LIFE INSURANCE (A) COMMITTEE

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1991 Proc. I p. 538
1990 Proc. II p. 563

Harold C. Yancey, Chair—Utah
David J. Lyons, Vice Chair—Iowa

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AGENDA

1. Adopt April 15 Charleston Minutes
2. Report on Adoption of Accelerated Benefits Regulation
3. Reports from Working Groups
   a. Senior Marketing
   b. Annuities
   c. Standard Policy Forms
4. Report of Product Development Task Force
5. Report of Life & Health Actuarial (Technical) Task Force
6. Any Other Matters Brought Before the Committee

REPORT

The Life Insurance (A) Committee met in Grand 2 of the Westin Hotel in Indianapolis, Ind., at 8:30 a.m. on June 12, 1991. A quorum was present and Harold C. Yancey (Utah) chaired the meeting. The following committee members or their representatives were present: David J. Lyons, Vice Chair (Iowa); Mike Weaver (Ala.); John Garamendi (Calif.); Harold T. Duryee (Ohio); Gary Weeks (Ore.); Philip W. Barnes (Texas); Steven T. Foster (Va.); and Richard "Dick" Marquardt (Wash.).

1. Adopt April 15 Charleston Minutes

Upon motion duly made and seconded, the minutes of the Life Insurance (A) Committee meeting of April 15 were adopted (Attachment Five).

2. Report on Adoption of Accelerated Benefits Regulation

Commissioner Harold C. Yancey (Utah) presented a status report of the state adoption of the NAIC Accelerated Benefits Regulation (Attachment One). He commented that Utah is moving toward adoption of the Accelerated Benefits Regulation with minor changes.

Commissioner Harold Duryee (Ohio) reported that Ohio has legislation pending that would mandate the offering of accelerated benefits in life insurance. He offered to furnish copies of this legislation to the Committee.

3. Reports from Working Groups

a. Senior Marketing

John O. Montgomery (Calif.) presented the report of the Senior Marketing Working Group. He commented that only one insurer had voluntarily submitted its Financial Review of This Policy disclosure form, as requested by the working group, and California will issue a notice requiring all licensed companies that write limited benefit life insurance products to file the disclosure form on an informational basis. California will collect the data from the disclosure forms and provide it to the working group for analysis. Mr. Montgomery reported that further action on the profitability study of limited benefit life insurance products has been deferred until analysis of the disclosure forms data is completed. He also said that further consideration of a change in the point of delivery of the disclosure form to the consumer has been deferred. Upon motion duly made and seconded, the June 11 minutes of the Senior Marketing Working Group were adopted (Attachment Two).

b. Annuities

Roger Strauss (Iowa) reported that the working group is drafting an exposure document dealing with two-tier annuity disclosure issues. He said model language had been drafted in a working session in Indianapolis which would be distributed for exposure prior to the September meeting. He reported that an advisory committee had been established to assist on two-tier annuity issues. Upon motion duly made and seconded, the June 8 minutes of the Annuities Working Group were adopted (Attachment Three).

c. Standard Policy Forms

Commissioner Yancey reminded the committee that at the Charleston W.Va. (April) meeting consideration had been given to the development of a standardized policy service information request form, mandating its usage through the Life Insurance Replacement Regulation. He reported that the consensus of the working group was to refer this concern to the Market Conduct and Consumer Affairs (EX3) Subcommittee since it appeared that problems in this area could be better addressed through market conduct examinations rather than the development of a standardized form. Upon motion duly made and seconded, the April 14 minutes of the Standard Policy Forms Working Group were adopted (Attachment Four).

4. Report of the Product Development Task Force

Mr. Montgomery reported that the Product Development Task Force had held a conference call on May 22 and voted unanimously to recommend that the task force be disbanded. He commented that there were two issues discussed in the conference call that need further regulatory attention: (1) insurable interest relative to corporate owned life insurance; and (2) insurable interest in living benefits products. Mr. Montgomery recommended that the Committee consider further study of these issues. Upon motion duly made and seconded, the Life Insurance (A) Committee adopted the recommendation to disband the Product Development (A) Task Force. Upon motion duly made and seconded, the minutes of the May 22 conference call of the Product Development Task Force were adopted.

Commissioner Yancey announced the formation of an Insurable Interest Working Group to address the insurable interest concerns relative to living benefits products and corporate-owned life insurance. Commissioner Steven Foster (Va.) asked if the scope of that review could be broadened to include all other insurable interest matters; the Committee concurred in this recommendation. Members of the working group will be Utah (chair), California, Alabama and Virginia. Commissioner Yancey requested that Lloyd Rice (Ill.) be appointed as an ex officio member of the working group. Commissioner Yancey announced that the advisory committee assigned to the Product Development Task Force would continue its work on insurable interest issues under the Insurable Interest Working Group and the working group would hold its first meeting in Chicago in July.

5. Report of Life & Health Actuarial (Technical) Task Force

Mr. Montgomery presented the report of the Actuarial Task Force. Upon motion duly made and seconded, the minutes of the June 12 Life and Health Actuarial (Technical) Task Force were adopted with one technical amendment, including the following recommendations:

1. Recommend adoption of the new model Actuarial Opinion and Memorandum Regulation.

2. Recommend that passing the amendments to the Standard Valuation Law (adopted by the NAIC in December 1990) and the new model Actuarial Opinion and Memorandum Regulation be incorporated into the NAIC list of requirements for accrediting of a state insurance department.

3. Recommend adoption of new actuarial guidelines on accelerated death benefits.

4. Recommend exposure of the draft of a new model law, the Second Standard Nonforfeiture Law for Life Insurance.

5. Recommend approval of the addition of five projects to the actuarial task force's agenda for the Life Insurance (A) Committee as follows: 2m Valuation - Need for New Life Insurance Tables, 4x Special Plans - Update of Actuarial Guideline XXI, 4y Special Plans - Plan Type Determination under Certain Guaranteed Issue Contracts, 4z Special Plans - Reserves for Certain Back-Loaded Annuities, and 4aa Special Plans - Modified Guaranteed Annuities. All five of these projects are recommended as Priority 2 Projects.

6. Recommend approval of the actuarial task force's request that Project 4t Special Plans - Two-Tiered Deferred Annuities be retitled as Project 3h Nonforfeiture - Study Need for Revision of Annuity Nonforfeiture Law. The priority of this project is also recommended to be upgraded from a Priority 2 Project to a Priority 1 Project.

7. Recommend approval of the deletion of three projects from the actuarial task force's agenda for the Life Insurance (A) Committee. These three projects are 4m Special Plans - Reserves for Certain Life Plans with Guaranteed Death Benefits, 4q Special Plans - Reverse Mortgages and 10 Provision for Catastrophic Mortality.

Commissioner Foster clarified that Recommendation No. 2, was a recommendation for the adoption of the "Actuarial Opinion and Memorandum Regulation." He further clarified that the decision to incorporate the regulation into the NAIC list of requirements for accrediting of a state insurance department was left to the Financial Standards and Accreditation Committee.

6. Any Other Matters Brought Before the Committee

George T. Coleman (Prudential) described briefly for the Committee the work done by the Corporate-Owned Life Advisory Committee and reiterated his willingness to assist the Insurable Interest Working Group. Mr. Montgomery commented that he thought a review of insurable interest issues was an important function for the Life Insurance (A) Committee.

Having no further business, the Life Insurance (A) Committee adjourned at 9:10 a.m.

Harold C. Yancey, Chair, Utah; David J. Lyons, Vice Chair, Iowa; Mike Weaver, Ala.; John Garamendi, Calif.; Harold T. Duryee, Ohio; Gary Weeks, Ore.; Philip W. Barnes, Texas; Steven T. Foster, Va.; Richard "Dick" Marquardt, Wash.

ATTACHMENT ONE

ADOPTION OF ACCELERATED BENEFITS REGULATION
MAY 1991

Connecticut	Sec. 38a-457	Similar to model guideline of 1990
Illinois	Pending	Regulation not based on model is pending
Kansas	Reg. 40-2-20	Similar to current model
Massachusetts	Reg. 55.00	Regulation not based on model
Mississippi	SB 2195	Model
Ohio	Pending	Model pending in legislature
Oregon	Policy	Informal policy to use model as a guideline for forms approval
Pennsylvania	Reg. tit. 31 Secs. 90f, 90g, 90h	Regulation not based on model
Texas	Reg. 3.129	Regulation not based on model

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ATTACHMENT TWO

Senior Marketing Working Group
of the Life Insurance (A) Committee
Indianapolis, Indiana
June 11, 1991

The Senior Marketing Working Group of the Life Insurance (A) Committee met in Capitol 1 of the Westin Hotel in Indianapolis, Ind., at 11 a.m. on June 11, 1991. A quorum was present and Sheldon Summers (Calif.) chaired the meeting. The following working group members or their representatives were present: David J. Lyons (Iowa); Harold T. Duryee (Ohio); Gary Weeks (Ore.); and Steven T. Foster (Va.).

1. Adopt May 29 and April 15 Minutes

Upon motion duly made and seconded, the working group minutes of May 29 and April 15 were adopted (Attachments Two-A and Two-B).

2. Report on Profitability Study

Mark D. Peavy (NAIC/SSO) summarized his review of the Milliman & Robertson Actuarial Study of Senior Life Insurance Markets. The working group discussed that no definitive conclusions could be reached from the report at this time, and further discussions of the profitability study would be held in Executive Session.

3. Financial Review of This Policy Disclosure Form

Sheldon Summers (Calif.) commented that only one insurer had voluntarily submitted its Financial Review of This Policy disclosure forms as requested by the working group, and California will issue a notice requiring all licensed companies to file the form on an informational basis. Mr. Summers, Bob Wright (Va.) and Melodie Bankers (Wash.) will draft the appropriate parameters for inclusion in the California notice.

4. Any Other Matters Brought Before the Working Group

Mr. Summers asked for comments from the audience regarding the suitability of these products and their value to consumers. No comments were forthcoming.

Having no further business, the Senior Marketing Working Group of the Life Insurance (A) Committee adjourned at 11:15 a.m. to reconvene immediately in Executive Session.

During the Executive Session, the working group reached consensus on the following items:

1. California will collect the data from the Financial Review of This Policy disclosure forms and schedule a working group meeting to analyze the data.

2. Further action on the profitability study has been deferred until analysis of information in the disclosure forms is completed.

3. Further consideration of a change in the point-of-delivery of the disclosure form has been deferred until a future meeting.

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ATTACHMENT TWO-A

Senior Marketing (A) Working Group
of the Life Insurance (A) Committee
Telephone Conference
May 29, 1991

The Senior Marketing (A) Working Group held a telephone conference call on May 29, 1991, at 11 a.m. CDT. A quorum participated in the call and Jim Swenson (Ore.) chaired the meeting. The following working group members participated: Sheldon Summers and John Montgomery (Calif.); David J. Lyons (Iowa); Amy Cress (Ohio) and Bob Wright (Va.). Also participating were Mark D. Peavy and Judith P. Lee (NAIC/SSO).

Jim Swenson (Ore.) announced that because of his departure from the Oregon Department, Sheldon Summers (Calif.) would be assuming the chairmanship of this working group. Mr. Swenson reminded the group that insurers with products marketed to senior citizens had been requested to voluntarily complete and submit the Financial Review of This Policy disclosure form for every fifth age beginning at age 60 for each product being marketed to seniors, both at the smallest policy amount and an average amount at which the products are being sold. He said that the analysis and review of the disclosure forms is important in setting the future direction of the working group and to assure that the consumer is receiving the information necessary to make an informed purchasing decision. Commissioner David Lyons (Iowa) agreed that the working group should agenda this item for further discussion at its Indianapolis (June) meeting.

Mr. Swenson commented that Washington state had adopted a regulation prohibiting the marketing to consumers of products with poor value. John Montgomery (Calif.) commented that premiums should be reasonable in relation to benefits provided and, if not, the products should not be allowed. Mr. Swenson commented that in reviewing the materials in support of the Washington regulation, there were examples where the premiums without interest exceeded the death benefit provided in a very short period of time. He said the point-of-delivery of the disclosure form is important, but the first issue to be addressed is making sure the product offered represents a good value. If so, the actual time of delivery may become less important. Bob Wright (Va.) commented that in those states where it is unlikely the products would be banned, the disclosure to the consumer would be vital.

Mr. Swenson discussed that last year it was decided that the first practical time for delivery of the disclosure form was at the point-of-delivery of the policy. However, he reminded the group that there may be certain marketing approaches that lend themselves to a point-of-sale delivery of the disclosure form. He further commented that he hoped the industry would work with this group to identify those marketing approaches that lend themselves to an earlier disclosure delivery, i.e., funeral plans and companies using computer illustrations. He said it is critical for the consumer to understand that he has a right to return the policy during the free-look period if it is not providing the expected benefit. Mr. Montgomery stated that it was particularly important that the disclosure form be delivered at the point-of-sale if the premium exceeds the death benefit of the product. Mr. Summers commented that there are different measures regarding the reasonableness of premiums to benefits. Mr. Wright added that the preferred time of disclosure is at the point-of-sale on all products. He said he believes the working group needs to readdress this issue and see if the model language can be amended. Mr. Swenson agreed that an earlier point-of-disclosure is better. He pointed out that there may be sales approaches that cannot accommodate disclosure at the point-of-sale. An option discussed by the working group was a generic disclosure illustration at the point-of-sale and a specific disclosure provided at the point of the policy delivery. Mr. Swenson added that the disclosure form and the free-look period should be highlighted in some manner so it would be read by the consumer.

After considerable discussion, the consensus of the working group was to ask the industry to voluntarily submit completed disclosure forms within one month following the June meeting. Mr. Montgomery agreed and stated that if the insurers do not comply, states have the authority to require informational filings from the companies.

Mark Peavy (NAIC/SSO) discussed the Milliman & Robertson (M&R) actuarial study of senior life insurance markets. He said the aggregate data for 10 companies had been received and reviewed. He expressed concern about some inconsistencies in the report. Mr. Swenson suggested that it would be a good idea for Mr. Summers and Mr. Peavy to meet with Walter Rugland (M&R) in Indianapolis to discuss concerns regarding this report. Mr. Peavy commented that if the NAIC conducts its own study of this industry, he would like to extend the reporting period from three to five years and to split out policies that are single premium vs. multipremium policies. Mr. Swenson said he would like to be able to work with the M&R study rather than have to take the time to do a separate study.

Having no further business, the Senior Marketing (A) Working Group adjourned at 11:40 a.m.

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ATTACHMENT TWO-B

Senior Marketing Working Group
of the Life Insurance (A) Committee
Charleston, West Virginia
April 15, 1991

The Senior Marketing Working Group of the Life Insurance (A) Committee met in Room 206 of the Charleston Civic Center in Charleston, W.Va., at 9 a.m. on April 15, 1991. A quorum was present and the meeting was chaired by Jim Swenson (Ore.). The following working group members were present: John Montgomery (Calif.); Commissioner David Lyons and Roger Strauss (Iowa); Robert Katz (Ohio); and Bob Wright (Va.).

Jim Swenson (Ore.) introduced Mark D. Peavy (NAIC/SSO), a Fellow of the Society of Actuaries, who recently joined the NAIC staff as the Life and Health Actuary.

Mr. Swenson suggested one amendment to the working group's April 5 minutes in the second paragraph. He suggested that the formal title of the consumer disclosure form be used rather than the generic reference to the form. Upon motion duly made and seconded, the April 5 Telephone Conference Call Minutes were adopted as amended (Attachment Two-B1).

Mr. Swenson reviewed the charges to the working group: (1) determine the appropriate point of delivery of the consumer disclosure form, and (2) oversee the NAIC actuarial analysis of the cost/benefit of life insurance policies marketed to seniors. He announced that the working group would be appointing an advisory committee once a work product had been developed.

Mr. Swenson commented that Mr. Peavy had begun his review of the actuarial study of senior life insurance markets performed by Milliman and Robertson, Inc. (M&R). M&R was retained by a life insurance industry ad hoc committee to collect, assimilate and analyze data from insurers who market and maintain a substantial amount of life insurance in certain segments of the over-58 age market.

Mr. Peavy said that he has been asked by the Life Insurance (A) Committee to assist with an analysis of the senior market and to determine the future direction for studies of these policies. He began this task by reviewing the industry's M&R study and reported that further issues need to be addressed. He commented on the various ratios included in the M&R study and said he found them to be interesting, but that more detail regarding the M&R study would be required to fully understand their implications. As an initial step, he said he would like to meet with Walter Rugland (M&R) to see what additional detail is available. If the detail of the M&R study is not available, Mr. Peavy has identified data to be requested from the companies and the focus of the study would be expanded from three to five years, collecting information on both a Generally Accepted Accounting Principles and statutory accounting basis.

Mr. Swenson agreed that access to the basic data in the M&R study is necessary but that assurances had been given to the companies that the data they provided would be held in confidence. He also agreed that the NAIC would recognize that some information may be proprietary and Mr. Peavy's review would be on a basis which would avoid disclosure of such proprietary information. The consensus of the working group was to officially request that M&R release that information to Mr. Peavy for his analysis. Robert M. Eubanks III (Mitchell Williams) commented that he had provided Mr. Peavy with a copy of his letter to companies in the pre-need final expense market, direct response companies, and companies which write significant amounts of coverage under $25,000 in the over 58 age market as well as a copy of the letter of agreement between the companies and M&R. Mr. Eubanks commented that the data is scheduled to be destroyed May 1 and he was not hopeful that the information could be made available to Mr. Peavy. He reiterated that the industry participants are comfortable with the survey as completed. Mr. Eubanks offered to meet with Mr. Peavy to discuss the aggregate numbers and whether they could be provided. Mr. Swenson expressed his appreciation for the nature of the agreement between the companies and M&R and also expressed the working group's appreciation for any further cooperation that could be solicited from the companies for Mr. Peavy.

Commissioner David Lyons (Iowa) asked Mr. Peavy to comment on the appropriate time frame for completion of his study. Mr. Peavy responded that he would report to the working group at its June meeting on the progress of his actuarial study. He said, however, that a more realistic goal for completion of the project would be in the fall.

Mr. Swenson expressed the working group's request for cooperation from companies presently marketing to the senior market, particularly those with policies which focus on pre-need and the senior market in general, to complete the required Financial Review of This Policy disclosure form which was adopted last year. A sampling of representative forms of all age ranges and types of products would be useful. Commissioner Lyons encouraged voluntary participation by the companies. Mr. Swenson asked that the completed disclosure forms be sent to Judy Lee (NAIC/SSO) as quickly as possible so the working group could begin its review.

Mr. Swenson mentioned the second charge to the working group was to determine at what point the disclosure forms should be provided to consumers. He reminded the working group that the regulators had wanted the point of sale disclosure opportunity, but they ultimately concluded that point of delivery of the policy was the first practical time the companies could generally provide the information. He indicated, however, there are a variety of marketing methodologies and that the working group would like to review these to determine if an earlier time of delivery is feasible for some companies. He said that if it is determined that disclosure at point of policy delivery is the earliest time this information can be furnished, the working group would determine how they could best assure that the consumer is going to review and understand the disclosure form.

Mr. Swenson said a conference call of the working group members would be scheduled before the June meeting to determine the status of its various projects.

Having no further business, the Senior Marketing Working Group of the Life Insurance (A) Committee adjourned at 9:35 a.m.

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ATTACHMENT TWO-B1

Senior Marketing (A) Working Group
of the Life Insurance (A) Committee
Telephone Conference
April 5, 1991

The Senior Marketing (A) Working Group held a telephone conference call on April 5, 1991, at 10:30 a.m. CST. A quorum participated in the call and Jim Swenson (Ore.) chaired the meeting. The following working group members participated: John Montgomery (Calif.) and David J. Lyons (Iowa). Also participating were Mark D. Peavy and Judith P. Lee (NAIC/SSO).

Jim Swenson (Ore.) discussed the charges to the working group: (1) to review the industry marketing methodologies to determine the appropriate point of delivery of the Financial Review of This Policy disclosure form; and (2) to oversee the NAIC actuarial analysis of the cost benefit of these policies. Mr. Swenson raised the issue of forming an advisory committee to assist with these projects. The working group concurred that it would prefer to formulate a work product first and consider establishing an advisory committee to comment on that product.

Mr. Swenson discussed the Senior Market Survey conducted by Milliman and Robertson, Inc. (M&R) and stressed the importance of obtaining cooperation from M&R and/or their clients to obtain the detail upon which this study was based. Mark Peavy (NAIC/SSO) commented that he had visited recently with John Yanko, Chief Actuary of the Forethought Group, and discussed whether the NAIC could anticipate receiving cooperation and review the detail of the study. Mr. Yanko did not offer any encouragement in this regard. Mr. Swenson asked if Mr. Peavy would be able to visit the M&R offices and review the data and Mr. Peavy replied that that option was not specifically discussed. Mr. Peavy said that he had asked to be provided with the information in the aggregate to be reviewed, but that request was denied. Commissioner Lyons (Iowa) asked Mr. Peavy if the report is acceptable in its current form; Mr. Peavy replied that the report as currently drafted is too general to meet the charge to the working group. Mr. Peavy expressed that data collected over a five-year period would be a more appropriate timeframe, and a breakdown on expense and investment income allocation is necessary.

Commissioner Lyons asked Mr. Peavy to be prepared at the next working group meeting to discuss the information necessary for the study and to discuss his approach to the study. Mr. Peavy suggested refining the scope of the study and the working group concurred that the study should be of policies with limited benefits or those where the death benefit, when compared with the premium accumulation at interest, is less at some time during the first 10 years. The working group requested that the actuarial study be completed by October and that a working group meeting would be scheduled prior to the December meeting to decide what additional action was necessary.

The working group concurred that it would ask the industry to complete disclosure forms for the products currently being marketed and submit the forms to the working group for its review. The working group discussed ideas for addressing the appropriate point of delivery of the disclosure form including highlighting some portion of the form and/or requiring that direct response marketers have a toll-free number for consumer questions. Commissioner Lyons commented that he would like to delay any consideration of extending the charge of the working group until completion of the actuarial study.

Having no further business, the Senior Marketing (A) Working Group of the Life Insurance (A) Committee adjourned at 11:10 a.m.

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ATTACHMENT THREE

Annuities Working Group
of the Life Insurance (A) Committee
Indianapolis, Indiana
June 8, 1991

The Annuities Working Group of the Life Insurance (A) Committee met in Grand 2 of the Westin Hotel in Indianapolis, Ind., at 2 p.m. on June 8, 1991. A quorum was present and Roger Strauss (Iowa) chaired the meeting. The following working group members or their representatives were present: Harold T. Duryee (Ohio); Steven T. Foster (Va.); and Richard "Dick" Marquardt (Wash.).

1. <u>Adoption of Previous Minutes</u>

Upon motion duly made and seconded, the minutes of the May 8 and April 14 meetings were adopted (Attachments Three-A and Three-B).

2. Disposition of GIC/DAC Survey Results

Roger Strauss (Iowa) announced that the results of the state survey on guaranteed investment contracts and deposit administration contracts would be distributed to regulators (Attachment Three-C).

3. Two-Tiered Annuity Disclosure Issues

Mr. Strauss said that two-tiered annuity disclosure issues would be the main focus of this working group. He further announced that the working group would hold a closed working session immediately following the open portion of this meeting in order to draft model disclosure provisions for exposure. He said the working group's goal was to have language for adoption in December. Mr. Strauss said that the following areas of disclosure will be discussed: the requirements for the higher tier of interest rates; circumstances that prevent receipt of the higher tier of interest rates; and the annuity rates that are not guaranteed at the time of purchase, but are set at a later time.

Mr. Strauss announced the formation of an advisory committee to assist with this project once a draft has been prepared.

At the direction of the chair, two ex officio members were added to the working group, Jack Traylor (Fla.) and Vance Magnuson (N.D.)

Having no further business, the Annuities Working Group of the Life Insurance (A) Committee adjourned its open session at 2:15 p.m. to reconvene immediately in Executive Session to draft proposed disclosure issues for exposure.

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ATTACHMENT THREE-A

Annuities (A) Working Group of the
Life Insurance (A) Committee
Telephone Conference Call
May 8, 1991

The Annuities (A) Working Group held a telephone conference call on May 8, 1991, at 3 p.m. CST. A quorum participated in the call and David J. Lyons (Iowa) chaired the meeting. The following working group members participated: David Parsons (Ala.); Bob Katz (Ohio); Woody Pogue (Texas); and Bob Wright (Va.). Also participating were Roger Strauss (Iowa) and Judith P. Lee (NAIC/SSO).

Commissioner David J. Lyons (Iowa) reported that the Life and Health Actuarial (Technical) Task Force will be requesting that the Life Insurance (A) Committee assign a Priority 1 status to its work on Project No. 4t Special Plans - Two-Tiered Deferred Annuities to complete this work by December 1991. He said the issue is whether two-tiered annuities are allowed under Standard Nonforfeiture Laws. He reminded working group members that Ted Becker (Texas) will be providing a summary of the Actuarial Task Force's consideration of this issue. Woody Pogue (Texas) offered to follow-up with Mr. Becker to ensure receipt of the summary by the working group. Commissioner Lyons directed NAIC staff to assure that the request for Priority 1 designation is made to the parent committee at the June meeting and that a discussion of the result of the work of the Life and Health Actuarial (Technical) Task Force on this issue be put on the agenda of the Annuities Working Group's December meeting.

The working group discussed the need for disclosure rules to apply to all interest-sensitive products and concurred, at this point, that the working group efforts would be concentrated only on two-tiered annuities. Commissioner Lyons commented that states could choose to expand the disclosure rules as necessary. Bob Wright (Va.) and Bob Katz (Ohio) agreed with this approach. Commissioner Lyons commented that the focus of the working group's efforts should be on the following disclosures for two-tiered annuity illustrations: (a) where dual interest rates are advertised, they must be given equal prominence, (b) full and complete disclosure of restrictions on payments of benefits, such as surrender charges, fees, and loads on annuitization, (c) a clear statement that the upper tier is only available on annuitization, and (d) a clear definition of what constitutes annuitization.

Commissioner Lyons suggested that the working group consider a recommendation to the parent committee at its December meeting that further attention be given to applying the disclosures to other types of interest-sensitive products.

Commissioner Lyons directed NAIC staff to contact the chair of the Advisory Committee on Two-Tiered Annuities Products (ACTTAP) to the Life and Health Actuarial (Technical) Task Force to determine the status of their review of disclosure issues pertaining to two-tiered annuity products. Commissioner Lyons further directed NAIC staff to contact David Rodgers (Wash.) to ask for his assistance in incorporating these disclosure issues either into existing model language or to draft model language for the working group's consideration at its June meeting.

Further consideration was given to the Survey of States Responses to Regulation of Guaranteed Investment Contracts (GICs) and Deposit Administration Contracts (DACs). After considerable discussion, the working group agreed to make a recommendation to the parent committee at its June meeting regarding additional action.

Having no further business, the Annuities (A) Working Group of the Life Insurance (A) Committee adjourned at 3:25 p.m.

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ATTACHMENT THREE-B

Annuities Working Group
of the Life Insurance (A) Committee
Charleston, West Virginia
April 14, 1991

The Annuities Working Group of the Life Insurance (A) Committee met in the Kanawha Room of the Marriott Hotel in Charleston, W.Va., at 2 p.m. on April 14, 1991. A quorum was present and Roger Strauss (Iowa) chaired the meeting. The following working group members or their representatives were present: Harold T. Duryee (Ohio); James Saxton (Texas); Richard G. Marquardt (Wash.); and Steve Foster (Va.).

1. Adopt March 29 Conference Call Minutes

David Rodgers (Wash.) suggested an amendment to the March 29 minutes in the fourth paragraph to indicate that Oregon requires that the spread between the two tiers of interest rates be "no" more than 1%. Upon motion duly made and seconded, the March 29 telephone conference call minutes were adopted as amended (Attachment Three-B1).

Roger Strauss (Iowa) stated that the working group had been formed to review annuities and address any concerns in that market. He said NAIC staff had conducted a survey of the states to determine prevalent issues on annuities. The initial results of the survey indicate that the two major state concerns are two-tiered annuities and determining whether guaranteed interest contracts (GICs) and deposit administration contracts (DACs) are annuities. He said other issues raised by the states may be addressed at a later time.

2. Report on Two-Tiered Annuities

Mr. Rodgers discussed a paper outlining considerations for a review of two-tiered annuities, including:

(1) Are two-tiered annuities permitted by the Standard Nonforfeiture Law?
(2) Why did they become controversial?
(3) Consideration of minimum standards if two-tiered annuities are to be permitted.
(4) Establishment of meaningful disclosure requirements.

As to whether two-tiered annuities are permitted by the Standard Nonforfeiture Law, Mr. Rodgers said the Oregon department has concluded that they are not. He pointed out that the Standard Nonforfeiture Law requires that cash and annuity values have to coincide at maturity and two-tiered annuity products do not meet this requirement. Bob Katz (Ohio) inquired if there had been consumer complaints about two-tiered annuities. Mr. Rodgers responded that Washington had received complaints and he was aware that the Arizona Board of Regents had adopted guidelines that forbid the sale of two-tiered annuities to employees of educational institutions.

Ted Becker (Texas) pointed out that the Life and Health Actuarial (Technical) Task Force has a review of two-tiered annuities on its agenda. He said that Howard Kayton (Security First Life Insurance) is chairing the advisory committee and their charge has been expanded to study the Standard Nonforfeiture Law to see if it needs to be amended. Mr. Becker said they were also trying to determine the maximum difference between the two options, the cash value and the present value of annuities. Bob Wright (Va.) inquired about the task force's timeframe for resolution of the nonforfeiture issue. Mr. Becker responded that the task force would be asking the Life Insurance (A) Committee to establish this as a first priority. At that point, a realistic timeframe would be completion in December. Mr. Katz commented that if the two-tiered annuities do not meet the nonforfeiture test, then there would be nothing for the working group to do. Mr. Becker responded that there is a difference of opinion among regulatory actuaries on that issue and Texas is approving two-tiered annuities based on its law which is similar to the NAIC Model. Mr. Becker offered to furnish the working group with background on this issue from the Actuarial Task Force. Mr. Kayton commented that this issue had been around for a number of years and that most complaints come from agents of competing companies which do not write this type of business.

3. Report on Guaranteed Investment Contracts (GICs) and Deposit Administration Contracts (DACs)

Bob Wright discussed the survey of states which was conducted to determine the manner in which states regulate GICs and DACs. He said that based on the working definitions of GICs and DACs found in the 1980 NAIC *Proceedings*, Vol. II, p. 393, the following questions were asked:

(1) Do GICs and DACs meet your state's definition of an annuity?
(2) Are GIC and DAC policy forms reviewed in the same manner as annuities?
(3) Does your state have any criteria applied specifically to GICs and DACs?
(4) Does your state provide coverage by your guaranty fund for GICs and DACs?

He pointed out that the responses received to date are preliminary and the working group will need to review those responses to determine if there is a uniform trend.

Jim Hanson (Ill.) said that the Accounting Practices and Procedures Task Force has a working group reviewing deposit type business to affect changes in the annual statement and he wanted to make sure that this was not a duplication of effort. Mr. Strauss directed NAIC staff to review the work of the Life and Health Actuarial (Technical) Task Force and the Study Group on Accounting and Reporting of Deposit Type Business to determine that there is no duplication of effort. He indicated that this working group would plan a conference call of its members in the next two weeks to set its direction and define the issues of the group.

4. Other Annuity Issues

Mr. Strauss discussed the list of annuity concerns raised by state insurance departments other than two-tiered annuities. He said those concerns would be addressed this year if there was time to do so.

Having no further business, the Annuities Working Group of the Life Insurance (A) Committee adjourned at 2:35 p.m.

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ATTACHMENT THREE-B1

Amended Minutes
Annuities Working Group of the
Life Insurance (A) Committee
Telephone Conference Call
March 29, 1991

The Annuities (A) Working Group held a telephone conference call on March 29, 1991, at 10 a.m. CST. A quorum participated in the call and David J. Lyons (Iowa) chaired the meeting. The following working group members participated: Anne Jewel (Ohio); Woody Pogue (Texas); Bob Wright (Va.); and David Rodgers (Wash.). Also participating were Roger Strauss (Iowa); Mark D. Peavy and Judith P. Lee (NAIC/SSO).

Commissioner David J. Lyons (Iowa) discussed the need to clearly focus the issues to be addressed by this working group for 1991. He reminded members that responses were solicited from the states relative to their concerns about the annuity market. Commissioner Lyons said there was also a survey of the states regarding regulation of guaranteed investment contracts (GICs) and deposit administration contracts (DACs).

Bob Wright (Va.) offered to work with NAIC staff to prepare a briefing paper on the GICs and DACs issue, including a definition of these contracts and elaboration on any concerns raised in the state survey responses. He said the paper would include a copy of the survey responses received to date.

Commissioner Lyons pointed out the majority of state responses referenced concerns on two-tiered annuities. David Rodgers (Wash.) said Washington is in the process of drafting a rule which will prohibit two-tiered annuities. He also reported that Oregon requires that the spread between the two tiers of interest rates be no more than 1%. Commissioner Lyons asked Mr. Rodgers to review the issues surrounding two-tiered annuities and prepare a draft briefing paper detailing those concerns. He asked the remaining members of the working group to review the draft and add additional comments which could be discussed at the working group's meeting on April 14 in Charleston, W.Va. Commissioner Lyons said the working group would consider whether minimum standards for two-tiered annuities need to be developed or minimum disclosure requirements for these products are necessary. The working group agreed that there appears to be a lack of consumer understanding about the two-tiered annuity product.

Commissioner Lyons requested NAIC staff to prepare a briefing paper on any other issues regarding annuities raised in the state responses. This paper will be reviewed by the working group at its meeting in Charleston.

Having no further business, the Annuities (A) Working Group of the Life Insurance (A) Committee adjourned at 10:30 a.m.

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ATTACHMENT THREE-C

STATES' RESPONSES TO REGULATION OF GUARANTEED INVESTMENT CONTRACTS AND DEPOSIT ADMINISTRATION CONTRACTS

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
AK	No	Yes	Yes	No
AL	No, defined in Code of Alabama, 1975, in Section 27-5-3	No	No	Probably not, but not specifically addressed in the insurance code.
AR	Yes, Statute 23-81-302	Yes	No	Yes, § 23-96-107
AS				No guaranty fund.
AZ	No	No	No	Not specifically addressed in insurance code.
CA	GICs - No DACs - Yes	Yes, neither are reviewed. Only individual annuities are filed.	No	No, § 1067.01
CO	No	No	No, we treat them as annuities and apply standard valuation law & CARVM.	No guaranty fund.

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
CT	GICs, yes	Yes, except modified GIC has to qualify with special regulation.	Modified GIC must qualify with special reg.	Yes, § 38-303
DC	No	No	No	No guaranty fund.
DE	Yes	Yes	No	Yes
FL	Yes	Yes	No	Yes
GA	Yes	Yes	No	Yes, § 33-38-2.
GU				No guaranty fund.
HI	No	No	No	No

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specif-ically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
IA	No, no definition of annuity.	Yes	No	Yes, § 508C.5
ID	No	No	No	No
IL	Yes, in a limited manner.*IL-1	Yes	Yes, Section 226.1	Yes, in a limited manner.*IL-2 § 531.03
IN	Yes	Yes	No	Yes
KS	Yes	Yes	No	No
KY	No	Yes	No	Covers annuities but GICs are not mentioned.
LA	Yes	Yes	No	No

*IL-1 Must contain a life contingency provision for it to be an annuity insurance contract. Sets forth five situations of annuity insurance contracts which may be issued without a life contingency. Most common is an annuity payout schedule adjusted for mortality. Illinois Ins. Code Section 226.1.

*IL-2 For guaranty coverage to be provided, it must be qualified under the statutes as an annuity insurance contract. If it is an annuity insurance contract, limited coverage is provided.

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
MA	Yes, Section 703 of 24-A MRSA.*	Yes	No	Yes
MD	Yes	Yes, similar to group annuities.	No	Yes, appears to be included.
ME	Yes	Yes	No	Yes
MI	No, declaratory ruling expected on whether individual GIC can be considered insurance	No, when submitted deemed approved and filed.	No	Yes, § 500.7705
MN	Yes	Yes, Bull. 86-9	No	Yes
MO	No, MO statutes do not define annuity.	No	No	No
MS	No	No	No	Probably not, but not specifically addressed in the insurance code.

*MA-Section states "For the purposes of this Title, an 'annuity' is a contract under which obligations are assumed with respect to periodic payments for a specific term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payment, is dependent upon the continuance of human life, except payments made pursuant to optional modes of settlement under the authority of Section 702 ('life insurance' defined). Such a contract which includes extra benefits of the kinds set forth in Sections 702 (life insurance defines) and 704 (health insurance defined) shall nevertheless be deemed to be an annuity, if such extra benefits constitute a subsidiary or incidental part of the entire contract."

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
MT	No, no specific definition.	Yes	No	No, not specifically included in definition.
NC	No, considered products "incidental" to the business of insurance.	No, however these plans may contain features that are similar in nature to annuities.	Yes*	Historically the Guaranty Association has provided coverage for such plans.
ND	Yes	Yes	No	Yes, § 26.1-38.1-01
NE	Sometimes, depends on the contract. If there are annuity elements in the contract, probably.	Sometimes, depends on the contract. If there are annuity elements in the contract, probably.	No	Probably not. May depend on actual contracts involved. No definitive answer established.
NH	No definition in statutes.	Yes	No	Yes
NJ	Yes	Yes	Must provide a series of payments.	Does not apply; no guaranty fund.
NM				

*NC-Form should be marketed to specific employers; fund should have minimum guarantees of principal and interest; any forms with separate account provisions require certification that the Sep. Acct. complies with 58-7-95 and variable annuity regulations may apply in some instances; obtain explanation from the filer as to under what authority it is authorized to offer the contract (58-7-15); whenever this is in question, have the filer explain how the contract complies with our laws (58-7-15); all payment options available to the individual annuitants at retirement or maturity should comply with 58-7-15(2)-Life Contingency.

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
NV				
NY	GICs - No DACs - Yes	GIC - No DAC - Yes But reviewed by same people.	Yes, law specifies what contract must contain.	
OH	If not annuities, then not authorized per ORC 3911.01. Law does not define annuities.	Yes	No	Yes, limited to $100,000/indiv. $1M/ contractholder & does not cover PBGC covered contracts.
OK*	State does not define annuities. 360.S $ 702	Yes	No	No, 360.S $ 2025B2g
OR*	Yes, ORS 731.154	Yes	No	No, ORS 734.790
PA	No	Yes	Yes, requirement of which groups can be issued to. Use group life law.	If apprvd contract, considered annuity & covered under law. Guaranty assn. may not allow coverage.
PR				

*OK-Currently we use our group annuity laws to review GICs and DACs; however, most of those provisions do not apply.

*OR-We permit IRS requirements for Qualified Plans to fulfill some statute requirements for the policy.

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
RI	No	No	No	No
SC	Yes, Code of Laws of S.C. (1990 Cum. Supp.) 38-1-20(7)*	Yes	No	Yes
SD	Yes	Yes	No, review annuity contract. Don't review group annuity contract.	
TN	No	No	No	No
TX	No definition but they are classified as annuities.	No, generally exempt from review and approval process.	No*TX-1	Yes, 21:28-D.
UT*	No	No	No	Yes, Utah Code 31A-28-103, effective 7-1-91 includes GICs and DACs.

*SC-"Annuity" means every contract or agreement to make periodic payments, whether in fixed or variable dollar amounts, or both, at specified intervals.

*TX-1 No specific criteria applicable. If review of forms were to take place rather than simply filing them as exempt from review, there would be very few requirements in statutes and/or rules. Only the following statutes in the Texas Ins. Code could be used: Article 3.28 (reserve requirements), Article 3.42 (requires filing forms with fees and prohibits provisions which would encourage misrepresentation or which are deceptive or unjust), and Article 31.31, Section 4 (prohibits unfair discrimination, inducements and rebating). Since no true statutory authority relates to the make-up of the "group" of GIC or DAC, would require that the group be a true group (a cohesive group) comparable to other groups in statutes for life/health (although not applicable to group annuities, GICs or DACs).

*UT-Utah has no specific definitions for GICs or DACs.

	Do GICs and DACs meet your state's definition of an annuity?	Are GIC and DAC policy forms reviewed in the same manner as annuities?	Does your state have any criteria applied specifically to GICs and DACs?	Does your state provide coverage by your guaranty fund for GICs and DACs?
VA	No	No	Yes	No
VI				
VT	No	No	Yes	No
WA	No	Yes	No	Yes § 4832A.020(3)(b) § 4832A.030(11)
WI	Yes, they are deemed to be annuities without life contingencies.	Yes	No, no specific criteria. Treatment is similar to annuities.	Covered by the WI Security Fund.*
WV	Review as an annuity.	Yes	No	
WY		Yes		

*WI-Currently, revisions are being considered for the Security Fund Act, somewhat consistent with the NAIC Model Guaranty Fund Act, to resolve some coverage issues regarding GICs and DACs.

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ATTACHMENT FOUR

Standard Policy Forms Working Group
of the Life Insurance (A) Committee
Charleston, West Virginia
April 14, 1991

The Standard Policy Forms Working Group of the Life Insurance (A) Committee met in Room 206 of the Charleston Civic Center in Charleston, W.Va., at 1 p.m. on April 14, 1991. A quorum was present and Harold C. Yancey (Utah) chaired the meeting. The following working group members were present: Roger Strauss (Iowa) and Bob Wright (Va.).

Commissioner Harold C. Yancey (Utah) stated that the charge to the working group is to consider development of a standardized policy service information request form and mandate its usage through the Life Insurance Replacement Regulation. He commented that the Chairman of the Ethical Guidance and Professional Standards Committee of the American Society of CLU and ChFC had requested that this item be placed on the agenda. He further commented that this meeting was exploratory in nature to determine the need for proceeding with development of a standardized form. He also mentioned a letter had been received from the American Association of Retired Persons expressing its interest in the development of a form if it would benefit the consumer.

Roger Strauss (Iowa) expressed a need for input from the industry participants. Edward Zimmerman (American Council of Life Insurers-ACLI) said this suggestion was originally raised at a conference where the discussion centered on whether the companies could do a better job of gathering information. Mr. Zimmerman said mandating the form's usage would bring into question whether the form had to be filed with and approved by state insurance departments. Further, he expressed concern about mandating its usage through the replacement regulation. Mr. Zimmerman said company response data is reviewed during market conduct examinations which should identify any problems. Sally Engle (Pa.) commented that their market conduct examinations follow this issue. John R. Hurley (The Equitable) suggested that any problems in this area be addressed through market conduct examinations rather than the development of a standardized form. Commissioner Yancey inquired whether a consensus could be reached on language that would be useful to both the agent and the consumer, realizing that the form would have to be multi-purpose. James M. Ellis (General American Life) indicated that his company had designed a general form which is currently being tested with agents. He said the form's initial design was all-inclusive and was too complicated to be effective.

Commissioner Yancey reviewed sample informational forms provided to the working group. Bob Wright (Va.) commented that he did not agree with the need for a standardized form. Tony Spano (ALCI) commented that he had experience with a multi-service form that became too complicated to be useful.

The working group concurred that its recommendation to the Life Insurance (A) Committee, barring an indication of a more critical need, would be that this issue does not need to be addressed and the working group would request to be disbanded. The working group will send a letter to the Market Conduct and Consumer Affairs (EX3) Subcommittee to bring to their attention the possible need for review in this area on market conduct examinations. Further, a letter will be sent to the American Society to inform them of the working group's findings.

Having no further business, the Standard Policy Forms Working Group of the Life Insurance (A) Committee adjourned at 1:25 p.m.

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ATTACHMENT FIVE

Minutes
Life Insurance (A) Committee
Charleston, West Virginia
April 15, 1991

The Life Insurance (A) Committee met in Room 104 of the Charleston Civic Center in Charleston, W.Va., at 11 a.m. on April 15, 1991. A quorum was present and Harold C. Yancey (Utah) chaired the meeting. The following committee members or their representatives were present: David J. Lyons, Vice Chair (Iowa); Mike Weaver (Ala.); John Garamendi (Calif.); Harold T. Duryee (Ohio); Gary Weeks (Ore.); Philip W. Barnes (Texas); Steven T. Foster (Va.); and Richard "Dick" Marquardt (Wash.).

1. <u>Adopt Minutes of March Conference Call</u>

Upon motion duly made and seconded, the minutes of the March 11 telephone conference call were adopted (Attachment Five-B).

2. <u>Review Mission Statement and 1991 Charges to Committee</u>

Commissioner Harold C. Yancey (Utah) reviewed the mission of the Life Insurance (A) Committee and the 1991 charges. He reminded committee members that Mark D. Peavy, a Fellow of the Society of Actuaries, has been employed at the NAIC and will be providing any necessary actuarial analysis to the committee.

Commissioner Yancey reported that the committee's first charge is to monitor implementation of the NAIC Accelerated Benefits Model Regulation. He said he had directed NAIC staff to report at the June meeting regarding the states' adoption and implementation of this Model.

3. Reports of Working Groups

a. Senior Marketing Working Group

Jim Swenson (Ore.) gave the report of the Senior Marketing Working Group. He said Mr. Peavy's initial analysis of the industry's study of senior life insurance markets determined that additional information would be required. Mr. Peavy will solicit the cooperation of industry in providing additional data. Mr. Swenson said the working group was also asking for industry cooperation in completing the required Financial Review of This Policy disclosure form which was adopted last year. He said a representative sampling of forms of all age ranges and types of products would assist the working group in their review of the usefulness of the disclosure form. Mr. Swenson commented that once a work product is developed, the working group would request that an advisory committee be established.

b. Annuities Working Group

Roger Strauss (Iowa) reported that surveys of the state insurance departments had been conducted to reveal concerns in the annuities area and also to determine specific responses to questions pertaining to guaranteed investment contracts (GICs) and deposit administration contracts (DACs). He further commented that the working group had held a conference call on March 29 and identified their two areas of concern to be two-tiered annuities and GICs and DACs. He reported that the working group is checking with the Life and Health Actuarial (Technical) Task Force and the Accounting Practices and Procedures Study Group on the Accounting and Reporting of Deposit-Type Business to determine that efforts are not being duplicated. He said another conference call with the members of this working group will be scheduled in the next two weeks. John Montgomery (Calif.) reminded the committee that California has a special project on two-tiered annuities.

c. Standard Policy Forms Working Group

Commissioner Yancey reported that after considerable discussion of the need for a standardized policy service and information form, the working group had decided to recommend against development of the form. He discussed the difficulties in preparing an easily understood, multi-purpose form. He said that the working group consensus was to forward its findings to the Market Conduct and Consumer Affairs (EX3) Subcommittee for any appropriate action and to recommend that the working group be disbanded.

4. Report of Product Development Task Force

Mr. Montgomery reported that this task force was originally formed to consider universal life insurance. He said the Life Insurance Committee had recently formed its own working groups to address developing areas of life insurance and the need for the task force had been diminished. He recommended to the committee that the Product Development Task Force be disbanded and pointed out that this process will simplify the reporting requirement for the Life and Health Actuarial (Technical) Task Force. Commissioner Yancey asked that committee members consider this suggestion carefully and be prepared to vote on its adoption at the June meeting.

5. Ratification of Amendments to the Optional Form of the Life Insurance Disclosure Model Regulation with Yield Index

Mr. Strauss explained that when the Life Insurance Disclosure Model Regulation amendments were adopted in December 1990, identical amendments should have been made to the Optional Form of the Life Insurance Disclosure Model Regulation With Yield Index. Upon motion duly made and seconded, the committee directed that the December 1990 amendments be made to the Optional Form of the Disclosure Regulation and directed that any future amendments to either model regulation be automatically made in the other model regulation unless there was specific wording to the contrary (Attachment Five-A).

6. Any Other Matters Brought Before the Committee

Commissioner Yancey reminded committee members of the short timeframe before the June meeting and called their attention to the interim meeting schedule adopted at the Commissioners Conference in February. He reminded working group chairmen that any necessary meetings should be scheduled in accordance with that interim schedule.

Having no further business, the Life Insurance (A) Committee adjourned at 11:25 a.m.

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ATTACHMENT FIVE-A

OPTIONAL FORM OF THE LIFE INSURANCE DISCLOSURE MODEL REGULATION WITH YIELD INDEX

Table of Contents

Section 1.	Authority
Section 2.	Purpose
Section 3.	Scope
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Section 8.	General Rules
Section 9.	Failure to Comply
Section 10.	Separability
Section 11.	Effective Date
Appendix A.	Life Insurance Buyer's Guide (not published here in NAIC *Proceedings*)
Appendix B.	Statement of Policy Information for Applicant (not published here in NAIC *Proceedings*)
Appendix C.	Financial Review of this Policy

Introductory Statement

Optional Form of The Life Insurance Disclosure Model Regulation With Yield Index

This is an optional version of the NAIC Life Insurance Disclosure Model Regulation for the use of individual states that wish to require the disclosure of the life insurance yield comparison index (YI). This optional form incorporates the formulas and calculation methods developed by the NAIC Yield Index Advisory Committee and included in that committee's report dated November 7, 1987 (see *NAIC Proceedings* 1987 Vol. 1 page 616-645). Since it is very important that yield indexes be calculated in a uniform manner, states that elect to require these indexes are urged not to deviate from these formulas and methods.

The advent of new life insurance plans has resulted in insurers placing more emphasis in their advertising, as well as in their policy design, on the cash value build-up and the policy's interest element. Requiring insurers to deliver to life insurance purchasers life insurance yield comparison index figures will provide purchasers with a comparison measure which reflects the insurance protection and cash accumulation features of life policies. The index will also be helpful in evaluating life insurance advertising which includes a numerical percent figure or illustrates dollar returns.

The attached optional form would require disclosure of yield comparison indexes in place of the surrender cost comparison indexes currently required by the model regulation. The ranking of companies is virtually the same under both indexes, thus permitting the latter to be dropped if yield comparison indexes are required.

States considering the possibility of requiring yield comparison indexes should in addition to reviewing the report of the Yield Index Advisory Committee, also review the report of the Committee on Life Insurance of the American Academy of Actuaries dated June 1, 1988 (see *NAIC Proceedings* 1988 Vol. II pages 512-559) and further comments by the Yield Index Advisory Committee (see *NAIC Proceedings* 1988 Vol. II pages 560 and 561).

Section 1. Authority

This rule is adopted and promulgated by [title of supervisory authority] pursuant to Section [cite 4A(1) of the 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 purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

B. This regulation does not prohibit the use of additional material which is not a violation of this regulation or any other [state] statute or regulation.

Section 3. Scope

A. Except for the exemptions specified in Subsection 3B, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. Subsection 5C only shall apply to any existing nonexempt policy held by a policyowner residing in this state. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.

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

(1) Annuities;

(2) Credit life insurance;

(3) Group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements as provided herein. These disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy.);

(4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974. 29 U.S.C. Section 1001 *et seq.* (ERISA) as amended;

(5) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

Section 4. Definitions

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

A. Buyer's Guide. A Buyer's Guide is a document which contains, and is limited to, the language contained in Appendix A to this regulation or language approved by the insurance commissioner.

Editors Note: Insert the title of the chief insurance regulatory official whenever the word "commissioner" appears.

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

C. 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.

D. Current Dividend Scale. The Current Dividend Scale is a schedule that exhibits dividends to be distributed if there is no change in the basis of these dividends after the time of illustration.

E. Current Rate Schedule. The Current Rate Schedule is a schedule showing the premiums that will be charged or the cash values or death or other benefits that will be available if there is no change in the basis of these items after the time of illustration.

F. Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:

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

(2) Divide each accumulation of Step (1) by an interest factor that converts into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step (1) over the respective periods stipulated in Step (1). If the period is five (5) years, the factor is 5.802; if the period is ten (10) years, the factor is 13.207; and if the period is twenty (20) years, the factor is 34.719.

G. Generic Name. A Generic Name is a short title that is descriptive of the premium and benefit patterns of a policy or a rider.

H. Investment Generation Method. The Investment Generation Method is the method of determining dividends so that dividends for policies issued in specified years or groups of years reflect investment earnings on funds attributable to those policies.

I. Comparison Indexes.

Drafting Note: The formulas which follow are geared to an "at issue" situation, with x = issue age and t = policy year. Consistent formulas for an in-force policy can be obtained using x = attained age at beginning of calculation period and t = policy year since beginning of calculation period.

(1) Net Payment Cost Comparison Index - Illustrated Basis

The Net Payment Cost Comparison Index - Illustrated Basis is calculated by applying the following steps:

(a) For participating policies accumulate the annual Cash Dividends at five percent (5%) interest compounded annually to the end of the period selected.

(b) Divide the result of Step (a) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step (a) over the period selected. If the period is five (5) years the factor is 5.802, if the period is ten (10) years the factor is 13.207, and if the period is twenty (20) years the factor is 34.719.

(c) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider, based on the company's Current Rate Schedule, at five percent (5%) interest compounded annually to the end of the period stipulated in Step (a) and dividing the result by the respective factors stated in Step (b). (This amount is the annual premium payable for a level premium plan.)

(d) Subtract the result of Step (b) from Step (c).

(e) Divide the result of Step (d) by the number of thousands of the Equivalent Level Death Benefit, using the company's Current Rate Schedule to determine the amount payable upon death for purposes of Section 4F(1), to arrive at the Net Payment Cost Comparison Index - Illustrated Basis.

(2) Net Payment Cost Comparison Index - Guaranteed Basis. The Net Payment Cost Comparison Index - Guaranteed Basis is calculated by applying the steps indicated in (1) above but assuming that the company charges the maximum premiums and, for purposes of Section 4F(1), provides the minimum death benefits allowed by the policy and, if the policy is participating, that the company pays no dividends.

(3) Life Insurance Yield Comparison Index - Illustrated Basis. The Life Insurance Yield Comparison Index - Illustrated Basis is calculated by applying the following steps:

(a) Determine the Illustrated Cash Value and Illustrated Death Benefit for each of the first twenty (20) policy years.

(b) Obtain the Standardized Value of Death Protection for each of the first twenty (20) policy years.

(c) The Life Insurance Yield Comparison Index - Illustrated Basis for five (5) years is the interest rate at which the sum of the present values of the Standardized Annual Retention - Illustrated Basis for the first five (5) years equals zero. This is computed according to the formula:

$$0 = \sum_{t=1}^{5} \left(\frac{1}{1+i}\right)^{t} SARI_t$$

where $SARI_t$ is the Standardized Annual Retention - Illustrated

Basis for policy year t as defined in Section 4(0)(12). The Life Insurance Yield Comparison Index - Illustrated Basis for ten years is the interest rate at which the sum of the present values of the Standardized Annual Retention - Illustrated Basis for the first ten (10) years equals zero. The Life Insurance Yield Comparison Index - Illustrated Basis for twenty (20) years is the interest rate at which the sum of the present values of the Standardized Annual Retention - Illustrated Basis for the first twenty (20) years equals zero.

(4) Life Insurance Yield Comparison Index - Guaranteed Basis. The Life Insurance Yield Comparison Index - Guaranteed Basis is calculated by applying the following steps:

(a) Determine the Guaranteed Cash Value and Guaranteed Death Benefit for each of the first twenty (20) policy years.

(b) Obtain the Standardized Value of Death Protection for each of the first twenty (20) policy years.

(c) The Life Insurance Yield Comparison Index - Guaranteed Basis for five (5) years is the interest rate at which the sum of the present values of the Standardized Annual Retention - Guaranteed Basis for the first five (5) years equals zero. This is computed according to the formula:

$$0 = \sum_{t=1}^{5} \left(\frac{1}{1+i}\right)^{t} SARG_t$$

where $SARG_t$ is the Standardized Annual Retention - Guaranteed Basis

for policy year t as defined in Section 4(0)(13). The Life Insurance Yield Comparison Index - Guaranteed Basis for ten (10) years is the interest rate at which the sum of the present values of the Standardized Annual

Retention - Guaranteed Basis for the first ten (10) years equals zero. The Life Insurance Yield Comparison Index - Guaranteed Basis for twenty years is the interest rate at which the sum of the present values of the Standardized Annual Retention - Guaranteed Basis for the first twenty (20) years equals zero.

J. Nonguaranteed Factor. A Nonguaranteed Factor is any item entering into the calculation of a Comparison Index - Illustrated Basis that can be changed by the company without the consent of the policy owner. Such items include, but are not limited to, premiums, benefits, interest rates, mortality charges, expense charges and dividends.

Drafting Note: It was felt appropriate to list a number of possible nonguaranteed factors, but the language is intended to make it clear that any others not listed but meeting the definition, i.e., can be changed by the company without policyowner consent, are also included.

K. Policy Data. The Policy Data is a display or schedule of numerical values, both guaranteed and nonguaranteed, for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values and endowment benefits.

L. Policy Summary. The Policy Summary is a written statement describing the elements of the policy, including, but not limited to:

(1) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(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 Policy Summary.

(3) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(4) The Generic Name of the basic policy and each rider.

(5) The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including, but not necessarily limited to, the years for which Cost Comparison Indexes are displayed and the earlier of at least one age from sixty (60) through sixty-five (65) and policy maturity:

(a) The annual premium for the basic policy;

(b) The annual premium for each optional rider;

(c) The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;

(d) The total cash surrender values at the end of the year with values shown separately for the basic policy and each rider;

(e) The Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider (dividends need not be displayed beyond the twentieth policy year);

(f) Any endowment amounts payable under the policy which are not included under cash surrender values above;

(g) If the policy has a Nonguaranteed Factor, the maximum premium, minimum amount payable upon death, minimum cash value, and minimum endowment amounts allowed by the policy. These amounts may be shown in addition on the basis of the Company's Current Rate Schedule and Current Dividend Scale.

(6) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the Policy Summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

(7) (a) The Net Payment Comparison Index for five (5), ten (10) and twenty (20) years but in no case beyond the premium-paying period. Indexes shall be shown on the Guaranteed Basis as defined in Section 4I(2) and, if there are dividends or any Nonguaranteed Factors, shall also be shown on the Illustrated Basis as defined in Section 4I(1). Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits; such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than twelve (12) months and guaranteed insurability benefits; nor for any basic policies or optional riders covering more than one life.

(b) The Life Insurance Yield Comparison Index for five (5), ten (10) and twenty (20) years. Indexes shall be shown on the Guaranteed Basis as defined in Section 4I(4) and, if there are any Nonguaranteed Factors, shall also be shown on the Illustrated Basis as defined in Section 4I(3). In any case where the guaranteed or illustrated cash value at the end of five, ten or twenty years (as appropriate) is zero, the corresponding index need not be shown and wording substantially equivalent to "not applicable - zero cash value" should be shown. Such indexes need not be included for (a) basic policies under which the illustrated cash value never exceeds $200 per $1,000 of death benefit during the first twenty policy years, (b) optional riders under which the illustrated cash value never exceeds $200 per $1,000 of death benefit during the first twenty (20) policy years, or (c) any basic policies or optional riders covering more than one life.

In a case involving an optional rider under which the illustrated cash value is $200 or more per $1,000 of death benefit at some point during the first twenty (20) policy years, the Yield Comparison Index shall be calculated for the policy/rider combination.

Drafting Note: The above combination approach will provide better comparisons between (a) traditional policies with riders developing substantial cash values and (b) non-traditional policies with similar overall premium payment patterns.

(8) A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's Current Dividend Scale and are not guaranteed.

(9) 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 such limitation on the insurer's right.

(10) This statement in close proximity to the Comparison Indexes:

"An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide."

(11) The date on which the Policy Summary is prepared.

The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in Item (5) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as a blank space.

M. Portfolio Average Method. The Portfolio Average Method is the method of determining dividends so that, except for the effect of policy loans, dividends reflect investment earnings on funds attributable to all policies whenever issued.

N. Preneed Funeral Contract or Prearrangement. An agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

O. Life Insurance Yield Comparison Index Additional Definitions. For the purpose of these amendments, the following definitions shall apply:

(1) Dividend Option. The dividend option for participating policies is that option which applies the policy dividends to purchase paid-up whole life or endowment additions.

(2) Death Benefit Pattern. Where the policy provides several death benefit options,the death benefit is that according to the death benefit option for which the applicant applied.

(3) Premium Paying Pattern. The premium paying pattern is the fixed level(s) of premiums payable for a specified number of years under the contract that is illustrated or for which the applicant applied. If the policy applied for does not specify a fixed level(s) of premiums payable and the duration, the premium paying pattern shall be the level and incidence of premium payments for which the individual applied.

(4) Policy Size. The policy size is the initial face amount of the death benefit for which the individual applied.

(5) Frequency of Premium Payment. The frequency of premium payment is the annual mode under a policy whose death benefit and/or cash values do not vary if the premiums are paid on other than an annual basis. The frequency of premium payment is that mode for which the applicant applied under a policy whose death benefit and/or cash values vary based upon the frequency of premium payment.

Drafting Note: It is not intended that a refund of premium paid beyond the time of death be interpreted as causing death benefit variation because of mode of premium payment.

(6) Illustrated Cash Value. The Illustrated Cash Value for each policy year is the cash surrender value that will be available at the end of that policy year under the Current Rate Schedule and Current Dividend Scale (if applicable), based on the assumed Death Benefit Pattern, Premium Payment Pattern, Frequency of Premium Payment and Dividend Option (if applicable), and based on the further assumptions that no funds are withdrawn from the policy and no loans are made against the policy.

(7) Guaranteed Cash Value. The Guaranteed Cash Value for each policy year is the minimum cash surrender value at the end of that policy year, as guaranteed in the policy, based on the assumed Death Benefit Pattern, Premium Payment Pattern and Frequency of Premium Payment, and based on further assumption that no funds are withdrawn from the policy and no loans are made against the policy.

(8) Illustrated Death Benefit. The Illustrated Death Benefit for each policy year is the death benefit that would be payable at the end of that policy year under the Current Rate Schedule and current Dividend Scale (if applicable), based on the assumed Death Benefit Pattern, Frequency of Premium Payment and Dividend Option (if applicable), and based on further assumptions that no funds are withdrawn from the policy and no loans are made against the policy.

(9) Guaranteed Death Benefit. The Guaranteed Death Benefit for each policy year is the minimum death benefit payable to a policyholder who dies at the end of that policy year, as guaranteed in the policy, based on the assumed Death Benefit Pattern, Premium Payment Pattern and Frequency of Premium Payment, and based on the further assumptions that no funds are withdrawn from the policy and no loans are made against the policy.

(10) Standardized Value of Death Protection. The Standardized Value of Death Protection per $1,000 for each policy year is based on the Policyholder Classification and the Policy Size. It is calculated as:

$$SVDP_t = .95q_{x,t} + .70 + \frac{35}{S}$$

where $SVDP_t$ = Standardized Value of Death Protection per $1,000

where

$$q_{x,t} = (q^u_x + t - 1)^{(sel}x,t^{)}$$

where x = issue age

t = policy year

$q^u_x + t - 1$ = mortality rate per $1,000 at age (x + t - 1), according to the 1980 CSO Basic Table that corresponds to the sex and smoking status as defined in the Policyholder Classification

${}^{sel}x,t$ = the 1980 CSO Graded Select Factor corresponding to the sex as defined in the Policyholder Classification

Drafting Note: This definition of x and t is not appropriate for use with an in-force policy if the purpose of the calculation is to evaluate a potential replacement where it is assumed that the policyowner can qualify for new insurance. In such a case, x should be the attained age instead of the original issue age and t should be the policy year since the calculation date. The above definition may be appropriate in other situations with in-force policies.

S = Policy size in $1,000s.

(11) Policyholder Classification. The Policyholder Classification is the policyholder's issue age (on an Age Nearest Birthday basis or an Age Last Birthday basis), sex and smoking status as set forth in the policy. However, unisex status is to be used only if a unisex rate structure is required by applicable law or regulation, and the smoking status is Nonsmoker if the premium rate or mortality charge basis under the policy is not available to smokers, otherwise it is Smoker.

Drafting Note: This approach automatically produces a smoker status if the rate structure under the policy does not provide for the possibility of a nonsmoker discount. This approach was selected because in some cases, the company may not have information as to the applicant's smoking status.

(12) Standardized Annual Retention - Illustrated Basis. The Standardized Annual Retention - Illustrated Basis for each policy year is calculated as:

$$SARI_t = (P_t + ICV_{t-1})\ (1 + i) - ICV_t$$
$$- SVDP_t\,(.001)\,(IDB_t - ICV_t)$$

Drafting Note: For a policy under which cash values and/or death benefits may vary according to the frequency of premium payment, the first term in the above formula should be

$$P_t\ \frac{1}{1+i}\ \ \frac{m-1}{2m}$$

where m is the number of premium payments in the year. The interest factor was omitted for the sake of simplifying the calculation; this tends to depress the index. Companies should be allowed to use the theoretically correct approach, or an alternative approach, if they can certify that their method does not produce index values higher than the theoretical approach.

where

$SARI_t$ = Standardized Annual Retention - Illustrated Basis for policy year t

P_t = Total premium for policy year t

ICV_t = Illustrated Cash Value for policy year t

ICV_{t-1} = Illustrated Cash Value for policy year (t-1)

IDB_t = Illustrated Death Benefit for policy year t

100i = Yield Comparison Index

(13) Standardized Annual Retention - Guaranteed Basis. The Standardized Annual Retention - Guaranteed Basis for each policy year is calculated as:

$$SARG_t = (P_t + GCV_{t-1})\ (1 + i) - GCV_t$$

$$-SVDP_t(.001)\ (GDB_t - GCV_t)$$

Note: See the drafting note in (12) above.

where

$SARG_t$ = Standardized Annual Retention - Guaranteed Basis for policy year t

P_t = Total premium for policy year t

GCV_t = Guaranteed Cash Value for policy year t

GCV_{t-1} = Guaranteed Cash Value for policy year (t-1)

GDB_t = Guaranteed Death Benefit for policy year t.

Section 5. Duties of Insurers

A. Requirements Applicable Generally

(1) The insurer shall provide, to all prospective purchasers, a Buyer's Guide and a Policy Summary prior to accepting the applicant's initial premium or premium deposit; provided, however, that:

(a) If the policy for which application is made or its Policy Summary contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide and Policy Summary must be delivered with the policy or prior to delivery of the policy.

(b) If the Equivalent Level Death Benefit of the policy for which application is made does not exceed $5,000, the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in Section 4L Paragraphs (2), (3), (4), (5a), (5b), (5c), (6), (7), (9), (10), and (11).

(2) In the case of universal life and indeterminate premium products, the Statement of Policy Information for Applicant illustrated in Appendix B must be delivered at the time of application or within fifteen (15) working days thereafter, but at least five days before delivery of the policy.

If the policy is delivered sooner than five (5) days after delivery of the disclosure statement, the free-look period shall be extended to fifteen days. In the event the disclosure statement is not delivered at the time of application, the disclosure shall be accompanied by a statement that it is delivered for the express purpose of allowing comparison with other policies.

(3) In the case of a solicitation by direct response methods, the insurer shall provide the Statement of Policy Information for Applicant prior to accepting the applicant's application; provided however, that if the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Statement of Policy Information for Applicant may be delivered with the policy.

(4) If any prospective purchaser requests a Buyer's Guide, a Policy Summary or Policy Data, the insurer shall provide the item or material requested. Unless otherwise requested, the Policy Data shall be provided for policy years one through twenty, and for indeterminate premium and universal life products shall substantially conform to the illustration in Appendix B.

B. Requirements Applicable to Participating Policies. If a life insurance company illustrates policyholder dividends that are calculated in a manner or on a basis that:

(1) Deviates substantially from the Contribution Principle, the Policy Summary and all other sales material showing illustrated policyholder dividends must display prominently the following statement: "The illustrated dividends for this policy have not been determined in accordance with the Contribution Principle. Contact this company for further information."

(2) Uses the Portfolio Average Method, the Policy Summary and all other sales material showing illustrated policyholder dividends must include the following statement: "Illustrated dividends reflect current investment earnings on funds applicable to all policies and are based on the Current Dividend Scale. Refer to your Buyer's Guide for further information."

(3) Uses the Investment Generation Method, the Policy Summary and all other sales material showing illustrated policyholder dividends must include the following statement: "Illustrated dividends reflect current investment earnings on funds attributable to policies issued since 19[ ] and are based on the Current Dividend Scale. Refer to your Buyer's Guide for further information."

Drafting Note: Insert at [ ] the earliest year of the issue-year grouping used to determine the investment earnings on currently issued policies.

(4) Uses any combination of the Portfolio Average Method and the Investment Generation Method, the Policy Summary and all other sales material showing illustrated policyowner dividends must include an appropriate statement, analogous to the statements required by Sections 5B(2) and 5B(3), indicating how current investment earnings are reflected in illustrated dividends.

C. Requirements Applicable to Existing Policies.

(1) If a policy owner residing in this state requests it, the insurer shall provide Policy Data for that policy. Unless otherwise requested, the Policy Data shall be provided for twenty consecutive years beginning with the previous policy anniversary. The statement of Policy Data shall include cash dividends according to the Current Dividend Scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the dividend option in effect at the time of the request. The insurer may charge a reasonable fee, not to exceed $[insert amount], for the preparation of the statement.

(2) If a life insurance company:

(a) Deviates substantially from the Contribution Principle, it shall annually advise each affected policy owner residing in this state that the dividend paid that year was not determined in accordance with the Contribution Principle and that the policy owner may contact the company for further information.

(b) Is determining dividends, as of the effective date of this regulation, using the Investment Generation Method, it shall, within eighteen months of such date, advise each affected policy owner residing in this state that the dividend for the policy reflects current investment earnings on funds applicable to policies issued from 19 [ ] through 19 [ ]. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed $5,000.

Drafting Note: Insert at [ ] the applicable years of issue.

(c) Changes its method of determining dividend scales on existing policies from or to the Investment Generation Method; it shall, no later than when the first dividend is payable on the new basis, advise each affected policy owner residing in this state of this change and of its implication on dividends payable on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed $5,000.

(3) 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 policy owner residing in this state.

Section 6. Special Plans

This section modifies the application of this regulation as indicated for certain special plans of life insurance:

A. Enhanced Ordinary Life Policies.

(1) An Enhanced Ordinary Life Policy is a participating policy which has the following characteristics for all issue ages:

(a) The basic policy has a guaranteed death benefit that reduces after an initial period of one or more years to a basic amount; and

(b) A special dividend option that provides

(i) A combination of immediate paid-up additions and one-year term insurance; or

(ii) Deferred paid-up additions;

Either of which on the basis of the Current Dividend Scale will provide a combined death benefit (reduced basic amount plus paid-up additions plus one-year term insurance) at least equal to the initial face amount.

(2) The crossover point of an Enhanced Ordinary Life Policy is the first policy anniversary at which the sum of the reduced basic amount and paid-up additions equals or exceeds the initial death benefit. For these policies:

(a) The cash value of benefits purchased by dividends payable on or before the crossover point is included in the cash surrender value for the purpose of Section 4J(1)(a);

(b) The death benefit purchased by dividends payable on or before the crossover point is included in the amount payable upon death for the purpose of Section 4G(1);

(c) Dividends payable after the crossover point are assumed to be paid in cash for the purpose of Section 4J(1)(b).

B. Flexible Premium and Benefit Policies. For policies commonly called "universal life insurance policies," which:

(1) Permit the policy owner to vary, independently of each other, the amount or timing of premium payments, or the amount payable on death; and

(2) Provide for a cash value that is based on separately identified interest credits and mortality and expense charges made to the policy.

All indexes and other data shall be displayed assuming specific schedules of anticipated premiums and death benefits at issue.

In addition to all other information required by this regulation, the Policy Summary shall indicate when the policy will expire based on the interest rates and mortality and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the Policy Summary.

C. Multitrack Policies. For policies which allow a policyowner to change or convert the policy from one plan or amount to another, the Policy Summary:

(1) Shall display all indexes and other data assuming that the option is not exercised; and

(2) May display all indexes and other data using a stated assumption about the exercise of the option.

D. Policies with Any Rate Subject to Continued Insurability. For policies which allow a policyowner a reduced premium rate if the insured periodically submits evidence of continued insurability, the Policy Summary:

(1) Shall display cost indexes and other data assuming that the insured always qualifies for the lowest premium;

(2) Shall display cost indexes and other data assuming that the company always charges the highest premiums allowable; and

(3) Shall indicate the conditions that must be fulfilled for an insured to qualify periodically for the reduced rate.

<u>E. Individualized Policy Information</u>

<u>(1) In addition to all other information required by this regulation, in those situations specified in Section 8K, the information illustrated in Appendix C shall be prepared on an individual basis.</u>

<u>(2) If an insurer uses a form other than the Financial Review of This Policy form, that form shall be approved for use by the state insurance department. An insurer may use the appropriate box or boxes from the top of the disclosure form for the specific policy being illustrated without seeking state insurance department approval for this change in the form.</u>

<u>(3) If cost of insurance, nonguaranteed dividends or benefits or potential preferential tax implications are presented in the policy, advertising, marketing materials, or verbally explained to the consumer; the agent, or company if a direct marketer, shall attach all those materials or representations to the Financial Review of This Policy form before issuance of the policy if not previously provided.</u>

(4) If any method other than the Financial Review of This Policy form is used to explain the death benefit, a copy of the illustration signed by the applicant and the agent must be attached to the form.

(5) The information contained in Appendix C must be furnished to the applicant no later than the point of issue of the policy.

Drafting Note: The working group will create a report in the future to identify those marketing methodologies which could accommodate an earlier point of disclosure.

(6) The original of the individual information form shall be delivered simultaneously with the policy at issue and a copy shall be retained by the insurer as long as the policy remains in force, plus two (2) years.

Drafting Note: This language cannot be construed to limit the ability of a regulator or a consumer to hold the insurer responsible for the actions of an agent in any misrepresentations on the disclosure form.

~~E.~~F. For all other special plans of life insurance, an insurer shall provide or deliver both a Policy Summary substantially similar to that described in Section 4M and a Buyer's Guide. Use of those materials shall be deemed to be substantial compliance with this regulation unless the commissioner makes a finding that such disclosure materials misrepresent a material term or condition of the contract or omit a material fact.

Section 7. Preneed Funeral Contracts or Prearrangements

The following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit, for a preneed funeral contract or prearrangement as defined in Section 4N above which is funded or to be funded by a life insurance policy:

A. The fact that a life insurance policy is involved or being used to fund a prearrangement as defined in Section 4N of this regulation;

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

C. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

D. The impact on the prearrangement

(1) of any changes in the life insurance policy including but not limited to, changes in the assignment, beneficiary designation or use of the proceeds;

(2) of any penalties to be incurred by the policyholder as a result of failure to make premium payments;

(3) of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;

E. A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

F. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement as defined in Section 4N;

G. Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee;

H. The fact that a sales commission or other form of compensation is being paid and if so, the identity of such individuals or entities to whom it is paid.

Section 8. General Rules

A. Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document authorized and used by the insurer pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of three (3) years following the date of its last authorized use.

B. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance agent and 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 primarily engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

D. Any reference to a dividend or Nonguaranteed Factor must include a statement that such item is not guaranteed and is based on the company's Current Dividend Scale or Current Rate Schedule. If a dividend or Nonguaranteed Factor would be reduced by the existence of a policy loan, a statement to this effect must be included in any reference to such dividend or Nonguaranteed Factor.

E. A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

F. A presentation of costs or benefits, other than that required pursuant to this regulation, shall not display guaranteed and nonguaranteed factors as a single sum unless they are shown separately in close proximity thereto.

G. Any statement regarding the use of Comparison Indexes shall also include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

H. Any Comparison Index which reflects a Nonguaranteed Factor shall be accompanied by a statement that it is based on the company's Current Dividend Scale or Current Rate Schedule and is not guaranteed.

I. Any illustrations of nonguaranteed factors must not be more favorable than those based on the insurer's current scale and must contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

J. Any advertisement which includes any Nonguaranteed Factor or Yield Comparison Index must also contain the Life Insurance Yield Comparison Index for five (5), ten (10) and twenty (20) years for a specific policy covered by the advertisement. The advertisement must further set forth the policy specifications upon which the Yield Comparison Indexes were calculated. Such policy specifications must include:

- the plan of insurance;
- the amount of death benefit;
- the insured's age at issue, sex and underwriting classification;
- the policy premium and frequency of payment.

The advertisement must also call attention to the fact that the Life Insurance Yield Comparison Indexes applicable in a particular case may vary significantly from those shown in the advertisement, and any interested person should be encouraged to contact the insurance company or its agents to obtain Life Insurance Yield Comparison Indexes based on policy specifications appropriate to his or her particular situation.

<u>K. Whenever a policy is issued for delivery in this state to an applicant at age sixty (60) or over, which limits death benefits during a period following the inception date of the policy or where the accumulated premiums exceed the death benefit at any point during the first ten (10) years, then the form labeled Appendix C to this regulation or a form containing substantially similar information and approved by the commissioner shall be completed by the insurer and delivered simultaneously with the policy.</u>

Drafting Note: It was assumed that the information required above can be expressed in reasonable length. The importance of its inclusion justifies the additional wording required.

Section 9. Failure to Comply

Failure of an insurer to provide or deliver a Buyer's Guide, a Policy Summary or Policy Data as provided in Sections 5 and 6 shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy.

Section 10. Separability

If any provisions of this rule be held invalid, the remainder shall not be affected.

Section 11. Effective Date

This rule shall become effective [insert a date at least six (6) months following adoption by the regulatory authority].

Life Insurance Disclosure with Yield Index

Appendix C

FINANCIAL REVIEW OF THIS POLICY

[ ] THIS IS A GUARANTEED ISSUE POLICY OFFERED WITHOUT AN ATTEMPT TO CLASSIFY RISKS BY DETERMINING YOUR STATE OF HEALTH. PREMIUMS MAY HAVE BEEN LOWER IF HEALTH INFORMATION HAD BEEN OBTAINED.]

[ ] THIS IS A POLICY ISSUED ON THE BASIS OF THE ANSWERS TO THE HEALTH QUESTIONS SET FORTH IN THE APPLICATION. PREMIUMS MAY HAVE BEEN LOWER IF FURTHER HEALTH INFORMATION HAD BEEN OBTAINED.]

[ ] THIS IS A POLICY WHERE THE ACCUMULATED PREMIUM EXCEEDS THE DEATH BENEFIT IN TEN YEARS OR LESS.]

Applicant Information:

NAME: ______________________ **AGE:** ________ **SEX:** ________

List other personal information used in determining the premium for this policy:

____

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End of Policy Year	1 Premiums	2 Premiums Accumulating Interest at 5%*	3 Death Benefits**	4 Cash Surrender Value	5 Column 3 Minus Column 2 Net Gain (Net Loss)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

Definitions: The following terms used in the above chart are defined as:

1. **Premiums** - Amount you must pay each year to keep this policy in force.
2. **Premiums Accumulating Interest at 5%** - The amount which could be earned if, instead of purchasing insurance, the dollars were left to accumulate at 5% interest.
3. **Death Benefits** - The amount that will be paid upon your death exclusive of any supplementary benefits.
4. **Cash Surrender Value** - The amount the insurance company will pay you if you surrender your policy to the company for cash.
5. **Net Gain or Loss** - This column shows whether your money would have earned more or less at 5% interest than your life insurance benefit.

*Note: This figure does not take into account the cost of insurance, any dividends or additional benefits which are not guaranteed under the policy, nor potential preferential tax implications.

[**Agent/Company: *If death benefits have been explained in any manner other than shown on the above chart (through use of CPI index, dividends, or other non-guaranteed increase or a reduction in premium), a copy of the illustration signed by the applicant and agent must be attached.*]

ATTACHMENT FIVE-B

Life Insurance (A) Committee
Telephone Conference Call
March 11, 1991

The Life Insurance (A) Committee held a telephone conference call on March 11, 1991, at 3 p.m. CST. A quorum participated in the call and Harold C. Yancey (Utah) chaired the meeting. The following committee members or their representatives participated: David J. Lyons, Vice Chair (Iowa); Mike Weaver (Ala.); John Garamendi (Calif.); Harold T. Duryee (Ohio); Gary Weeks (Ore.); Steven T. Foster (Va.); and Richard "Dick" Marquardt (Wash.). Also participating were David Parsons (Ala.); John Montgomery (Calif.); Roger Strauss (Iowa); Anne Jewel (Ohio); Jim Swenson (Ore.); Bob Wright (Va.); and Mark D. Peavy and Judith P. Lee (NAIC/SSO).

Commissioner Harold Yancey (Utah) reviewed the 1991 charges to the committee. He indicated that the Accelerated Benefits Model Regulation which was adopted in December 1990 would be monitored to determine which states are implementing the Model. He requested committee members to advise him of any problems or concerns that arise in their states regarding this Model. Staff was requested to report at the June meeting on the status of state implementation of the Model Regulation. John Montgomery (Calif.) reminded the committee that the Life and Health Actuarial (Technical) Task Force is still reviewing the reserving aspects of this issue. Commissioner Yancey requested that Mr. Montgomery keep the committee advised of their progress on this project.

Jim Swenson (Ore.) agreed to chair a working group to review industry marketing methodologies to determine if there is a more appropriate point of delivery of the "Financial Review of This Policy" disclosure form than at point of issue of the policy. Members of that working group will be California, Iowa and Virginia. Mr. Swenson said the 1990 advisory committee had issued a letter which he would distribute to committee members outlining reasons for an insurer's inability to deliver the disclosure form any earlier. He said the working group's efforts this year would be focused on determining what information could be disclosed to the consumer at an earlier time. It was determined by the committee members that an advisory committee would be necessary to complete this charge.

Mark Peavy, NAIC Life and Health Actuary, will be performing the actuarial analysis of the value of policies as defined in Section 8I of the Life Insurance Disclosure Model Regulation. The committee requested that Mr. Peavy report his recommendations for proceeding on this project at the Life Insurance (A) Committee's meeting on April 15 in Charleston, W.Va. (April). Roger Strauss (Iowa) suggested that Mr. Peavy's work product could appropriately be reported through the marketing methodology's working group chaired by Oregon.

Mr. Strauss said that Iowa would be willing to chair the review of the annuity market. He saw an immediate need to more closely define the issues to be considered. Mr. Montgomery reported that the Life and Health Actuarial (Technical) Task Force is currently looking at two-tiered annuities. Commissioner Yancey questioned if the charge to determine whether guaranteed investment contracts and deposit administration contracts are annuities should stand alone or be included within the review of the annuity market chaired by Iowa. Commissioner Steven Foster (Va.) responded that Virginia had eliminated these contracts from guaranty fund coverage and still had an interest in this subject. The decision of the committee was to combine these two charges. Commissioner Yancey asked Commissioner Foster to serve as co-chair of the working group to review the guaranteed investment contracts and deposit administration contracts. Other members of this working group include Alabama, Ohio, Texas and Washington.

Commissioner Yancey agreed to chair a working group to explore the need for development of a standardized policy service and information request form, identifying the problem this form would address, how extensive that problem is throughout the states, and whether a standardized format would be beneficial. He asked that a working group meeting be scheduled during the Charleston meeting to begin discussion of these issues. Members of the working group are Iowa and Virginia.

Commissioner Yancey encouraged the working group chairmen to hold either a meeting or a conference call prior to the Southeastern Zone Meeting in Charleston in April. He asked that they be prepared to make reports at the Life Insurance (A) Committee meeting on April 15 on the progress of their working groups.

Having no further business, the Life Insurance (A) Committee conference call adjourned at 3:30 p.m.

PRODUCT DEVELOPMENT (A) TASK FORCE

Reference:
1991 Proc. I p. 538
1990 Proc. II p. 563

John Garamendi, Chair—Calif.
Patrick E. Kelly, Vice Chair—D.C.

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REPORT
Product Development (A) Task Force
Telephone Conference Call
May 22, 1991

The Product Development (A) Task Force held a telephone conference call on May 22, 1991, at 1 p.m. CDT. A quorum participated and John Montgomery (Calif.) chaired the call. The following task force members or their representatives participated: John Garamendi (Calif.); Patrick E. Kelly (D.C.); David N. Levinson (Del.); Jim Schacht (Ill.); Gerald Grimes (Okla.); and Philip W. Barnes (Texas). Also participating was Judy Lee (NAIC/SSO).

John Montgomery (Calif.) explained to the task force members that much of the work of the Product Development Task Force had been assumed by special working groups appointed under the Life Insurance (A) Committee with input and assistance from the Life and Health Actuarial (Technical) Task Force. He suggested that the task force recommend that it be disbanded and the charge to examine the doctrine of insurable interest relative to corporate-owned life insurance (COLI) be assumed by the parent committee. Mr. Montgomery commented that this action would simplify the reporting format of the Actuarial Task Force, requiring only one report to be made to the Life Insurance (A) Committee.

Lloyd Rice (Ill.) commented that the question of insurable interest relative to corporate-owned life insurance and to the living benefits products being offered in some states needs regulatory attention. He recommended that the parent committee be asked to form a working group to consider these issues. Mr. Montgomery suggested that this work would fit well with the charge to the Life Insurance Committee to monitor implementation of the NAIC Accelerated Benefits Model Regulation.

The task force unanimously concurred that it should be disbanded and that the charge relative to corporate-owned life insurance be transferred to its parent committee for further action.

Having no further business, the Product Development (A) Task Force conference call adjourned at 1:30 p.m.

John Garamendi, Chair, Calif.; Patrick Kelly, Vice Chair, D.C.; David N. Levinson, Del.; Joaquin G. Blaz, Guam; James W. Schacht, Ill.; Gerald Grimes, Okla.; Philip W. Barnes, Texas; Kenneth Erickson, Wyo.