



States, Strength & Speed Aligned

FILING NOTICE 2011-1

DATE: December 13, 2011

FROM: Karen Z. Schutter
IIPRC Executive Director

RE: **Variable Life and Annuity Filings**
Modified Guaranteed Annuity Filings

Statutory References: Articles VIII.4 and X of the *Interstate Insurance Product Regulation Compact* as adopted by Member States.

Operating Procedure References: Section 103 of the *Operating Procedure for the Filing and Approval of Product Filings*.

Uniform Standards References: *Core Standards for Individual Deferred Variable Annuity Contracts; Individual Flexible Premium Deferred Variable Annuity Contract Standards (with Separate and General Accounts); Individual Fixed Premium Deferred Variable Annuity Contract Standards (with Separate and General Accounts); Individual Immediate Variable Annuity Contract Standards; Individual Modified Single Premium Variable Life Insurance Policy Standards; Individual Modified Single Premium Joint First to Die Variable Insurance Policy Standards; Individual Flexible Premium Variable Adjustable Life Insurance Policy Standards; Individual Joint Last To Die Survivorship Flexible Premium Variable Adjustable Life Insurance Policy Standards. Additional Standards for Market Value Adjustment Provided through a Separate Account (for use with individual deferred non-variable annuities and the non-variable portions of individual deferred variable annuities – also called Modified Guaranteed Annuities).*

Purpose: *Filing Information Notices explain steps or clarifications in the IIPRC's process for filing and review of product filings under the applicable Uniform Standards. This Filing Information Notice only applies to the Uniform Standards referenced above (please note exception under Paragraph 3 of the Filing Procedures) and does not apply to Additional Standards, not listed above, that may also be applicable to a product filing.*

EFFECTIVE DATE: December 13, 2011

BACKGROUND:

The Interstate Insurance Product Regulation Commission (“IIPRC”) has adopted uniform standards covering different types of individual variable life insurance policies and annuity contracts as referenced above. The IIPRC based the uniform standards for variable life insurance policies on the NAIC Variable Life Insurance Policy Model Regulation (“NAIC Model #270”) and based the uniform standards for variable annuity contracts on the NAIC Variable Annuity Model Regulation (“Model #250”). The uniform standards for individual variable life and annuity products were intended to apply to variable products where the investment performance of the separate account is directly reflected in the variable investment option, i.e., unit-linked. This Filing Information Notice provides clarification that for a variable life or annuity product filed under the above-referenced uniform standards, the investment performance of assets of the separate account or each subaccount of the separate account must be allocated directly to the benefit option through the incorporation of unit-linked contract values.

This Filing Information Notice also clarifies that the uniform standards covering individual variable life and annuity products and benefit features, where the option for funds to be held in a separate account is provided, allows for flexibility to structure the separate account such that it complies with its domiciliary state requirements regarding the financial regulation of separate accounts. States may have financial regulatory requirements for the insulation or non-insulation of funds held by their domiciliary companies in separate accounts and these financial regulations (including the reserving methodology, accounting methods, financial solvency requirements, and asset transfers) are beyond specific product content requirements and the authority of the IIPRC. As the *Additional Standards for Market Value Adjustment Provided through a Separate Account*, specifically with regards to Modified Guaranteed Annuities, addresses a benefit feature provided through a separate account, this clarification also applies to filings that are reviewed under this standard.

FILING PROCEDURES

1. Where the term “variable” is not defined in the variable individual life and annuity uniform standards or the following language is used in certain standards, “benefits and values to vary in relation to the performance of an underlying separate account”, the product must fit the definition of variable life insurance policy in Model #270 or variable annuity in Model #250.
 - a. The definition of variable life insurance policies in Model #270 states “an individual policy that provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer”.
 - b. The definition of variable annuity in Model #250 states “a policy or contract that provides for annuity benefits that vary according to the investment experience of a separate account or accounts maintained by the insurer as to the policy or contract”.

2. The Cover Page requirements for individual variable life and annuity uniform standards require specific statements for the separate account which the filer shall include on the cover page:
 - a. For variable life insurance policies, a statement that “the duration of the coverage and policy values that are based on the separate account assets are not guaranteed and will decrease or increase with investment experience”.
 - b. For variable annuity contracts, a statement in prominent print “that contract values and benefits based on separate account assets are not guaranteed and will decrease or increase with investment experience”.
3. Because of these requirements in the variable life insurance and annuity uniform standards, only products with variable investment options where the investment option returns vary according to the changes in value in the underlying separate account can be filed under the variable life and annuity uniform standards. Filers shall indicate that the separate accounts or subaccounts of the separate account reflect direct allocation of the investment performance of the separate accounts or subaccount assets through the incorporation of unit-linked contract values. Likewise, filers shall indicate that any fixed interest option amount is part of the general account.

PLEASE NOTE EXCEPTION: Additional Standards for Market Value Adjustment Provided through a Separate Account (based on the NAIC Modified Guaranteed Annuity Model Regulation (NAIC Model #255)), stated in the list of Uniform Standards referenced above, is a separate account annuity, the values of which are guaranteed if held for specified periods and as such, the unit-linked requirement stated in Paragraph 3 of these Filing Procedures is not applicable, as long as the values are guaranteed if held for the specified period. These Additional Standards allow the market value adjustment to be a positive or negative adjustment that may apply to the account value/cash value of the annuity upon withdrawal, surrender, or annuitization, based upon the movement of an index or the company's current guaranteed interest rate being offered on new premium (or new rates for renewal periods for CD annuities), if that withdrawal, surrender, or annuitization occurs at a time other than on a specified guaranteed benefit date.

4. Companies are still required to comply with applicable State financial regulation of separate accounts including requirements for reserving, accounting, solvency, and asset transfer. The variable life insurance and annuity uniform standards that permit the funds to be held in a separate account contain a provision that provides flexibility for the filer to comply with its domiciliary state's requirements for insulation or non-insulation of separate accounts while being able to file the product with the IIPRC.
5. Uniform standards where funds are allowed to be held, in whole or in part, in a separate account contain the following or similar language: “The contract may contain a provision stating that the portion of assets of a separate account equal to the reserves and other contract liabilities with respect to the account shall not be charged with liabilities arising out of any

other business the company may conduct.” If the company’s domiciliary state requires separate accounts to be insulated, the filer must include this provision in the form.

6. The IIPRC has also amended its Submission Requirements to require that all new individual variable life and annuity product filings with separate accounts include the following statement: “The separate accounts underlying the filing comply with or have been authorized by the State of domicile, including Commissioner approval if required.” This statement may be included in the general description of the filing (General Information tab) or under supporting documentation (Supporting Documentation tab).