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# Rules of Department of Insurance

## Division 400—Life, Annuities and Health

### Chapter 1—Life Insurance and Annuity Standards

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## Title 20—DEPARTMENT OF INSURANCE

### Division 400—Life, Annuities and Health Chapter 1—Life Insurance and Annuity Standards

#### 20 CSR 400-1.010 Policy Approval Criteria for Life Insurance and Annuity Contracts

*PURPOSE: This rule is intended to outline the requirements for all life insurance and annuity contracts which are to be sold in Missouri.*

(1) No life insurance or annuity contract, including applications, riders, endorsements, policies and certificates, shall be approved for use in this state unless it conforms to the following:

(A) Each life insurance or annuity contract, including applications, riders, endorsements, policies and certificates, shall be identified by a form number in the lower left-hand corner of the first page or face page;

(B) Each life insurance or annuity contract shall contain accurate information regarding all coverages and benefits for which premiums are being paid. This information shall individually identify each coverage and the respective premium required to maintain each coverage;

(C) No application for a life insurance or annuity contract or any coverage pertaining thereto, shall contain a statement such as, "No information acquired by any representative of the company or conveyed to any prospective insured by such representative shall be binding upon the company unless written herein." The company may specifically disclaim any agent's authority to waive a complete answer to any question in the application, pass on insurability, make or alter any contract or waive any of the company's other rights or requirements;

(D) Effective June 30, 1990, all individual life insurance or annuity contracts and all mass marketed or individually solicited group life insurance or annuity certificates for which the insured pays the entire premium must contain a provision which states, in substance, that the person to whom the coverage is issued shall have an unconditional right to return the coverage within at least ten (10) days of its delivery for a full refund of all premium paid. This rule shall not apply to—

1. Coverage issued under group contracts as defined in section 376.691, RSMo. Mass marketed life insurance for purposes of this rule means the insurance under any individual, franchise, group or blanket policy of life or health insurance which is offered by means of direct response solicitation through a sponsor-

ing organization or through the mails or other mass communications media and under which the person insured pays all or substantially all of the cost of his/her insurance;

2. Life insurance issued to college students and subject to 20 CSR 400-5.500;

3. Single premium short duration trip or travel-type coverage; or

4. Graded benefit life insurance coverage which is subject to 20 CSR 400-1.040;

(E) Each individual life insurance or annuity contract which develops cash or loan values and which provides the insured the right to borrow against this cash or loan values, either by virtue of the existence of a policy loan provision or an automatic premium loan provision, shall state in substance that the contract will lapse at the expiration of a grace period of at least thirty-one (31) days if there is an outstanding policy loan or the policy is being maintained by an automatic premium loan and the accrued cash value is insufficient to pay the necessary interest, or both, premium then due. The contract shall state in substance that the company will notify the owner at least thirty-one (31) days prior to discontinuing the contract in this manner;

(F) For the purposes of any waiver of premium benefit provided in conjunction with a life insurance or annuity contract, the contract shall state in substance that the owner shall be considered totally disabled if s/he is unable to perform the material and substantial duties of any occupation for which s/he is suited by means of education, training or experience. Any waiver of premium benefit which requires the insured to be totally disabled for a period of time exceeding thirty (30) days before benefits are payable, also shall provide in substance that all premiums paid by the insured from the date of disability will be waived retrospectively. However, no premium need be waived for a period of disability originating prior to twelve (12) months from the date of notice of disability if proof was not given as soon as reasonably possible. In no instance shall the insured be required to be disabled for a period exceeding one hundred eighty (180) days before s/he is entitled to benefits under a waiver of premium provision;

(G) For the purposes of any total disability benefit provided in conjunction with a life insurance or annuity contract, the insured shall be considered totally disabled if s/he is unable to perform the material and substantial duties of his/her regular occupation. After an initial benefit period of twelve (12) months, the insured shall be considered totally disabled if s/he is unable to perform the material and substantial duties of any occupation for which s/he is suited by means of education, training or experience; and

(H) Any accidental death or dismemberment benefit provided in or supplemental to a life insurance or annuity contract shall not include any language which requires that accidental bodily injury be effected solely through external, violent and accidental means. Any benefit for accidental death or dismemberment provided in or supplemental to, a life insurance or annuity contract shall not exclude payment of these benefits for any covered loss, as provided in the contract, due to suicide or any attempt at suicide while insane; unintentionally self-inflicted injuries; unintentional or nonvoluntary inhalation of gas or taking of poisons; pyogenic infections which result from an accidental bodily injury; bacterial infections which result from the accidental ingestion of contaminated substances; or the insured's being under the influence of drugs, if the drugs were taken as prescribed by a physician.

(2) In addition to the requirements of section (1), each life insurance policy shall contain in substance the following provision, if applicable to the form of policy being filed:

(A) The policy, including the endorsements and attached application, if any, constitutes the entire contract of insurance. No change in the policy shall be valid until approved by an executive officer of the insurer and unless the approval is attached to the policy. No agent has authority to change this policy or to waive any of its provisions;

(B) The policy, with the exception of any accidental death, waiver of premium or total disability benefits, shall be incontestable after it has been in force during the lifetime of the insured, for a period of two (2) years from the earlier of the policy date or the issue date, except in the event of nonpayment of premiums;

(C) A grace period of thirty-one (31) days without interest will be allowed for every premium after the first, during which the policy shall continue in force. If the insured dies during the grace period, any premiums then due may be deducted from the proceeds of the policy;

(D) If, at the time of application, the age or sex of the insured is misstated, the amount of coverage provided shall be such as the premium paid would have purchased at the correct age and sex according to the company's published rate at the date of issue of the policy;

(E) Unless changed as provided in the policy, the beneficiary shall be as designated in the policy; and

(F) The policy, unless surrendered for its cash value, may be reinstated at any time within five (5) years after date of default in payment of premium upon presentation of evidence of insurability satisfactory to the

company, payment or reinstatement of any indebtedness at date of default, the payment of all premiums in arrears and the payments of interest in an amount not to exceed the applicable policy loan interest rate(s) during the period of lapse, assessed per annum and compounded annually, on the indebtedness and on each unpaid premium from its due date.

(3) If either of the following provisions is contained in a life insurance policy, it shall be no less favorable to the insured than as follows:

(A) The insurer, at its own expense, shall have the right and opportunity to have an autopsy performed on the deceased insured, unless otherwise precluded by law; and

(B) Any amount payable on the death of the insured will be paid only after receipt of proof of death on forms acceptable to the company.

(4) Individual life contracts issued on a term basis which are guaranteed renewable for successive term periods must contain a schedule of rates which are the guaranteed maximum renewal rates for continuing the term coverage at the time of guaranteed renewal. This requirement shall not apply to contracts which contain variable premium provisions.

(5) Individual life contracts issued as a family plan which develop cash values for each life insured and which provide that a portion of any policy indebtedness outstanding is to be subtracted from any death proceeds payable shall contain a provision no less favorable to the insured than the following: "The company will subtract from policy proceeds payable on the life of any insured a portion of any policy indebtedness outstanding. The amount subtracted will be determined by prorating the total indebtedness by the ratio which the deceased insured's cash value bears to the total cash value of all insureds."

(6) Each company, within sixty (60) days of the date of an application for a life insurance or annuity contract, shall notify a prospective insured as to whether or not the application has been accepted or else give the prospective insured the reason for any further delay.

*Auth: sections 374.045, 376.670, 376.671, 376.673 and 376.675, RSMo (1986). This rule was previously filed as 4 CSR 190-13.230. Original rule filed May 13, 1983, effective Nov. 11, 1983. Amended: Filed Dec. 1, 1989, effective June 29, 1990.*

*\*Original authority: 374.045, RSMo (1967), 376.670, RSMo (1943), amended 1959, 1961, 1965, 1975, 1979, 1982; 376.671, RSMo (1979);*

*376.673, RSMo (1967); and 376.675, RSMo (1963), amended 1984.*

## 20 CSR 400-1.020 Variable Contracts Other Than Life

**PURPOSE.** *This rule establishes some requirements for variable contracts other than life including establishment of separate accounts, contents of presentation and agent qualification. This rule was adopted pursuant to the provisions of sections 374.045(4) and (5), 376.309, 376.590, 376.670 and 376.675, RSMo.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law. The form mentioned in this rule may be found at the end of the chapter.*

### (1) Definitions.

(A) The term variable contract, when used in this rule, shall mean any group or individual contract or policy issued by a life insurance company providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect the investment results of any designated separate account(s), as defined in section 376.309, RSMo in which amounts received in connection with any such contracts shall have been placed. This shall not include variable life contracts subject to 20 CSR 400-1.030.

(B) Agent, when used in this rule, shall mean any person who under the laws of this state is required to be and is licensed as a life insurance agent, agency or life insurance broker.

(C) Variable contract agent, when used in this rule, shall mean an agent who shall sell or offer to sell any variable contract.

(D) A satisfactory alternative examination to Part I of the written examination called for by paragraph (8)(G)1. shall include any securities examination which is declared by the director to be an equivalent examination on the basis of content and administration. The following examinations are deemed to be a satisfactory alternative examination:

1. Any state securities sales examination accepted by the Securities and Exchange Commission;

2. The National Association of Securities Dealers, Inc., Examination for Principals or Examination for Qualification as a Registered Representative;

3. The various securities examinations required by the New York Stock Exchange, the American Stock Exchange, Pacific Stock Exchange or any other registered national exchange;

4. The Securities and Exchange Commission test given pursuant to Section 15(b)(8) of the Securities Exchange Act of 1934; and

5. The examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners (NAIC), when adopted by the insurance department of any state or territory of the United States and approved for use by the department by the Securities and Exchange Commission.

### (2) Qualification of Insurance Companies to Issue Variable Contracts.

(A) No company shall deliver or issue for delivery variable contracts within this state unless—

1. It is licensed or organized to do a life insurance business in this state, and the director is satisfied that its condition or method of operation in connection with the issuance of these contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the director will consider among other things—

A. The history and financial condition of the company;

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

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

(B) The company shall have an amount of capital and surplus, if a stock company or an amount of surplus, if a mutual company, of at least \$2,500,000 and shall maintain at least that amount; provided, that the director may make exceptions to this provision if in his/her opinion a company's capital structure and surplus otherwise afford adequate protection to contract holders.

(C) If the company is a subsidiary of an admitted life insurance company or affiliated with the company by common management or ownership, it may be deemed by the director to have satisfied the provisions of subparagraphs (2)(A)1.A. and B. if either it or the admitted life company is acceptable thereunder.

(D) Before any company shall deliver, or issue for delivery, variable contracts within this state, it shall submit to the director—

1. An application for an amended certificate of authority to include variable contracts on the proper form furnished by this department;

2. A copy of a resolution adopted by its board of directors which authorizes the establishment of one (1) or more separate accounts;

3. With respect to a foreign life insurance company, a copy of the statutes and regulations of its state of domicile permitting the issuance of variable contracts and a certification of authorization from the director or commissioner of insurance of its state of domicile or equivalent evidence that the company is authorized to issue variable contracts in that state;

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

5. Duplicate John Doe specimen copies of the variable contract and certificate forms which it proposes to issue in this state;

6. Biographical data with respect to officers and directors of the company on the NAIC uniform biographical data forms;

7. Any prospectus or registration statement covering the offering of these variable contracts;

8. A certified copy of the last separate account blank filed in its domiciliary state; and

9. Any other information the director might deem necessary.

### (3) Separate Account(s).

(A) A domestic company issuing variable contracts shall establish one (1) or more separate accounts pursuant to section 376.309, RSMo, subject to the following provisions:

1. Except as provided, amounts allocated to any separate account and accumulation may be invested and reinvested in any kind or type of investment authorized for life insurance companies by the statutes of this state, but the investments in the account(s) shall not be included or taken into account in applying the investment limitations applicable to investments in the general investment account of any company; provided, that to the extent the company's reserve liability with regard to—1) benefits guaranteed as to dollar amount and duration and 2) funds guaranteed as to principal amount or stated return of interest, is maintained in any separate account, a portion of the assets of the separate account at least equal to the reserve liability shall be invested in accordance with the laws of this state governing the general investment account of the company except as the director might otherwise approve, invested in accordance with the laws of this state governing the general investment account of the company;

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

3. Unless otherwise permitted by law or approved by the director, no company shall purchase, or otherwise acquire for its separate accounts, the voting securities of any issuer if, as a result of the acquisition, the insurance company and its separate accounts, in the aggregate, will own more than ten percent (10%) of the total issued and outstanding voting securities of the issuer; provided, that this shall not apply with respect to securities held in separate accounts, the voting rights which are exercisable only in accordance with instructions from persons having interests in these accounts; and

4. The percentage limitations in paragraphs (3)(A)2. and 3. shall not apply to the investments of a separate account in the securities of an investment company registered under the Investment Company Act of 1940.

A. Unless otherwise approved by the director, assets allocated to a separate account shall be valued at their market value on the date of valuation or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account; provided, that unless otherwise approved by the director, the portion of the assets of the separate account equal to the company's reserve liability with regard to the benefits and funds referred to in clauses 1) and 2) of paragraph (3)(A)1., if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

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

C. Notwithstanding any other provisions, a company may—

(I) Exercise with respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust, exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in the separate accounts in accordance with instructions from persons having interests in the accounts ratably as determined by the company; or

(II) Establish with respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for the account a committee, board or other body, the members of which may or may not be otherwise affiliated with the company and may be elected to the membership by the vote of persons having interest in the account ratably as determined by the company. The committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage the separate account and the investment of its assets.

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

(I) No investment in the separate account or in the general investment account of a life insurance company shall be transferred by sale, exchange, substitution or otherwise from one (1) account to another unless, in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made or unless the transfer, whether into or from a separate account, is made—1) by a transfer of cash or 2) by a transfer of other assets having a readily determinable market value; provided, that the transfer of other assets is approved by the director of insurance and is for assets of equivalent value. The transfer shall be deemed approved to the extent the assets of a separate account so transferred have been paid to or are being held by the company in connection with a pension, retirement or profit sharing plan subject to the provisions of the *Internal Revenue Code* and the *Employee Retirement Income Security Act of 1974*. The director of insurance may withdraw the deemed approval by providing written notice to the company that its financial condition or past practices requires this withdrawal. The director of insurance may approve other transfers among the accounts if the director concludes that the transfers would be equitable.

(II) The company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as may otherwise be approved by the director.

(III) Rules under any provisions of the insurance laws of this state or any rules applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board or other similar body. No officer or director of the company nor any member of committee, board or body of a separate account shall receive other compensation with respect to any purchase or sale of assets of the separate account.

(4) Filing of Contracts. The filing requirements applicable to variable contracts shall be those filing requirements otherwise applicable under existing statutes and rules of this state with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate.

(5) Contracts Providing for Variable Benefits.

(A) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of the variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that the dollar amount will vary to reflect investment experience and shall contain on its page a conspicuously located statement reading "ALL PAYMENTS AND VALUES PROVIDED BY THIS CONTRACT, WHEN BASED ON INVESTMENT EXPERIENCE OF A SEPARATE ACCOUNT, ARE VARIABLE AND ARE NOT GUARANTEED AS TO FIXED DOLLAR AMOUNT" or other statement of similar substance.

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

(C) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in Missouri unless it contains the following provision(s) which are more favorable to the holders of the contracts:

1. A provision that there shall be a period of grace of thirty (30) days, within which any stipulated payment to the insurer falling due after the first one (1) may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which the payment received during the period of grace shall be applied to produce the values under the contract arising from that payment;

2. A provision that, at any time within five (5) years from the date of default in making periodic stipulated payments to the insurer, during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of the overdue payments as required by the contract and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as to which the amount to cover the overdue payments and indebtedness shall be applied to produce the values under the contract arising from that amount; and

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

(D) Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other contractual payments or values, and may guarantee that expense, mortality results or both shall not adversely affect the dollar amounts. If not guaranteed, the expense and mortality factors shall also be stipulated in the contract.

1. In computing the dollar amount of the variable benefits or other contractual payments or values under an individual annuity contract—

A. The annual net investment increment assumption shall not exceed five percent (5%), except with the approval of the director; and

B. To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate or any modification of that table not having a lower life expectancy at any age or if approved by the director, from another table.

2. Expense as used in subsection (5)(D) may exclude some or all taxes, as stipulated in the contract.

(E) Variable annuity contracts may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at time of death. This provision shall not be subject to the provisions of the insurance law governing life insurance contracts. A variable annuity contract also may include provisions for other benefits on death or disability during the deferred period, which benefits shall be subject to the insurance law provisions governing the benefits. Any disability benefit or supplemental death benefit included in the contract shall not be subject to the requirements of paragraph (5)(C)2., unless consented to by the company after receiving satisfactory evidence of insurability.

(F) The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(6) Required Reports.

(A) At any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contract holder at least once in each contract year, after the first, at his/her last address known to the company, a statement(s) reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date within four (4) months of the date of mailing, the number of accumulation units credited to those contracts and the dollar value of a unit or the value of the contract holder's account.

(B) The company annually shall submit to the director a statement of the business of its separate account(s) in the form as s/he may prescribe.

(7) Foreign Companies. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by these rules, the director may consider compliance with that law or regulation as compliance with these rules, if followed within Missouri.

(8) Examination of Agents and Other Persons.

(A) No agent shall be eligible to sell or offer for sale a variable contract unless prior to making any solicitation or sale of this con-

tract, s/he is also licensed as a variable contract agent.

(B) Any agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 need not be licensed as a variable contract agent.

(C) Any agent applying for a license as a variable contract agent shall do so by filing with this department an application designated by the director of insurance.

(D) The licensing as a variable contract agent of any agent complying with subsection (8)(C) shall not become effective until the agent shall have satisfactorily passed a written examination upon securities and variable contracts. The examination shall be divided into two (2) parts. Part I shall be on securities generally. Part II will deal with variable contracts and will be composed of at least fifteen (15) questions concerning the history, purpose, regulation and sale of contracts on a variable basis. A passing grade of seventy percent (70%) shall be required on both Parts I and II of the examination.

(E) The examination will be given in such places and at times the director from time-to-time shall designate.

(F) The examination recommended for the testing of variable contract agents by the NAIC is adopted for use in this state and it shall be used in all tests given pursuant to this rule.

(G) Any applicant for license as a variable contract agent shall not be required to take Part I of the NAIC examination if, at the time of application, evidence is presented that the applicant—

1. Has previously passed a satisfactory alternative examination as defined in subsection (7)(D) of this rule; or

2. Is currently registered with the federal Securities and Exchange Commission as a broker-dealer or is currently associated with a broker-dealer and has met qualification requirements with respect to the association.

(H) Every applicant applying for license as a variable contract agent shall satisfactorily complete Part II of the examination required by subsection (8)(D) or shall present evidence of successful completion of either a variable contract examination given under the supervision of an insurance department of any state or territory of the United States which had adopted Part II of the examination recommended for the testing of variable contract agents by the NAIC or has been examined and licensed by any insurance department prior to its adoption of the NAIC model regulation.

(I) If any applicant fails to pass Part I of the examination required by subsection (8)(D), s/he may retake Part I of the examination by submitting another Request for Examination

seven (7) days prior to the examination date selected.

(J) If any applicant fails to pass Part II of the examination, s/he may retake Part II of the examination by submitting another Request for Examination seven (7) days prior to the examination date selected.

(K) Every application for a license as a variable contract agent shall be accompanied by a Request for Examination form, an examination fee of ten dollars (\$10) and a license fee of three dollars (\$3). A fee of ten dollars (\$10) will be charged for each reexamination administered to an applicant.

(L) Report of the results of any examination given pursuant to this rule shall be made by the department on "Director's Report of Examination" (see Exhibit A).

(M) Except as modified, the regulations governing the licensing of life insurance agents including examinations shall apply.

(N) Part I of the written examination provided for in subsection (8)(D) also shall be administered to other persons who are not required to be licensed to sell life insurance in this state upon their submission of Application for Securities Salesmen, Variable Contract Salesmen and Other Associated Persons and payment of the examination fee.

(O) Results of the examination administered pursuant to subsection (8)(D) will be reported by this department to the applicant's company. In addition, examination results will be reported by this department to any other state insurance department requesting confirmation of the examination grade, either upon request of the department or upon request of the applicant or his/her company and payment of costs.

(P) Records of the examination grade of each applicant upon an examination administered by this department or upon an examination deemed to be a satisfactory alternative examination and administered by another agency or authority and reported to this department, will be retained in the file pertaining to the applicant.

(Q) Any person licensed in this state as a variable contract agent immediately shall report to the director—

1. Any suspension or revocation of his/her variable contract agent's license or life insurance agent's license in any other state or territory of the United States;

2. The imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him/her by any national securities exchange or national securities association or any federal or state or territorial agency with jurisdiction over securities or contracts on a variable basis; and

3. Any judgment or injunction entered against him/her on the basis of conduct deemed to have involved fraud, deceit, misrepresentation or violation of any insurance or securities law or regulation.

(R) The director may reject any application or suspend or revoke or refuse to renew any variable contract agent's license upon any ground that would bar the applicant or the agent from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable contract agent's license.

(S) Renewal of a variable contract agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this state.

*Auth: sections 374.045, 376.590, 376.670 and 376.675, RSMo (1986), 375.936, RSMo (Cum. Supp. 1991) and 376.309, RSMo (Cum. Supp. 1992).\** This rule was previously filed as 4 CSR 190-13.080. Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed Sept. 12, 1984, effective March 11, 1985.

*\*Original authority: 374.045, RSMo (1967); 375.936, RSMo (1959), amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; 376.309, RSMo (1963), amended 1969, 1983, 1992; 376.590, RSMo (1939); 376.670, RSMo (1943), amended 1959, 1961, 1965, 1975, 1979, 1982; and 376.675, RSMo (1963), amended 1984.*

*Survivors Ben. Ins. Co. v. Farmer, 514 SW2d 565 (Mo. 1974). Superintendent of insurance has the duty to approve or disapprove life insurance contracts and forms and no contract or form may be used in Missouri without the approval of the superintendent.*

#### EXHIBIT A

DIRECTOR'S REPORT OF  
EXAMINATION NO. \_\_\_\_\_

STATE OF MISSOURI  
DEPARTMENT OF INSURANCE  
APPROVAL OF LICENSE AS A  
VARIABLE CONTRACT AGENT

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Address



Enter name and address of broker or dealer and of the company to which approval of application for Variable Contract Agent's License should be directed.

\_\_\_\_\_  
 Broker-Dealer

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Company

\_\_\_\_\_  
 Address

When validated by the Department of Insurance, this will be your notice of approval of your qualification for a Variable Contract Agent's License.

LICENSE APPROVED

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Director

TEST SCORE: NAIC EXAMINATION

SECURITIES Part I \_\_\_\_\_  
 Variable Contracts Part II \_\_\_\_\_

(If test waived, indicate variable contract regulation section conferring exemption)

If NAIC examination not taken, then name of general securities examination acceptable to the SEC.

TEST SCORE: \_\_\_\_\_

20 CSR 400-1.030 Variable Life Insurance

PURPOSE: This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements and defines sections 376.309, 376.670 and 376.675, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters

of the agency and is available to any interested person at a cost established by state law.

(1) Definitions.

(A) Affiliate of an insurer means any person, directly or indirectly, controlling, controlled by or under common control with the insurer; any person who regularly furnishes investment advice to that insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner or employee of the insurer, controlling or controlled person or person providing investment advice or any member of the immediate family of the person.

(B) Agent means any person, corporation, partnership or legal entity which is licensed by this state as a life insurance agent.

(C) Assumed investment rate means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

(D) Benefit base means the amount to which the net investment return is applied.

(E) Director means the insurance director of this state.

(F) Control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing more than ten percent (10%) of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the director that control does not exist in fact. The director may determine, after furnishing all persons in interest, notice and opportunity to be heard and making specific Findings of Fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(G) Flexible premium policy means any variable life insurance policy other than a scheduled premium policy as specified in subsection (1)(O).

(H) General account means all assets of the insurer other than assets in separate accounts established pursuant to section 376.309, RSMo (1986) of the insurance laws of this state, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

(I) Incidental insurance benefit means all insurance benefits in a variable life insurance policy, other than the variable death benefit and minimum death benefit, including, but not limited to, accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income or term riders.

(J) May is permissive.

(K) Minimum death benefit means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

(L) Net investment return means the rate of investment return in a separate account to be applied to the benefit base.

(M) Person means an individual, corporation, partnership, association, trust or fund.

(N) Policy processing day means the day on which charges authorized in the policy are deducted from the policy's cash value.

(O) Scheduled premium policy means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

(P) Separate account means a separate account established pursuant to section 376.309, RSMo or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(Q) Shall is mandatory.

(R) Variable death benefit means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

(S) Variable life insurance policy means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account(s) established and maintained by the insurer as to the policy, pursuant to section 376.309, RSMo of the insurance laws of this state or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(2) Qualification of Insurer to Issue Variable Life Insurance. The following requirements are applicable to all insurers either seeking