must be revealed to the applicant and his or her written consent obtained. Division of Insurance Bulletin '87-206 (July 9, 1987).

3. NAIC Model Guidelines Adopted. Sexual orientation may not be used in the underwriting process or in the determination of insurability. Also regulates medical/lifestyle questions and underwriting standards. Bulletin '87-206 (July 9, 1987).

Hawaii

1. Use of Prior HIV Test History Prohibited. Unfair trade practice to refuse to insure or limit coverage "based solely upon" an individual's having taken an HIV antibody test prior to applying for insurance. 1987 Senate Bill 833 (eff. June 24, 1987).

2. Informed Consent Required. Insurance company must obtain the informed written consent of the person to be tested authorizing the release of the test results to the insurer and transmit a signed copy of the written informed consent to the health provider prior to any release of the requested test results to the insurer. 1987 Senate Bill 1007 (eff. June 25, 1987).

3. Confidentiality Restrictions. Unfair trade practice to refuse to insure or limit coverage because the individual refuses to consent to release of confidential information related to a sexually transmitted disease. 1987 Senate Bill 833 (eff. June 24, 1987). Information and records identifying persons with a sexually transmitted disease (STD) or who have been tested for any condition related to an STD and maintained by third party payors are strictly confidential. Such information shall not be released except with the prior written consent to the specific information to be released. 1978 House Bill 889 (eff. June 23, 1987).

4. Regulation of Use of HIV Tests. Insurance Commissioner is required to adopt rules to regulate the use of tests for the presence of antibody to HIV. 1987 Senate Bill 833 (eff. June 24, 1987).

Illinois

1. Informed Consent Required. Insurer that requires any "insured patient" or applicant for new or continued insurance or coverage to be tested for HIV infection shall give the patient or applicant prior written notice of such requirement and proceed with such testing only upon the written authorization of the applicant or patient. 1987 Senate Bill 100, House Bill 100 (eff. Sept. 21, 1987).

2. Confidentiality Restrictions. The results of insurer testing for HIV infection must be kept confidential. Notice of adverse underwriting decision may be given to any appropriately interested party, but the insurer may only disclose the test result to a physician designated by the applicant and any such disclosure shall be in a manner that assures confidentiality. S.B. 100/H.B. 100.

3. Sexual Orientation Discrimination Prohibited. No insurer may discriminate in the availability of insurance on the basis of sexual preference, or apply different rates on the basis of sexual preference unless the rating classification is based on expected claims, costs and expenses. Rule 26.04 (eff. July 1, 1976).

Kansas

1. Informed Consent and Pre-Test Counseling Required. Whenever an applicant is requested to take an HIV antibody test, the insurer shall: obtain written informed consent; reveal the use of the test to the applicant; "provide the applicant printed material prior to testing containing factual information describing AIDS, its causes, symptoms, how it is and can be spread, the tests used to detect the AIDS virus antibody and what a person should do whose test results are positive; or, arrange for the applicant to receive relevant counseling from a qualified practitioner...". Kansas Temp. Admin. Reg. Sec. 40-1-36 (eff. Sept. 17, 1987).

2. Application Questions Regulated. Insurers may ask diagnostic questions. The questions shall be formed in a manner designed to elicit specific medical information and not lifestyle, sexual orientation or other inferential information. Questions which are vague, subjective, unfairly discriminatory, or so technical as to inhibit a clear understanding by the applicant are prohibited. K.A.R. Sec. 40-1-36.

3. Regulation of Use of HIV Tests. Insurers must administer an initial test which meets the test protocol established by the F.D.A. and administer a Western blot to substantiate an initial positive test result. K.A.R. Sec. 40-1-36.

4. Regulation of Underwriting Decisions. All underwriting must be based on an individual review of specific health information furnished on the application, reports of medical exams performed at the insurer's request, or medical record information obtained from the applicant's health care providers. Adverse underwriting decisions must be based on sound actuarial principles. K.A.R. Sec. 40-1-36.

Maine

1. Use of Prior HIV Test History Prohibited. No insurer may request a person to reveal whether the person has obtained a test for the presence of HIV antibodies or the HIV virus or the results of the test. Me. Rev. Stat., tit. 5, Sec. 19204 (eff. April 16, 1986).

2. Informed Consent Required. Persons required to take an HIV antibody test by an insurer must provide their written informed consent on forms approved by the Superintendent of Insurance. Sec. 19203-A.

3. Post-Test Counseling Required. Persons required to give informed consent to an HIV test must be offered post-test counseling which shall include: (1) the test results and their significance; (2) the social and economic consequence of the information; (3) information on good preventive practices, and risk reduction plans; and (4) referral for medical care and other support services as needed. Sec. 19204-A.

Maryland

1. Informed Consent Required. The applicant must consent to the HIV test. Maryland Insurance Review, Vol. 2 No. 2 (June 1986) ("MIR").

2. Application Questions Regulated. Questions must be designed to elicit specific medical information and not lifestyle, sexual orientation or other inferential information. Applicants may not be asked about having received advice or counseling for AIDS. M.I.R.

3. Regulation of Use of HIV Tests. Insurance may not be denied or rated on the basis of a positive response to questions about prior HIV tests unless the response is substantiated by the ELISA-ELISA-Western blot test series. Reliable HIV tests are permitted in a manner consistent with the insurer's testing and underwriting for other medical conditions. M.I.R.

* Massachusetts

1. HIV Testing Prohibitions on Health Insurance and Group Insurance. Insurers are prohibited from requiring or requesting any proposed insured for health insurance, including any disability insurance which is not "noncancellable disability insurance," or group life insurance, including individually underwritten group life and individually underwritten group disability insurance, to submit to any HIV-related test. Reg. 211 CMR 36.04, (eff. Oct. 2, 1987).

2. Use of Prior HIV Test History Prohibited. No insurer shall ask any proposed insured about a prior HIV-related test or the result of such test. Insurers are prohibited from using any application question designed to discover the results of any prior HIV-related tests and considering any information relating to such test results in determining insurability. Any application used in connection with individual or group life, disability and health insurance must contain a prescribed statement in bold face type stating that, in essence, the results of prior tests shall not be disclosed and inquiries are not permitted. Reg. 211 CMR 36.04.

3. Regulation of Use of HIV Tests. The decision to ask an applicant to submit to a test may be made only on one of two bases:

(1) "Age and amount" testing: an insurer may establish written criteria based on the proposed insured's age and the amount of insurance applied for. Everyone within those criteria must be tested. If a life insurer wants to use HIV testing, it must offer a policy in an amount up to $100,000 without testing, with a reasonable AIDS/ARC-related death exclusion.

(2) "For cause" testing: If the proposed insured's medical history includes specific limited conditions meeting criteria established by the Commissioner, after consulting with the Department of Public Health, the medical director or other physician employed by the insurer can request "for cause" testing. Written documentation of that decision must be maintained by the insurer. Insurers must advise the proposed insured in writing of their right of access to the underlying records serving as the basis of a "for cause" testing decision. Reg. 211 CMR 36.05.

4. Informed Consent Required. The decision to request a test must be disclosed to the proposed insured on forms approved by the Commissioner, with further detailed information explaining the HIV test, the insurer's confidentiality standards, and the proposed insured's rights. No test can be performed without a statement of written informed consent of the proposed insured. Insurers and laboratories are required to use the model "Notice of AIDS Virus (HIV) Antibody Testing and Authorization for Testing" prescribed by the Commissioner. Reg. 211 CMR 36.06.

5. Pre- and Post-Test Counseling Required. An insurer shall pay for one pre-test counseling session for any proposed insured who has elected to receive such counseling, and for one post-test counseling session for any proposed insured who is informed of positive HIV-related test results. Such payment shall be made by either of the following methods:

(1) The insurer shall provide the proposed insured with a voucher for payment to certain prescribed counselors for one counseling session.

(2) The insurer may satisfy its obligation to pay for such counseling by joining a counseling financing plan, whose rules shall be approved by the Commissioner, and by paying its share of the costs of such plan as provided in the rules thereof. Reg. 211 CMR 36.11.

6. Regulation of Underwriting Decisions. No insurer shall make any underwriting decision on the basis of nationality, sexual orientation, or proxies for sexual orientation. Reg. 211 CMR 36.04.

New Jersey

1. Group Health Insurance Testing Prohibited. Insurers are not permitted to use the three test protocol for HIV antibodies, or any other blood testing procedures, to screen applicants for group health insurance. Bulletin No. 86-1 (Apr. 28, 1986).

2. Use of Prior HIV Test History Prohibited. Insurers may not ask "In the past 10 years have you tested positive for antibodies to the AIDS...virus?" Department of Insurance Bulletin 85-3 (undated).

3. Informed Consent Required. All applicants who take AIDS antibody tests must show their understanding of the procedure and its ramifications by signing a consent form disclosing: the title of any individual or organization who will receive a copy of the test results; the individuals or organizations who will have access to the applicant's insurance file; and the individuals or organizations that will keep the blood test information in a data bank or other file. Department of Insurance Bulletin 86-1 (April 28, 1986).

4. Regulation of Use of HIV Tests. Testing for the AIDS antibody must be done in a non-discriminatory manner. Only the ELISA-ELISA-Western blot protocol is permitted. All three tests must be positive to be the basis of an underwriting decision; if one test is negative all positive tests must be purged from the file. Testing in individual health insurance is permitted only if "medically justified." Blood testing cannot be required based solely on information concerning an individual's lifestyle. Bulletin No. 86-1 (April 28, 1986).

5. Application Questions Regulated. Questions that are subjective, unfairly discriminatory, overly technical or that ask for the applicant's opinion are not permitted. Bulletin No. '85-3 (undated).

** New York

1. Health Insurance HIV Testing Prohibited. Insurer may, when underwriting, rating or administering claims relating to policies or contracts providing hospital and/or medical expense or indemnity benefits, request an applicant to submit to a body fluid test for HIV or use the results of such test regardless of the sources. New York Insurance Department Regulation 62 (11 NYCRR 52) (eff. Sept. 4, 1987).

2. Health Insurer Use of Prior HIV Test History Prohibited. No insurer when underwriting, rating or administering claims relating to hospital and/or medical expense or indemnity benefits may ask an applicant or insured whether he has obtained a body fluid test for HIV or the result of the test. Reg. 62. (11 NYCRR 52).

Oregon

1. Informed Consent Required. No person may subject a person's blood to an HIV test without first obtaining informed consent. Informed consent in connection with an insurance application must reveal the use of an HIV test and disclose the purpose of the test and persons to whom results may be disclosed. 1987 House Bill 2067 (eff. July 11, 1987).

2. Confidentiality Restrictions. No person shall disclose or be compelled to disclose the identity of any person upon whom an HIV test is performed, or the result of the test, except as permitted by law or authorized by the test subject. 1987 House Bill 2067 (eff. July 11, 1987).

South Dakota

1. Informed Consent Required. Whenever an applicant is requested to take an AIDS-related test in connection with an application for insurance, the use of such a test must be revealed to the applicant and his or her written consent obtained. Division of Insurance Bulletin '87-1 (May 6, 1987).

2. NAIC Model Guidelines Adopted. Sexual orientation may not be used in the underwriting process or in the determination of insurability. Also regulates medical/lifestyle questions and underwriting standards. Bulletin '87-1 (May 6, 1987).

Texas

1. Regulation of Use of HIV Tests. An applicant for life or health insurance may be required to be tested for the presence of HIV. Requiring such testing is not unfair discrimination, provided: the testing is required on a non-discriminatory basis for all individuals in the same class; and no applicant is denied coverage or rated based on such testing unless the ELISA-ELISA-Western blot series is used. State Board of Insurance Emergency Rule 28 TAC Sec. 21.705. (Aug. 19, 1987) Note: This emergency rule clarified the inapplicability of 1987 House Bill 1829 which amended the state's Communicable Disease Prevention and Control Act to provide that "a person or entity may not require another person to undergo any medical procedure or test to show or help show whether a person has AIDS or HIV infection..." Texas Rev. Civ. Stat. Ann. art. 4419b-1, Sec. 9.02 (eff. Sept. 1, 1987).

Washington

1. Regulation of Use of HIV Tests. The blood testing of insurance applicants must be administered on a non-discriminatory basis. If a prospective insured is to be declined or rated substandard because of HTLV-III antibodies in the blood, such action must be based on a Western blot test or another test of equal or greater accuracy. Testing procedures of lesser accuracy may be used on a non-discriminatory basis for underwriting purposes, but a prospective insured may not be declined or rated substandard solely on the basis of results from such test(s). Washington Insurance Commissioner Rules. WAC 284-90-020 (eff. Nov. 14, 1986).

2. Regulation of Application Questions. Questions about AIDS and related health conditions on applications for insurance must be in clear and understandable language and must lend themselves to the placement of applicants in the proper class of insureds. Questions which are ambiguous or misleading are prohibited. WAC 284-90-020 (eff. Nov. 14, 1986).

3. Regulation of Underwriting Decisions. AIDS and its related conditions are diseases and must be considered as such under the insurance laws of this state. Underwriting considerations must be consistent with the underwriting considerations applied to other diseases. Prospective insureds must be accepted or rejected or rated standard or substandard on the basis of bona fide and substantiated statistical differences in risk or exposure. WAC 284-90-020 (eff. Nov. 14, 1986).

Wisconsin

1. Group Insurance HIV Testing Prohibited. For policies issued after July 20, 1985, an insurer may not: require an individual to reveal whether the individual has obtained a test for antibody to HIV; condition the provision of coverage on whether an individual has such a test; or consider in the determination of rates whether an individual has obtained such a test. This prohibition does not apply with regard to any test or series of tests for use in underwriting individual life and health insurance policies that the state epidemiologist finds to be "medically significant and sufficiently reliable" for presence of HIV antibodies and that the Insurance Commissioner designates by rule as "sufficiently reliable" for underwriting individual life and health insurance policies. Wis. Stat. Sec. 631.90.

> Note: The state epidemiologist issued a report on July 28, 1986, finding the ELISA-ELISA-Western blot series of tests to meet the reliability criteria prescribed by law. The Insurance Commissioner promulgated a rule, effective June 1, 1987, finding the same series of tests to be "sufficiently reliable" for underwriting individual life and health insurance policies. Rule Ins. 3.53 (eff. June 1, 1987).

2. Use of Certain Prior HIV Test History Prohibited. An insurer may not require a person to reveal whether the person has obtained an HIV test at an alternate test site, or the results of the test. Rule Ins. 3.53 (eff. June 1, 1987).

3. Informed Consent Required. Insurers are required to provide any individual being tested for HIV with an "informed consent for testing or disclosure form" prior to the time at which the individual undergoes the test. This form must disclose that test results may be sent to the Medical Information Bureau. Rule Ins. 3.53 (eff. June 1, 1987).

4. NAIC Model Guidelines Adopted. Insurer may not use sexual orientation in the underwriting process or in the determination of insurability. Also proscribes certain lifestyle questions. Rule Ins. 6.67 (eff. June 1, 1987).

5. Confidentiality Restrictions. The results of an HIV test may only be disclosed to the applicant who is tested; the applicant's health care provider with informed consent; and such other person as the applicant authorizes. Ins. 3.53 (eff. June 1, 1987).

6. Regulation of Group Insurance Underwriting Decisions. An insurer may not use or obtain from any source including the Medical Information Bureau, Inc., (MIB) the results of an HIV test taken by an individual or information on whether a test for the presence of HIV has been obtained by any individual who is a member of a group for which the insurer is underwriting group life, accident and health insurance on an individual basis. Ins. 3.53 (eff. June 1, 1987). Insurers writing group life and health policies, including policies underwritten on an individual basis, may not use or obtain any information from the MIB's new general blood abnormality code. Insurance Commissioner Bulletin of July 7, 1987.

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* On Oct. 2, 1987, the Superior Court for Suffolk County issued an order preliminarily enjoining the implementation and enforcement of the Massachusetts AIDS regulation, 211 CMR, pending a determination on the merits. Life Insurance Association of Massachusetts, et al. v. Roger Singer, Commissioner of Insurance, Civil Action No. 87-5321.

** On Aug. 28, 1987, the Supreme Court of Albany County granted a stay of the effectiveness of the New York AIDS regulation, 11 NYCRR 52, pending a determination of its constitutionality. On Sept. 15, 1987, the Appellate Division of the New York Supreme Court upheld the stay. Health Insurance Association of America et al. v. Superintendent of Insurance, No. 55358.

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ATTACHMENT FOUR

Life Insurance (A) Committee
Pittsburgh, Pennsylvania
Sept. 15, 1987

The Life Insurance (A) Committee met in Ballroom 4 of the Pittsburgh Hilton & Towers in Pittsburgh, Pa., at 2:30 p.m. on Sept. 15, 1987. A quorum was present and William D. Hager (Iowa) chaired the meeting. The following committee members or their representatives were present: Margurite C. Stokes, Vice Chair (D.C.); Roxani Gillespie (Calif.); Sherman A. Bernard (La.); Constance B. Foster (Pa.), and Steven T. Foster (Va.).

1. Status Reports:

a. Life Cost Disclosure Task Force

Patrick E. Kelly (D.C.) presented the report of the Life Cost Disclosure Task Force. Mr. Kelly discussed the activities of the task force.

One of the task force's charges is to develop a yield index for interest-sensitive life insurance products and any other life insurance products that are marketed with emphasis on the interest element. In addressing this charge, the Yield Index Advisory Committee submitted a draft of amendments to the NAIC Model Life Insurance Disclosure Regulation relating to the use of the yield index. This draft was presented in November 1986 and again in June 1987. The task force has recommended further review of the proposed regulation. At the June meeting, the task force asked the American Academy of Actuaries to conduct a study on computing the yield index with the interest adjusted cost comparison method in comparing two companies with similar plans and also two companies with different plans. The task force also asked the Advisory Committee to make some revisions in its earlier draft of amendments to the NAIC model. Both the American Academy of Actuaries and the Advisory Committee are working on those requests at the present time and will present reports in December.

Another item pending before the task force is a proposal concerning dividend disclosure practices. The proposal, made by the American Academy of Actuaries, suggests changes to the NAIC Life Insurance Disclosure Model Regulation. At the June meeting, the task force requested that the proposal be separated into three distinct parts and presented at a future meeting. The Academy will present their proposal in December.

John Montgomery (Calif.) noted that the Academy of Actuaries intends to have information to the Casualty Actuarial Task Force before its Oct. 2 meeting.

b. Universal and Other New Plans Task Force

Commissioner Gil McCarty (Ky.) submitted a written report to the committee which was read by Commissioner Hager (Attachment Four-A).

2. Subgroup Report on Prepaid Funeral Plans

David Lyons (Iowa) presented an oral report of the subgroup. He said that the subgroup has reviewed state legislation governing the sale of pre-need contracts as tie-ins with life insurance products and has identified some of the regulatory problems which exist. To address these problems, the subgroup is considering recommending changes to the NAIC Rules Governing the Advertising of Life Insurance and the NAIC Unfair Trade Practices Act as well as drafting a new regulation concerning this problem.

Anyone who wishes to serve on an advisory committee should contact Carole Olson at the NAIC.

3. Any Other Matters Brought Before the Committee

Commissioner Hager (Iowa) distributed copies of the NAIC Model Annuity and Deposit Fund Disclosure Regulation. Commissioner Hager explained that due to an editing error the model which was intended to be adopted in 1982 was not properly printed in the Proceedings, which is the official record of the NAIC. Therefore, to clear up any discrepancies, the Committee will readopt the model as it was intended to be adopted in 1982 and correct the record accordingly. Final action on the model will be taken at the December meeting.

Having no further business, the Life Insurance (A) Committee adjourned at 3 p.m.

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ATTACHMENT FOUR-A

Status Report to Life Insurance (A) Committee
From the Universal and Other New Plans Task Force
Sept. 15, 1987

The following is a brief summary of the current activities of the Universal and Other New Plans Task Force:

The Task Force adopted two new actuarial guidelines at the Chicago meeting: Guidelines XXIII (Guidelines for Variable Life Separate Account Investments) and XXIV (Guideline for Variable Life Nonforfeiture Values). In addition, the Task Force adopted an amendment to Guideline XIV (Surveillance Procedure for Review of the Actuarial Opinion for Life and Health Insurers).

The Life and Health Actuarial Task Force is currently working on 4 projects in conjunction with the Universal Task Force relating to structured settlements, interest indexed products, variable life minimum death benefit guarantee and single premium life insurance.

The Advisory Committee on Indexed Products Other Than Universal Life is currently working on a draft regulation on interest indexed annuity contracts. The Committee intends to expose the draft at the December meeting.

Respectfully Submitted By:

Commissioner Gil McCarty

LIFE COST DISCLOSURE (A) TASK FORCE

Reference:
1987 Proc. I p. 611
1987 Proc. II p. 628

Margurite Stokes, Chairman—D.C.
Gil McCarty, Vice Chairman—Ky.

CONTENTS

AGENDA

1. Report of American Academy of Actuaries on Computing Yield Index
2. Report of Advisory Committee on Revisions to Yield Index Draft
3. Presentation of Proposal by American Academy of Actuaries on Dividend Disclosure Practices
4. Report of Life and Health Actuarial Task Force
5. Consider Continuation of Task Force
6. Any Other Matters Brought Before the Task Force

The Life Cost Disclosure (A) Task Force met in Regency C of the Hyatt Regency Phoenix, Phoenix, Ariz., at 11 a.m. on Dec. 8, 1987. A quorum was present and Margurite C. Stokes (D.C.) chaired the meeting. The following task force members or their representatives were present: Gil McCarty, Vice Chair (Ky.); James P. Corcoran (N.Y.); and Robert D. Haase (Wis.).

1. Continuation of Task Force

The Chair noted that there were still several important issues to be studied by the Task Force and the Advisory Committee. Upon a motion duly made and seconded, the Task Force recommended that the Task Force and the Advisory Committee be continued.

2. Report of American Academy of Actuaries on Computing Yield Index

Stephen G. Kellison (American Academy of Actuaries) presented the report. He said the Academy was prepared to conduct a study to compare the rankings of certain interest-sensitive products under both the interest-adjusted index (IAC) and the yield index as requested by the Task Force. The attached report (Attachment One) contains the specifications for the study. The Academy proposes to solicit data from 30 companies with the requisite that data is obtained from at least 15 companies. If that data does not produce conclusive results, the study will be expanded to include data from more companies. The Academy plans to have a final report on the study at the June 1988 NAIC meeting. Mr. Kellison requested that the Academy be allowed to use the Task Force's name to solicit the data and that the Task Force reaffirm its desire to have the study conducted.

Ted Becker (Texas), representing the Life and Health Actuarial (EX5) Task Force, said that the Actuarial Task Force had reviewed the specifications and had expressed general satisfaction with them. He said that the Actuarial Task Force encouraged the study.

After further discussion, the Task Force adopted a motion approving the study, reaffirming the need for the study and authorizing the Academy to use the Task Force name in soliciting data from companies.

3. Report of Advisory Committee on Revisions to Yield Index Draft

The report was deferred until a future meeting.

4. Presentation of Proposal by American Academy of Actuaries on Dividend Disclosure Practices

Richard Stanza (American Academy of Actuaries) presented the report. He said that the report (Attachment Two) contained three proposed amendments to the NAIC Model Life Insurance Disclosure Regulation.

John Booth (American Council of Life Insurance) presented a report from the ACLI (Attachment Three). He said the ACLI agreed with the Academy's Proposal 1. However, he said that the ACLI members thought Proposals 2 and 3 were too broad and might be interpreted to require information be disclosed that the companies would consider to be proprietary in nature. The ACLI report contains alternative language to replace Proposals 2 and 3 of the Academy. Mr. Stanza said that the ACLI's proposals were in agreement with the intent of the Academy's proposals.

New York questioned why the ACLI's proposed language to amend Section 4.M.9 said, "the statement may indicate any such limitation on the insurer's right," instead of shall. Mr. Booth said that the section required that a company disclose if its policy has a nonguaranteed factor, that the insurer reserves the right to change that nonguaranteed factor at any time and for any reason. However, it is up to the company to decide if it wants to disclose that it has limited its ability to change a nonguaranteed factor because requiring such disclosure might be interpreted too broadly.

Upon motion duly made and seconded, the Task Force amended the Model Life Insurance Disclosure Regulation as recommended by Proposal 1 of the Academy and the proposals suggested by the ACLI in its report.

5. Report of Life and Health Actuarial Task Force

Ted Becker (Texas) presented the report of the Actuarial Task Force. (See Attachment Three to the Life and Health Actuarial (EX5) Task Force Report.) He reiterated the Task Force's approval of the Academy's study on the yield index and the interest-adjusted index. He also said that the report noted that the Actuarial Task Force is making recommendations to the Life Insurance (A) Committee concerning Project No. 7c "Disclosure of Risks Reported to Be Assumed." Mr. Becker said that the Actuarial Task Force had no recommendations upon which the Life Cost Disclosure Task Force needed to act. The Chair thanked the Actuarial Task Force for its report.

Having no further action, the meeting was adjourned at 11:45 a.m.

Margurite C. Stokes, Chair, D.C.; Gil McCarty, Vice Chair, Ky.; Roxani Gillespie, Calif.; Kenneth D. Merin, N.J.; James P. Corcoran, N.Y.; Robert D. Haase, Wis.

ATTACHMENT ONE

American Academy of Actuaries
1720 I Street, N.W., 7th Floor
Washington D.C. 20006
(202) 223-8196

December 4, 1987

Hon. Margurite C. Stokes, Chairperson
NAIC Life Cost Disclosure (A) Task Force
District of Columbia Insurance Department
614 H Street
N.W. North Potomac Building, Suite 512
Washington, D.C. 20001

Re: Specifications for comparisons of product rankings under interest-adjusted and yield index calculations

Dear Chairperson Stokes:

In his Sept. 25, 1987, letter to you, Gary Dahlman indicated that the American Academy of Actuaries Committee on Life Insurance was willing to assist your task force by performing interest-adjusted index (IAC) and yield index calculations for certain interest-sensitive products (primarily universal life) and to compare the rankings of the various products under the two indices, subject to the development of specifications which were acceptable to both committees. This letter will outline how the Committee on Life Insurance would propose to proceed to comply with your request.

It is suggested that the project be divided into two phases, with the second phase being completed only if the results of phase one are inconclusive. The two phase approach will permit optimum use of available resources. The initial phase will involve a limited number of companies (15-30) examined under a variety of premium payment pattern, product structure, issue age, death benefit option and face amount scenarios. If necessary, the second phase will redefine the scenarios to be tested and expand the number of companies involved.

SPECIFICATIONS FOR INITIAL DATA COLLECTION

1. Sample Size
Data will be requested from 30 companies. We will continue to request data until complete information has been received from at least 15 companies.

2. Data Collection
It is anticipated that each participating company will receive a Lotus or other program which can be used to gather selected premiums, death benefits and cash values. Projected policy values for the first 20 durations will be collected for both current and guaranteed assumptions. Once the data is entered, the diskettes will be returned to a central location for analysis.

3. Common Assumptions
All values will be calculated using the following common assumptions:

policy loans	none
withdrawals	none
premium mode	payable annually at the beginning of each policy year
sex	male
underwriting class	non-smoker

For companies with multiple non-smoker classes, e.g. standard, preferred, they should prepare illustrations using the class which is predominantly used for new issues.

4. Premium Payment Patterns
The initial phase will examine the following four premium payment scenarios for flexible premium products:

A. A whole life equivalent premium calculated using the respective company's current interest and mortality assumptions. The premium is assumed to be paid in all years.

B. A five pay whole life equivalent premium calculated using the respective company's current interest and mortality assumptions. The premium is assumed to be paid only for the first 10 years.

C. A guideline level annual premium calculated using the respective company's guaranteed interest and mortality assumptions. The premium is assumed to be paid in all years.

D. A fixed dollar annual premium which is identical for all companies and assumed to be paid in all years. This dollar amount will be set at a level which approximates the highest minimum premium of the sample group.

Data will also be collected on fixed premium interest sensitive products using these specifications. Such fixed premium products will be associated with either premium payment scenario A or B depending on which group most closely fits the respective products premium per $1,000 of initial face amount.

5. Issue Ages
Issue ages 30 and 50 will be tested. There is some concern that age nearest and age last birthday companies will need to be independently compared. Limited testing of the data from one company should permit determination of whether or not such differentiation is necessary.

6. Face Amounts
Data will be collected for both $25,000 and $100,000 policies.

7. Product Structure
Each company will be requested to supply the above data for both a front-end and a back-end loaded product. Companies with multiple front-end or back-end loaded products should prepare illustrations using the plan predominantly used for new issues.

8. Death Benefit Option
The above illustrations will all be prepared using a level death benefit option, (generally option A or option 1), except, for age 30 and the $100,000 face amount where the increasing death benefit option (Option B or Option 2) will also be calculated for all four premium scenarios.

ANALYSIS OF DATA

In order to assure conformity of calculation, all interest-adjusted indexes and yield indexes will be centrally calculated for each illustration. Rankings will then be performed and correlation coefficients calculated for each premium payment pattern, product structure, issue age, death benefit option and face amount grouping. Preliminary indications are that it is inappropriate to compare yield indexes of products with dissimilar product structures, death benefit options and premium payment patterns. One section of the report will examine the problems of using the yield index for ranking dissimilar premium patterns and product structures while the other section will show the correlation coefficients for each grouping of similar plans. A list of participating companies will be included; however, no company names will be shown for calculated indexes.

SCHEDULE

We would propose to complete the data collection and preliminary analysis by the end of the first calendar quarter of 1988 with a final report, including phase two of the study, if necessary, being completed for the June 1988 NAIC meeting.

If the above approach is acceptable to your task force, we will proceed as outlined.

Respectfully submitted,

John J. Palmer
Chairperson
Committee on Life Insurance
American Academy of Actuaries

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ATTACHMENT TWO

American Academy of Actuaries
1720 I Street N.W., 7th Floor
Washington, D.C. 20006
(202)223-8196

December 6, 1987

The Honorable Margurite C. Stokes
Chairman, NAIC Life Cost Disclosure Task Force
Department of Insurance
North Potomac Building
614 H Street, N.W., Room 512
Washington, D.C. 20001

Re: NAIC Model Life Cost Disclosure Regulation

Dear Superintendent Stokes:

On Oct. 30, 1986, we recommended a series of changes to the NAIC Model Life Insurance Disclosure Regulation. At the NAIC winter meeting in Orlando, Fla., the Task Force agreed to expose these changes for comment. At the summer meeting

of the NAIC in Chicago, Ill., the Task Force asked us to separate our recommended changes into three sets of changes for your consideration at the winter meeting of the NAIC in Phoenix. Enclosed are our recommendations divided into three separate recommendations as your Task Force requested.

Yours truly,

William T. Tozer, Chairperson
Task Force on Nonguaranteed Elements

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PROPOSAL 1

At the time the latest revisions were made in the Model Life Insurance Cost Disclosure Regulation, generally accepted actuarial standards had not been established for dividends paid by stock life insurance companies. Generally accepted actuarial practices have now been developed for dividends paid by stock life insurance companies. As a result, we recommend that any reference in the Model Regulation to dividends limiting its application to mutual life insurance companies be eliminated. As a result, we recommend that the following changes be made.

Section 4(C) be changed to read as follows:

> Contribution Principle - The Contribution Principle is a basic principle of dividend determination adopted by the American Academy of Actuaries with respect to individual life insurance policies. The Academy report, Dividend Recommendations and Interpretations (November 1985), describes this principle as the distribution of the aggregate divisible surplus among policies in the same proportion as the policies are considered to have contributed to divisible surplus. In a broad sense, the Contribution Principle underlies the essential equity implied by participating business.

Section 5(B) should be revised to read as follows:

> Requirements Applicable to Participating Policies - If a life insurance company illustrates policyholder dividends that are calculated in a manner or on a basis that;

Section 5(B) (1), (2), (3) and (4) remain unchanged.

Section 5(C)(2) should be changed to read:

> If a life insurance company:

The rest of Section 5(C)(2) remains unchanged.

PROPOSAL 2

Products that contain nonguaranteed charges, benefits or premiums have become a very significant portion of today's life insurance market. As a result, we are recommending that the following paragraph be added between (D) and (E) of Section 4:

> Current Rate Policy - The Current Rate Policy describes when and under what conditions the company intends to change any Current Rate Schedule.

Section 4(M)(9) should be revised to read:

> If the policy has a nonguaranteed factor, a statement indicating which cost factors are not guaranteed and that such factors are based upon the company's current dividend scale or current rate schedule and the current rate policy for changing any current rate schedule.

PROPOSAL 3

To support Proposal 2, we recommend that a new paragraph be added to Section 5(C) that reads as follows:

> 3. If the life insurance company materially changes its current rate policy on existing contracts, it shall, no later than the first contract anniversary following the change, advise each affected contract owner residing in the state of such change.

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ATTACHMENT THREE

Statement on Behalf of the
American Council of Life Insurance
to the NAIC Life Cost Disclosure (A) Task Force

December 8, 1987

My name is John K. Booth, actuary with the American Council of Life Insurance. This statement is presented on behalf of the American Council of Life Insurance, whose 645 member companies account for about 94% of the life insurance in force in the United States.

At the June 1987 NAIC meeting, we presented a statement to your task force and the Market Conduct Surveillance (EX3) Task Force in which we addressed various proposals under consideration by your task forces. One of the items discussed was a proposal from the American Academy of Actuaries Task Force on Nonguaranteed Elements that would require disclosure of company practices for changing nonguaranteed elements and current rate schedules. We indicated that we supported the general concept of disclosure of these items but had some concern over the regulatory language proposed by the Academy task force. We felt that some of the proposed language might be too broad and might be construed to require disclosure of specific numbers or parameters of a proprietary nature, even though the intent of the Academy task force was only to require the disclosure of general philosophy in this area.

We requested deferral of action on this proposal until this meeting, so that we could seek additional input from our membership before developing a definitive recommendation. We thank the task force for agreeing to this deferral.

We have now developed alternative wording that we feel responds to our concerns but at the same time serves to achieve the objectives of the Academy task force. The proposed language, in the form of amendments to the NAIC Life Insurance Cost Disclosure Model Regulation, is attached. We request that these amendments be adopted in lieu of the amendments to this model regulation proposed by the Academy task force.

Thank you very much for your consideration. We look forward to continuing to work with your task force.

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PROPOSED AMENDMENTS TO
NAIC LIFE INSURANCE COST DISCLOSURE MODEL REGULATION

1. Revise Section 4.M.9 to read:

> If the policy has a nonguaranteed factor, a statement indicating that the insurer reserves the right to change the nonguaranteed factor at any time and for any reason. However, if the insurer has agreed to limit this right in any way, such as, for example, if it has agreed to change a nonguaranteed factor only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the statement may indicate any limitation on the insurer's right.

2. In Section 5.C, add a new paragraph 3 to read as follows:

> If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor, it shall, no later than the first policy anniversary following the revision, advise accordingly each affected policyowner residing in this state.

UNIVERSAL AND OTHER NEW PLANS (A) TASK FORCE

Reference:
1987 Proc. I p. 647
1987 Proc. II p. 630

Gil McCarty, Chairman — Ky.
Constance B. Foster, Vice Chairman-Pa.

CONTENTS

AGENDA

1. Report of Life and Health Actuarial Task Force
2. Consider Continuation of Task Force
3. Any Other Matters Brought Before the Task Force

The Universal and Other New Plans (A) Task Force met in Regency C of the Hyatt Regency Phoenix in Phoenix, Ariz., at 1 p.m. on Dec. 7, 1987. Gil McCarty (Ky.) chaired the meeting. The following task force members or their representatives were present: James L. Nelson (Texas); Steven T. Foster (Va.); and Robert D. Haase (Wis.).

1. Report of Life and Health Actuarial Task Force

Ted Becker (Texas) reported on behalf of the Life and Health Actuarial (EX5) Task Force. The Life and Health Actuarial Task Force recommended two items for adoption: 1) a regulation for interest-indexed annuity contracts; (See Attachment Two-A1 to the Life and Health Actuarial Task Force report in this volume of the Proceedings) and 2) an amendment to the footnote 3 of the NAIC Universal Life Insurance Model Regulation. (See Attachment Two-A2 of the Life and Health Actuarial Task Force report in this volume of the Proceedings.)

In light of the fact that a quorum was not present, the consensus of the task force was to forward the Actuarial Task Force's proposal to the Life Insurance (A) Committee for consideration and adoption.

Ted Becker commented that there was a minor error on Page 4c of the Life and Health Actuarial Task Force report to this Task Force. He indicated that the target date is June 1988 instead of June 1987.

2. Consider Continuation of Task Force

Upon motion duly made and seconded, the Universal and Other New Plans (A) Task Force recommended continuation.

Having no further business, the Universal and Other New Plans (A) Task Force adjourned at 1:30 p.m.

Gil McCarty, Chairman, Ky.; Constance B. Foster, Vice Chairman, Pa.; Roxani Gillespie, Calif.; Sherman A. Bernard, La.; Michael A. Hatch, Minn.; George Dale, Miss.; Kenneth D. Merin, N.J.; James P. Corcoran, N.Y.; James L. Nelson, Texas; Harold C. Yancey, Utah; Steven T. Foster, Va.; Robert D. Haase, Wis.