STATE OF MISSOURI

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-01

Annuity Disclosures under 20 CSR 400-5.800

Issued: April 4, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All insurers issuing annuity products in Missouri

From: Chlora Lindley-Myers, Acting Director

Re: Illustrations for Participating Income Annuities

This bulletin provides information on how the annuity illustration standards in 20 CSR 400-5.800 may apply to participating income annuity illustrations. Rule 20 CSR 400-5.800 is based on an NAIC model regulation addressing consumer protections through annuity disclosures. The amended Model was adopted by the NAIC in April 2015, filed as a proposed rule by DIFP on September 30, 2016, and the rule is effective on March 30, 2017.

A participating income annuity is a fixed annuity that pays both a guaranteed income stream and a non-guaranteed dividend, with the dividend determined by the insurer based in part upon the policy experience (*e.g.*, investment, mortality, expense).

Section (4)(D) of 20 CSR 400-5.800 prohibits fixed annuity illustrations that have the capacity or tendency to mislead or be incomplete. In particular, any illustration based on non-guaranteed elements: (1) may not be more favorable than the current values of those non-guaranteed elements; (2) may not include any assumed future improvement of the non-guaranteed elements; and (3) must reflect any planned changes in the non-guaranteed elements, such as the expiration of a bonus period as provided for in 20 CSR 400-5.800(4)(F).

In issuing this Bulletin, the Department is notifying insurers that it will not take enforcement action against an insurer offering a participating income annuity, provided the insurer acts within or meets the guidelines outlined below.

1. The illustration indicates a dividend scale for a participating income annuity is a non-guaranteed element.
2. For all non-guaranteed dividend scales, the illustration clearly discloses the reinvestment assumptions in the applicable dividend scale (or scales if more than one dividend scale applies, such as for a flexible premium annuity).
3. Illustrations do not assume that the current dividend scale will be maintained in future years unless the company reasonably expects it to be more likely than not that the current dividend scale, and any specific underlying measures used to calculate the dividend scale, are sustainable on a long-term basis.
4. The company's expectations are presented to be both subjectively and objectively reasonable.
    a. The Department will consider the use of the same assumptions on which the company itself relies to be subjectively reasonable. The program's design must demonstrate the company apportioning dividends fairly and equitably, whether performance meets, exceeds, or falls short of expectations.
    b. The Department will consider the use of assumptions about future investment performance that are consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior to be objectively reasonable.
        i. If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase.
        ii. For a participating income annuity product where the dividend scale is based on an investment cohort method, reinvestment rates shall be based on the current interest rate environment.
        iii. For a participating income annuity product where the dividend scale is based on an investment cohort method, grading to long-term interest rates based on mean reversion may be assumed separately from the requirement in paragraph ii above. The grading to the long-term assumptions should occur over no less than 20 years from issue if U.S. Treasury rates as of the illustration date are below the long-term rates, or no more than 20 years from issue if the U.S. Treasury rates as of the illustration date are above the long-term rates.

The Department understands the NAIC's 'A' Committee is currently contemplating changes to the underlying model rule. The Department encourages insurers to actively collaborate with regulators through the NAIC Model Rule process to ensure a timely and comprehensive remedy to this issue.

This bulletin sunsets on March 31, 2018.

Any questions or comments regarding this Bulletin should be directed to the Market Regulation Division at 573-751-3365.