



## **INDIVIDUAL IMMEDIATE NON-VARIABLE ANNUITY CONTRACT STANDARDS**

1. Date Adopted: May 30, 2008
2. Purpose and Scope: The purpose of this rule is to establish reasonable uniform standards for Individual Immediate Non-Variable Annuity products filed with the Interstate Insurance Product Regulation Commission (“IIPRC”). These standards apply to individual life contingent immediate non-variable annuity contracts, both with or without a period certain, that provide for a single premium payment, modified single premium or flexible premium payments and that provide for all funds to be held in the general account. The standards apply to any type of level or non-level guaranteed annuity payments for the life of the contract. An immediate annuity with the characteristics described within the scope of this document that is used to fund a structured settlement is covered by these standards. The standards also apply to substandard immediate annuities.
3. Rules Repealed, Amended or Suspended by the Rule: None
4. Statutory Authority: Among the IIPRC’s primary purposes and powers is to establish reasonable uniform standards for the insurance products covered in the Interstate Insurance Product Regulation Compact (“Compact”), specifically pursuant to Article I §2, Article IV §2 and Article VII §1 of the Compact, as enacted into law by each IIPRC member state.
5. Required Findings: None
6. Effective Date: September 11, 2008

## **INDIVIDUAL IMMEDIATE NON-VARIABLE ANNUITY CONTRACT STANDARDS**

**Scope:** These standards apply to individual life contingent immediate non-variable annuity contracts, both with or without a period certain, that provide for single premium, modified single premium, or flexible premium payments over the life of the contract, and that provide for all funds to be held in the general account. The standards apply to any type of level or non-level guaranteed annuity payments for the life of the contract. An immediate annuity with the characteristics described within the scope of this document that is used to fund a structured settlement is covered by these standards. The standards also apply to substandard immediate annuities. The standards do not apply to an individual immediate annuity contract that provides for indexed-linked payments, payments that vary according to any external conditions, or liquidity benefits other than commutation of any guaranteed life contingent or non-life contingent annuity benefits.

As used in these standards the following definitions apply:

“Immediate” means that annuity payments must begin within 13 months of any premium payment.

“Modified single premium” means a single premium paid in installments during the first contract year.

### **Drafting Notes:**

Only the above terms may be used for the above definitions. No other terms may be substituted.

Although references to “age” or “annuitant” are being made in these standards, it does not preclude the contract from having more than one annuitant.

The references to “contract” do not preclude Fraternal Benefit Societies from substituting “certificate” in their forms.

## **§ 1 ADDITIONAL SUBMISSION REQUIREMENTS**

### **A. GENERAL**

The following additional filing submission requirements shall apply:

- (1) All forms filed for approval shall be included with the filing. Changes to a previously approved form shall be highlighted. The specifications page of a contract shall be completed with hypothetical data that is realistic and consistent with the other contents of the contract and any required actuarial memorandum.
- (2) If a filing is being submitted on behalf of a company, a letter or other document authorizing the firm to file on behalf of the company should be included with the filing.
- (3) If the filing contains an insert page, an explanation of when the insert page will be used should be included in the filing.
- (4) If the specifications page of the contract contains variable items, the submission shall include the Statement of Variability. The submission shall also include a certification that any change or

modification to a variable item shall be administered in accordance with the requirements in the Variability of Information section, including any requirements for prior approval of a change or modification.

- (5) An actuarial memorandum shall be prepared, dated and signed by the member of the American Academy of Actuaries who provides the following information concerning the calculation of annuity benefits:
  - (a) A description of the contract and contract provisions that affect the determination and, if applicable, the commutation of annuity benefits;
  - (b) The range of issue ages;
  - (c) Sample calculations illustrating the methodology and formulas used in the commutation of any life contingent and non-life contingent annuity benefits. The actuary may use any reasonable assumptions, consistent with any applicable actuarial Standards of Practice in determining the commuted values;
  - (d) A description of the methodology applicable to the determination of the interest rate and/or net investment return, as appropriate, used in the calculation of the commuted value of any life contingent and non-life contingent annuity benefits; and
  - (e) A description of the mortality assumption used in determining the commuted value of any life contingent annuity benefits. Any reasonable mortality assumption, consistent with any applicable actuarial Standards of Practice and regulatory requirements, may be used.
- (6) Include a certification signed by a company officer that the contract has a minimum Flesch Score of 50.
- (7) Certification by a company officer that written request will be made to and written approval received from the chief insurance regulator of the state of domicile of the company prior to the company exercising any contractual right to defer the payment of any amounts payable on commutation for a period of not more than six months.
- (8) If the contract is for use with more than one plan, the submission shall include a separate set of uniquely numbered specifications pages for each plan being submitted for approval unless included in the Statement of Variability.
- (9) A description of any innovative or unique features of each contract form.

**B. VARIABILITY OF INFORMATION**

- (1) The company may identify items that will be considered variable only in the specifications page. The items shall be bracketed or otherwise marked to denote variability. The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change. Any change not supported by the Statement of Variability requires a refiling for prior approval.
- (2) Any change shall be limited to only new issues of the contract and shall not apply to in force contracts.
- (3) Notwithstanding Paragraph (1) above, items such as the insurance department address and telephone number, company address and telephone number, officer titles, and signatures of officers located in other areas of the contract may be denoted as variable and changed without notice or prior approval.

**C. READABILITY REQUIREMENTS**

- (1) The contract text shall achieve a minimum score of 50 on the Flesch reading ease test or an equivalent score on any other approved comparable reading test. See Appendix A for Flesch methodology.
- (2) The contract shall be presented, except for specifications pages, schedules and tables, in not less than ten point type, one point leaded.
- (3) The style, arrangement and overall appearance of the contract shall give no undue prominence to any portion of the text of the contract or to any endorsements or riders.
- (4) The contract shall contain a table of contents or an index of the principal sections of the contract, if the contract has more than 3,000 words printed on three or fewer pages of text or if the contract has more than three pages regardless of the number of words.

**§ 2 GENERAL FORM REQUIREMENTS**

**A. COVER PAGE**

- (1) The full corporate name, including city and state, of the company shall appear in prominent print on the cover page of the contract. Examples of prominent print include print that is in all capital letters, contrasting color, underlined or otherwise differentiated from the other type in the form.
- (2) A marketing name or logo may be also used on the contract provided that the marketing name or logo does not mislead as to the identity of the company.
- (3) The company's complete mailing address for the home office or the office that will administer the contract shall appear on the cover page of the contract. The cover page of the contract shall include a telephone number of the company and, if available, some method of Internet communication. The telephone number of the insurance department where the contract is

delivered or issued for delivery is also required on either the cover page or the first specifications page.

- (4) Two signatures of company officers shall appear on the cover page of the contract.
- (5) The contract shall contain a right to examine provision that shall appear on the cover page of the contract or be visible without opening the contract.
- (6) A form identification number shall appear at the bottom of the form in the lower left hand corner of the form. The form number shall be adequate to distinguish the form from all others used by the company. The form number shall include a prefix of ICCxx (where xx represents the year the form was submitted for filing).
- (7) The contract shall contain a brief description that shall appear in prominent print on the cover page of the contract or be visible without opening the contract. The brief description shall contain at least the following information:
  - (a) A caption of the type of annuity coverage provided; for example, single premium immediate annuity contract, modified single premium immediate annuity contract, or flexible premium immediate annuity contract; and
  - (b) An indication as to whether the contract is participating or nonparticipating.

**B. SPECIFICATIONS PAGE**

- (1) The specifications page shall include the amount of the single or initial premium paid, any limitation on premium amounts and/or time frames applicable to the payment of future premiums (if permitted), the date annuity payments are scheduled to begin, the value of the annuity payment, the payment interval, and any guaranteed period for annuity benefits.
- (2) If the period of time any commuted value is available under the contract is limited by age or duration, or triggered by some event, that limitation shall be indicated.

**C. FAIRNESS**

- (1) The contract shall not contain inconsistent, ambiguous, unfair, inequitable or misleading clauses, provisions that are against public policy as determined by the Interstate Insurance Product Regulation Commission, or contain exceptions and conditions that unreasonably affect the risk purported to be assumed in the general coverage of the contract.

**§ 3 CONTRACT PROVISIONS**

**A. AMENDMENTS**

- (1) The contract shall not provide for unilateral amendments that reduce or eliminate benefits or coverage, or impair or invalidate any right granted to the owner under the contract, except for amendments to conform to changes in any applicable provisions or requirements of the Internal Revenue Code.

**Drafting Note:** These standards are modified, as required or permitted by law, to enable fraternal to implement their respective articles and bylaws. See Appendix B.

**B. ANNUITY PURCHASE RATES FOR ANY PREMIUMS PAID AFTER ISSUE**

- (1) If the contract allows premium payments after issue to be used to purchase additional annuity benefits, the contract shall provide for the following:
  - (a) The annuity purchase rates used for such additional benefits will be based on the annuity option in effect (or, if the contract offers alternative options, on the annuity option elected in connection with the additional premium payment, if different), the attained age of the annuitant, and the company's then current annuity purchase rates, subject to the guarantees provided in the contract; and
  - (b) Within 30 days of receipt of an additional premium payment, the company will provide to the owner written confirmation stating the amount and other terms of the premium paid, the amount and other terms of the additional annuity benefit purchased, and the total annuity benefit payable.

**C. ARBITRATION**

- (1) Only arbitration provisions that permit voluntary post-dispute binding arbitration shall be allowed in contract forms. With respect to such a provision, the following guidelines apply:
  - (a) Arbitration shall be conducted in accordance with the rules of the American Arbitration Association ("AAA") before a panel of 3 neutral arbitrators who are knowledgeable in the field of life insurance and appointed from a panel list provided by the AAA.
  - (b) Arbitration shall be held in the city or county where the contract owner or beneficiary lives.
  - (c) The cost of arbitration shall be paid by the company, to include any deposits or administrative fee required to commence a dispute in arbitration, as well as any other fee including the arbitrator's fee.
  - (d) Where there is any inconsistency between these guidelines and AAA rules, these guidelines control.

**Drafting Note:** These standards are modified, as required or permitted by law, to enable fraternal to implement their respective articles and bylaws. See Appendix B.

**D. ASSIGNMENT**

- (1) The contract shall contain an assignment provision. The contract shall not include any restrictions on the availability of contract assignments, except in situations where restrictions are required for purposes of satisfying applicable laws or regulations.

- (2) The contract shall describe procedures for assignments and shall state that assignments, unless otherwise specified by the owner, shall take effect on the date the notice of assignment is signed, subject to any payments made or actions taken by the company prior to receipt of this notice.
- (3) The contract may state that the company shall not be liable for the validity of the assignment.

**Drafting Note:** Restrictions on assignment in contracts such as right of first refusal or first offer provisions are prohibited by Item (1).

#### **E. BENEFICIARY**

- (1) The contract shall contain a beneficiary provision. The provision shall describe the procedures for designating or changing the beneficiaries, or for selecting default beneficiaries as may be necessary, and indicating when such designation is effective. The contract shall not include any restriction on change of beneficiary other than for purposes of satisfying applicable laws or regulations.
- (2) The contract shall state that changes in beneficiary, unless otherwise specified by the owner, shall take effect on the date the notice of change is signed by the owner, subject to any payments made or actions taken by the company prior to receipt of this notice.
- (3) If irrevocable beneficiaries are referenced in the contract, the contract shall explain that such a beneficiary cannot be changed without the consent of the irrevocable beneficiary.

#### **F. COMMUTATION OF ANNUITY PAYMENTS**

- (1) The contract may contain a provision providing for the commutation of any life contingent or non-life contingent annuity benefits payable to the annuitant or beneficiary.
- (2) The contract shall state that the commuted value shall be payable in a lump sum only.
- (3) The contract shall state that the payment of any non-commuted future life contingent or non-life contingent annuity benefits to which the owner may be entitled under the contract after the commutation shall not be affected by the payment of the commuted value of any life contingent or non-life contingent annuity benefits.

**Drafting Note:** It is the intent of this section to require that any benefit or portion thereof that is not commuted shall not be impacted by the commutation.

- (4) (a) The contract shall state that the owner may, at any time while a commutation benefit is available, request information on the commuted value of any life contingent or non-life contingent annuity benefit, including information on the current replacement ratio for the annuity payments. Unless the interest rate or rates and the mortality table, if any, used in determining the commuted value are included in the contract at issue, the replacement ratio shall be defined in the contract as (i)/(ii) where (i) and (ii) are defined as follows:
  - (i) The actual commuted value to be paid; and

- (ii) The commuted value calculated on the basis of the current pricing assumptions used in the determination of prices for the same type of income being commuted and for new contracts of the same class of contracts. If new contracts of this class of contracts are not currently being issued, then the amount determined under this item (a)(ii) shall be calculated on the basis of the current assumptions for new annuitizations of the same type of income being commuted.
  - (b) If the interest rate or rates and the mortality table, if any, used in determining the commuted value are included in the contract at issue, the following statement, or a statement to the same effect, shall be included in the contract as part of the description of the interest rate or rates used in determining the commuted value: “The commuted value of any remaining annuity payments is always less than the sum of those benefit payments and the higher the interest rate the lower the commuted value.”
  - (c) Upon receipt of a request for information on the commuted value of any life contingent or non-life contingent annuity benefit, the company shall provide the owner notification of the following:
    - (i) The amount payable and the “as of” date of calculation;
    - (ii) In the case of partial commutation, the amount of the remaining payments; and
    - (iii) Unless the interest rate or rates and the mortality table, if any, used in determining the commuted value are included in the contract at issue, the current replacement ratio. The current replacement ratio is the replacement ratio as of the date of the calculation.
  - (d) The contract shall state that upon receipt of a request from the owner for the payment of the commuted value:
    - (i) If the company has already provided the applicable commutation information described above in Item (c), the company shall pay the commuted value within 15 days of receipt of the request.
    - (ii) If the company has not provided the applicable commutation information described above in Item (c), the company shall do so within 15 days of receipt of the request. Upon receipt of the information, the owner may accept or reject the company’s commuted value offer and notify the company accordingly. If the owner accepts, the company shall pay the commuted value within 15 days of receipt of such notification.
  - (e) The contract shall state that the actual commuted amount payable will be determined as of the designated date of payment.
- (5) The contract may limit the period of time during which the right to any commuted value is available. If the period of time any commuted value is available is limited by age or duration, or triggered by some event, that limitation shall be indicated on the contract specifications page.

- (6) Commutation may be limited to a certain portion of the life contingent or non-life contingent annuity benefits. Any such limitation shall be indicated in the contract.

**G. CONFORMITY WITH INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION STANDARDS**

- (1) The contract shall state that it was approved under the authority of the Interstate Insurance Product Regulation Commission and issued under the Commission standards. The contract shall also state that any provision of the contract that on the provision's effective date is in conflict with Interstate Insurance Product Regulation Commission standards for this product type is hereby amended to conform to the Interstate Insurance Product Regulation Commission standards for this product type as of the provision's effective date.

**H. CONTRACT VALUES**

- (1) The contract shall define and describe the method of calculating all values and benefits provided under the contract including, but not limited to, annuity benefits payable and values payable upon death and commutation. The contract shall also include a complete description of all fees and charges used to determine these values.

**I. DEATH OF THE ANNUITANT**

- (1) The contract shall state what happens upon death of the annuitant.

**J. DEFERRAL OF PAYMENTS**

- (1) The contract shall describe any conditions and/or limitations on the deferral of any amounts payable upon commutation.
- (2) The company may reserve the right to defer payment of any amounts payable on commutation for a period of six months. There shall be no deferral of scheduled annuity payments or of any portion of any death benefit.

**K. ENTIRE CONTRACT**

- (1) The contract shall contain a provision regarding what constitutes the entire contract between the company and the owner. No document may be included by reference.
- (2) If the application is to be a part of the contract, the entire contract provision shall state that the application is a part of the contract. All statements made by the applicant for the issuance of the contract shall, in the absence of fraud, be deemed representations and not warranties.

**Drafting Note:** These standards are modified, as required or permitted by law, to enable fraternal to implement their respective articles and bylaws. See Appendix B.

**L. EVIDENCE OF SURVIVAL**

- (1) The contract may provide the company with the right to require proof that the annuitant is living on any payment date, but not more than once in any twelve-month period.

**M. INCONTESTABILITY**

- (1) The contract shall contain an incontestability provision and include the conditions of the provision.
- (2) Coverage may be contested on a statement contained in an application made a part of the contract except on the basis of age and sex. If the company expects to rely on an application to contest the contract, the company shall attach to or endorse the application as a part of the contract. The statement on which the contest is based shall be material to the risk accepted or the hazard assumed by the company.
- (3) The contestable period shall be no greater than two years from the date of issue of the contract during the lifetime of the person, or each of the persons, as to whom the application statements are required.
- (4) The contract may only include an exception to the incontestability provision in the event of fraud in the procurement of the contract, when permitted by applicable law in the state where the contract is delivered or issued for delivery.

**N. MISSTATEMENT OF AGE OR SEX**

- (1) The contract shall contain a misstatement of age provision or, if the contract is written on a sex distinct basis a misstatement of age or sex provision, providing that the amount payable shall be such as the premium payments to the company would have purchased at the correct age or the correct age and sex.
- (2) Any overpayments/underpayments by the company on account of misstatement of age or sex shall, with interest at a rate specified in the contract but not exceeding 6%, be charged/credited against the current or next succeeding payments to be made by the company.
- (3) If there is more than one annuitant, the misstatement provision may provide that the amount payable may be adjusted due to the misstatement in the age or the age or sex, as appropriate, of any annuitant.

**O. OWNERSHIP**

- (1) The contract shall contain an ownership provision. The provision shall describe the procedures for designating or changing the owner and indicating when the designation is effective. The contract shall not include any restriction on change of owner other than for purposes of satisfying applicable laws or regulations.
- (2) The contract shall state that changes in owner designation, unless otherwise specified by the owner, shall take effect on the date the notice of change is signed by the owner, subject to any payments made or actions taken by the company prior to receipt of this notice.

- (3) The contract shall state what happens upon the death of the owner.

**Drafting Note:** Restrictions on change of owner in contracts such as right of first refusal or first offer provisions are prohibited by Item (1).

#### **P. PARTICIPATING CONTRACT**

A contract may be non-participating; however, if the contract is participating in the divisible surplus of the company, then the following shall apply:

- (1) The conditions of the participation shall be stated in the contract.
- (2) The contract shall provide that the company shall annually ascertain and apportion any divisible surplus.
- (3) The contract shall provide that the owner shall receive any dividend paid in cash.

#### **Q. RIGHT TO EXAMINE CONTRACT**

- (1) Unless the contract is issued as the result of the election of a settlement option under a deferred annuity or life insurance policy, a Right to Examine Contract provision is required. This provision shall appear on the cover page or be visible without opening the contract and shall include the following:
  - (a)
    - (i) If the contract is not a replacement contract, a period of ten days beginning on the date the contract is received by the owner, and at the discretion of the company a longer period may be filed; or
    - (ii) If the contract is a replacement contract, a minimum of thirty days beginning on the date the contract is received by the owner, or any longer period as may be required by applicable law in the state where the contract is delivered or issued for delivery;
  - (b) A requirement for the return of the contract to the company or an agent of the company;
  - (c) For the refund of any premiums paid if the contract is returned;

#### **R. SETTLEMENT**

- (1) Whenever a death benefit is available under the contract, the contract shall contain a provision that settlement of the death benefit proceeds shall be made to the beneficiary upon receipt of due proof of death.

### **§4 ADDITIONAL STANDARDS FOR FRATERNAL BENEFIT SOCIETIES**

The contract may include the following provisions:

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As adopted by the Commission

**A. MEMBERSHIP**

- (1) The certificate may include a provision stating that the annuitant and/or owner is a member and that the form that has been issued to evidence coverage is a certificate of membership and insurance.

**B. MAINTENANCE OF SOLVENCY**

- (1) The certificate may include a provision setting forth the legal rights and obligations in the case of a fraternal's financial impairment.

## **Appendix A**

### **Flesch Methodology**

The following measuring method shall be used in determining the Flesch score:

- (1) For contract forms containing 10,000 words or less of text, the entire form shall be analyzed. For contract forms containing more than 10,000 words, the readability of two, 200-word samples per page may be analyzed instead of the entire form. The sample shall be separated by at least 20 printed lines.
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.
- (4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the contract form.
- (5) For purposes of (2), (3), and (4), the following procedures shall be used:
  - (a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;
  - (b) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
  - (c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- (6) The term "text" as used in this section shall include all printed matter except the following:
  - (a) The name and address of the company; the name, number or title of the contract; the table of contents or index; captions and sub-captions; specifications pages, schedules or tables; and;
  - (b) Any contract language that is drafted to conform to the requirements of any federal law or regulation; any contract language required by any collectively bargained agreement; any medical terminology; any words that are defined in the contract; and any contract language required by law or regulation; provided, however, the company identifies the language or terminology excepted by the paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.

Date: 5/30/08

As adopted by the Commission

- (7) At the option of the company, riders, endorsements, applications and other forms made a part of the contract may be scored as separate forms or as part of the contract with which they may be used.

## **Appendix B**

### **Fraternal Benefit Societies**

Fraternal Benefit Societies (“fraternals”) are subject to separate fraternal codes in all jurisdictions due to their unique structure, operations and legal obligations. The Drafting Notes included under the Scope, AMENDMENTS, ARBITRATION and ENTIRE CONTRACT standards, the section entitled ADDITIONAL STANDARDS FOR FRATERNAL BENEFIT SOCIETIES, and Appendix B are included in the standards to allow fraternals to experience the benefits of participating in the single point of filing and review process that the Interstate Insurance Product Regulation Commission offers, without jeopardizing their ability to meet their unique obligations and to operate as required or permitted by law.

By law, a fraternal is defined by five basic elements:

1. One without capital stock;
2. One conducted solely for the benefit of its members and their beneficiaries by providing life, health and annuity benefits and by operating one or more social, educational, charitable, patriotic, or religious purposes for the benefit of members and others;
3. One that is a benevolent and charitable institution and not for profit;
4. One operated on a lodge system that may carry out charitable and other activities; and
5. One that has a representative form of government with a governing body and direct election of its members.

The laws governing fraternals impact the standards in several ways. Fraternals are required by law to issue insurance contracts that incorporate the laws of the Society and the application for membership. Thus, the contract must consist not only of the contract or certificate issued, and the application for insurance, but also the application for membership and the articles and bylaws. Further, the laws governing fraternals require or permit that the articles and bylaws address the structure of lodges, membership requirements, form of governance, grievance procedures, and eligible beneficiaries. Any amendments to the articles or bylaws made after issuance of a certificate must be applied consistently to all members retroactively. However, no amendment shall eliminate or reduce contractual benefits.

By law, fraternals are membership organizations. Because of this, the law refers to the insurance forms issued to members of a fraternal as “certificates” or “certificates of membership and insurance”. Further, due to the membership requirements, fraternal certificates often include a provision stating that the annuitant and/or owner is a member and that the form that has been issued to evidence coverage is a certificate of membership and insurance. In addition, fraternal certificates may include a Maintenance of Solvency provision setting forth the legal rights and obligations in the case of a fraternal’s financial impairment.