

Complying with Wisconsin's Replacement Regulation for Life Insurance and Annuities

The following contains basic information you need to know about the Replacement Rule and its effect on how you sell Symetra Life Insurance Company annuity and life insurance products after October 31, 2009.

Please read this information and the attached "IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES" carefully. Unless exempted below, you must complete and sign an IMPORTANT NOTICE and submit it with each application.

The definition of "Replacement" is modified

The IMPORTANT NOTICE contains a modified definition of "Replacement." Please become familiar with this new definition. The definition clarifies that a replacement occurs if your prospect partially surrenders any existing policy or contract in connection with your sale of a new policy or contract. A replacement also occurs if your prospect finances the purchase of a new a life insurance policy through the policy values of an existing life insurance policy.

Transactions involving the following are exempt

- Credit life insurance;
- Group life insurance or group annuities where there is no direct solicitation of individuals by the insurance producer. Group life & annuity certificates marketed through direct response solicitation are subject to the provisions for this regulation.
- Group life insurance and annuities used to fund prearranged funeral contracts,
- An application to the existing insurer when a contractual change or conversion privilege is being exercised, when the existing policy or contract is being replaced by a program filed with and approved by the executive director, or when a term conversion privilege is exercised among corporate affiliates.
- Proposed life insurance under a binding or conditional receipt issued by the same company;
- Policies or contract used to fund an employee pension or welfare plan covered by ERISA, a plan described in Section 401(a), 401(k) or 403(b) of the Internal Revenue Code (IRC), a government or church plan defined in Section 414 of the IRC, a tax exempt organization under Section 457, or a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor. However, this exemption does not apply to contracts or policies used to fund a plan that are solely funded by the employee, where the employee has a choice between two or more insurers or products, and there is direct agent solicitation;
- New coverage provided under a life insurance policy or contract where the cost is borne wholly by the insured's employer or an association of which the insured is a member;
- Existing life insurance that is non-convertible term life insurance policy that will expire in 5 years or less and cannot be renewed;
- Immediate annuities purchased from the proceeds of an existing annuity. However, immediate annuities purchased from the proceeds of a life insurance policy are **not** exempt;
- Structured settlement annuities.

Registered contracts are exempt only from requirements with respect to the provisions of illustrations and policy/contract summaries. Premium or purchase payments and identification of the appropriate prospectus or offering circular shall be required instead.

Duties of producers

All applications for life insurance and annuities must include a statement signed by both the applicant and the producer as to whether the applicant has existing life insurance or annuity contract. If the applicant does **not** have an existing policy or contract, the producer's duties with respect to replacement are complete.

If, however, the applicant does have an existing policy or contract the following requirements apply **no later than** at the time the application is taken:

1. The producer must read the IMPORTANT NOTICE aloud to the applicant, unless the applicant does not wish the notice to be read aloud and initials the notice to that effect.
2. The IMPORTANT NOTICE must be completed in full. If the applicant answered "Yes" to items 1 or 2 on the notice, each contract must be identified by:
 - name of insurer;
 - name of the insured or annuitant;
 - contract number if available; and
 - whether or not the existing contract will be replaced or used as a source of financing for the new contract.
3. Both the applicant and the producer must sign the IMPORTANT NOTICE.
4. The producer must leave the following with the applicant:
 - a copy of the completed and signed IMPORTANT NOTICE, the original or a copy of all sales material, and
 - no later than at the time of contract delivery, a copy of any electronically presented sales material will be provided to the policyholder in printed form.
5. The producer must submit the following to Symetra along with the application:
 - the completed and signed "IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES", LU-745;
 - a statement identifying any preprinted or electronically presented Symetra-approved sales materials used (space is provided on the LU-745 to include this); and
 - copies of any individualized sales materials, including any illustrations related to the specific contract purchased.

"30-Day Free Look" ("Right to Examine") applies

As explained on the IMPORTANT NOTICE, a "30-Day Free Look" period applies to the replacing policy or contract according to the instructions and the amount-to-be-refunded terms set forth on the first page of the policy or contract.

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

This document must be signed by the applicant and the producer, if there is one,
and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in-force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because _____

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's/Co-applicant's Signature(s) Date

Producer's Signature and Printed Name Date

I do not want this notice read aloud to me. _____ (Applicants must initial only if they do not want the notice read aloud.)

Symetra approved sales materials: _____
(form numbers)

Please give a copy to your client

IF THE NEW POLICY IS A REPLACEMENT, THE FOLLOWING NOTICE APPLIES:

Notice of 30-Day Right to Examine the Policy or Contract

You have the right to return the policy or contract within 30 days after you receive it. Please refer to the first page of your policy or contract for instructions on returning it, and the amount to be refunded to you if you return it within the 30 days.

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS:

- Are they affordable?
- Could they change?
- You're older — are premiums higher for the proposed new policy?
- How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

- New policies usually take longer to build cash values and to pay dividends.
- Acquisition costs for the old policy may have been paid; you will incur costs for the new one.
- What surrender charges do the policies have?
- What expense and sales charges will you pay on the new policy?
- Does the new policy provide more insurance coverage?

INSURABILITY:

- If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
- You may need a medical exam for a new policy.
- Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
- Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

- How are premiums for both policies being paid?
- How will the premiums on your existing policy be affected?
- Will a loan be deducted from death benefits?
- What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

- Will you pay surrender charges on your old contract?
- What are the interest rate guarantees for the new contract?
- Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- What are the tax consequences of buying the new policy?
- Is this a tax-free exchange? (See your tax advisor.)
- Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?
- Will the existing insurer be willing to modify the old policy?
- How does the quality and financial stability of the new company compare with your existing company?

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING
AND CREATING A RULE**

To repeal and recreate Ins 2.07,

Relating to replacement of life insurance or annuity contracts; disclosure requirements.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 600.01, 628.34 (12), Stats.

2. Statutory authority:

ss. 600.01 (2), 601.41 (3), 601.42, 628.34 (12), Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

OCI has established minimum standards to be observed by insurers and intermediary agents when replacing or proposing replacement of certain life insurance policies or annuities in order to minimize the opportunity for misrepresentation or unfair business practices.

4. Related statutes or rules:

See the statutes interpreted in paragraph 1, above.

5. The plain language analysis and summary of the proposed rule:

OCI has established minimum standards of conduct to be observed by insurers and producers in life insurance and annuity replacement or financed purchase transactions to assure disclosure of material information to purchasers and to reduce opportunities for misrepresentation and unfair business practices. The proposed rule expands and clarifies the information that must be communicated by a producer to a purchaser at the time an application is completed. The rule provides notice formats to assure uniform disclosures. The rule requires that certification of the disclosure be obtained from the purchaser and the producer, and that a copy of the certification along with a copy of all sales materials be provided to the purchaser and submitted to the insurer with the completed application. The rule defines and includes financed purchases in the replacement disclosure and reporting requirements.

Under the proposed rule insurers who use producers are required to maintain a system of supervision, control and monitoring to assure compliance which at a minimum must provide training, guidance, review and detection procedures. Insurers must have the capacity to monitor each producer's replacement activity and to maintain and produce transactional

records upon request of the commissioner. Records must be retained by the insurer for at least 5 years. A replacing insurer must notify an existing insurer of a replacement transaction within 5 business days of receipt of a completed application, and must notify a purchaser of the right to cancel the transaction within 30 days of delivery of a policy or contract and receive a refund. An existing insurer must retain replacement notices for at least 5 years, must notify the existing policyholder of the right to receive information regarding the existing policy or contract and must notify the existing policyholder of the potential effect of release of policy values. Insurers engaging in direct response solicitation where there is no producer are required to make inquiries and provide disclosures to an applicant in any transaction that may involve a replacement.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no federal regulations which address replacement of life insurance policies or annuities by insurers or intermediary agents doing business in Wisconsin.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: Admin. Reg. Title 50, ss 917.20 to 917.110, adopts a substantially similar rule based on the model adopted by the NAIC.

Iowa: Admin. Code ss 191-16.21 to 191-16.30, adopts a substantially similar rule based on the model adopted by the NAIC.

Michigan: Admin Code R ss. 500.601 to 500.606, adopts a substantially similar rule based on an earlier version of the NAIC model, which differs in the types of policies or contracts specifically defined or exempted, and which does not include the requirement of an insurer system to monitor and detect replacement activity.

Minnesota: Stats. ss. 61A.53 to 61A.60, adopts a substantially similar regulation based on an earlier version of the NAIC model, which uses its own replacement notice form, differs in the types of policies or contracts specifically defined or exempted, and which does not include the requirement of an insurer system to monitor and detect replacement activity.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

The proposed rule is based upon a model regulation adopted and recommended by the National Association of Insurance Commissioners (NAIC). It has been adopted by a number of states, and a former version of the model formed a basis of the existing Wisconsin replacement rule. The proposed rule will enhance supervision and monitoring by insurers of life insurance policy and annuity replacements and improve disclosure to consumers of the possible consequences and effects of replacement.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The proposed rule continues reporting and disclosure requirements relating to replacements of life insurance policies and annuities that have been in existence, and should therefore have little or no effect on small businesses.

10. A description of the Effect on Small Business:

This rule will have little or no effect on small businesses.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:

<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: inger.williams@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

James W. Harris

Legal Unit - OCI Rule Comment for Rule Ins 207

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

James W. Harris

Legal Unit - OCI Rule Comment for Rule Ins 207

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor

Madison WI 53703-3474

Email address:

James W. Harris

james.harris@wisconsin.gov

Web site: **<http://oci.wi.gov/ocirules.htm>**

The rule changes are:

SECTION 1. Section Ins 2.07 and Appendices I, II and III are repealed and recreated to read:

Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) PURPOSE. The purpose of this section is:

(a) To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.

(b) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions to assure that purchasers receive information with which a decision can be made in the purchaser's best interest, reduce the opportunity for misrepresentation and incomplete disclosure, and establish penalties for failure to comply with requirements of this section.

(2) SCOPE. This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75(1)(a) and (b), covering residents of this state, and issued by insurers including insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. Except as specifically stated, this section shall not apply to transactions involving any of the following:

(a) Credit life insurance.

(b) Group life insurance or group annuities where there is no direct solicitation of individuals by a producer. Direct solicitation shall not include any group meeting held by a producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of sub. (8).

(c) Group life insurance and annuities used to fund prearranged funeral contracts.

(d) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates.

(e) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer.

(f) Policies or contracts used to fund an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act, ERISA, 29 USC 1001 et. seq., a plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer, a governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church

welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code, or a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor. This section shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among 2 or more insurers and there is a direct solicitation of an individual employee by a producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by a producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

(g) Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

(h) Existing life insurance that is a non-convertible term life insurance policy that will expire in 5 years or less from the date of issue and cannot be renewed.

(i) Immediate annuities that are purchased with proceeds from an existing annuity contract. Immediate annuities purchased with proceeds from an existing life insurance policy are not exempted from the requirements of this section.

(j) Structured settlements.

(k) Registered contracts shall be exempt from the requirements of subs. (6)(a) 2. and (7)(b) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

(3) DEFINITIONS. In this section: (a) "Direct response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mail, telephone, the Internet or other mass communication media.

(b) "Existing insurer" means the insurer whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

(c) "Existing policy or contract" means an individual life insurance policy or annuity contract in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

(d) "Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or

by borrowing from values of an existing policy to pay all or part of any premium due on the new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same insurer within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in sub. (5)(a).

(e) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in s. Ins 2.17.

(f) "Policy summary" for policies or contracts other than universal life policies, means a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan. For universal life policies "policy summary" means a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type, for example, interest, mortality, expense and riders; the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

(g) "Producer" shall include intermediaries, agents, brokers and producers.

(h) "Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933, 15 USC 77a et. seq.

(i) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated, converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values, amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid, reissued with any reduction in cash value, or used in a financed purchase.

(j) "Replacing insurer" means the insurer that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

(k) "Sales material" means a sales illustration and any other written, printed or electronically presented information created, or completed or provided by the insurer or producer and used in the presentation to the policy or contract owner related to the policy or contract purchased.

(4) DUTIES OF PRODUCERS. (a) A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the answer is "no," the producer's duties with respect to replacement are complete.

(b) If the applicant answered "yes" to the question regarding existing coverage referred to in par. (a), the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix I or other substantially similar form approved by the commissioner. However, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud, in which case the producer need not have read the notice aloud, and left with the applicant.

(c) The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(d) In connection with a replacement transaction the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

(e) Except as provided in sub. (6)(c), in connection with a replacement transaction the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

(5) DUTIES OF INSURERS THAT USE PRODUCERS. Each insurer shall do all of the following:

(a) Maintain a system of supervision and control to insure compliance with the requirements of this section that shall at a minimum: inform its producers of the requirements of this section and incorporate the requirements of this section into all relevant producer training manuals prepared by the insurer, provide to each producer a written statement of the insurer's position with respect to the acceptability of replacements providing guidance to its producer as to the appropriateness of these transactions, establish and maintain a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with the written statement of the insurer's position with respect to the acceptability of replacements, establish and maintain procedures to confirm that the requirements of this section have been met, and establish and maintain procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this paragraph may include systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.

(b) Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the commissioner. The capacity to monitor shall include the ability to produce records for each producer's replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance, number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance, annuity contract replacements as a percentage of the producer's total annual annuity contract sales, number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system, and replacements, indexed by replacing producer and existing insurer.

(c) Require with or as a part of each application for life insurance or an annuity a signed statement by both the applicant and the producer as to whether the applicant has existing policies or contracts.

(d) Require with each application for life insurance or an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix I.

(e) When the applicant has existing policies or contracts, each insurer shall, upon request of the commissioner, produce copies of any sales material required by sub. (4)(e), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the producer's and applicant's signed statements with respect to financing and replacement for at least 5 years after the termination or expiration of the proposed policy or contract.

(f) Ascertain that the sales material and illustrations required by sub. (4)(e) meet the requirements of this section and are complete and accurate for the proposed policy or contract.

(g) If an application does not meet the requirements of this section, notify the producer and applicant and fulfill the outstanding requirements.

(h) Maintain records in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

(6) DUTIES OF REPLACING INSURERS THAT USE PRODUCERS. (a) When a replacement is involved in a transaction, the replacing insurer shall do all of the following:

1. Verify that the required forms are received and are in compliance with this Section.
2. Notify any other existing insurer that may be affected by the proposed replacement within 5 business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within 5 business days of a request from an existing insurer.
3. Be able to produce copies of the replacement notification required in sub. (4)(b) indexed by producer, for at least 5 years or until conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.
4. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under the policy or contract. The notice may be included in Appendix I or III.

(b) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(c) If an insurer prohibits the use of sales material other than that approved by the insurer, as an alternative to the requirements made of an insurer pursuant to sub. (4)(e) the insurer may do all of the following:

1. Require with each application a statement signed by the producer that represents that the producer used only insurer-approved sales material, and

states that copies of all sales material were left with the applicant in accordance with sub. (4)(d).

2. Within 10 days of the issuance of the policy or contract notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with sub. (4)(d), provide the applicant with a toll free number to contact insurer personnel involved in the compliance function if such is not the case, and stress the importance of retaining copies of the sales material for future reference, and be able to produce a copy of the letter or other verification in the policy file for at least 5 years after the termination or expiration of the policy or contract.

(7) DUTIES OF THE EXISTING INSURER. Where a replacement is involved in the transaction, the existing insurer shall do all of the following:

(a) Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least 5 years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

(b) Send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within 5 business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within 5 business days of receipt of the request from the policy or contract owner.

(c) Upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice, advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separately from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

(8) DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE

SOLICITATIONS. (a) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement as described in Appendix II, or other substantially similar form approved by the commissioner.

(b) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall do all of the following:

1. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix III, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this subdivision. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this subdivision.

2. Comply with the requirements of sub. (6)(a)2., if the applicant furnishes the names of the existing insurers, and the requirements of subs. (6)(a)3. and 4. and (b).

(9) VIOLATION. (a) Any failure to comply with this section shall be considered a violation of s. 628.34, Stats. Examples of violations include any deceptive or misleading information set forth in sales material, failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement, the intentional incorrect recording of an answer, advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer, or advising a policy or contract owner to write directly to the insurer in such a way as to attempt to obscure the identity of the replacing producer or insurer.

(b) Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this section.

(c) When it is determined that the requirements of this section have not been met, the replacing insurer shall provide to the policy owner or contract owner an in force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix I or III.

(d) Any violation of this section shall be subject to s. 601.64, Stats. Failure to comply with the requirements of this section shall not alter the requirements of any insurer with respect to claims.

Ins 2.07 APPENDIX I

IMPORTANT NOTICE:

REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ___ YES ___ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ___ YES ___ NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR

POLICY #

INSURED OR

ANNUITANT

REPLACED (R) OR

FINANCING (F)

1.

2.

3.

Make sure you know the facts. Contact your existing insurer or its agent for information about the existing policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name and Date

Producer's Signature and Printed Name and Date

I do not want this notice read aloud to me. ____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the insurer or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the existing policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the existing policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your existing policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE EXISTING POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the existing policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your existing contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the existing policy under the federal tax code?

Will the existing insurer be willing to modify the existing policy?

How does the quality and financial stability of the new insurer compare with your existing insurer?

Ins 2.07 APPENDIX II

NOTICE REGARDING REPLACEMENT REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the insurer or agent that sold you your existing policy or contract to give you information about it. Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

Ins 2.07 APPENDIX III

IMPORTANT NOTICE:

REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost.

A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ___ YES ___ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ___ YES ___ NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR

POLICY #

INSURED

OR ANNUITANT

REPLACED (R) OR

FINANCING (F)

- 1.
- 2.
- 3.

Make sure you know the facts. Contact your existing insurer or its agent for information about the existing policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name and Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the insurer or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the existing policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the existing policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your existing policy, the new one could cost you more, or you could be turned down.

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Suicide limitations may begin anew on the new coverage.

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How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the existing policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your existing contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax free exchange? (See your tax advisor.)

Is there a benefit from favorable “grandfathered” treatment of the existing policy under the federal tax code?

Will the existing insurer be willing to modify the existing policy?

How does the quality and financial stability of the new insurer compare with your existing insurer?

SECTION 2. Initial Applicability. This rule shall apply to solicitations which commence on the first day of the fourth month after the effective date of this rule.

SECTION 3. This rule may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 4. Effective Date. This rule shall take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 11th day of May, 2009.

Sean Dilweg
Commissioner of Insurance