

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 482 Department or Agency Department of Insurance*

Rule No. 482-1-129-.06

Rule Title: Standards for Annuity Illustrations.

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? N/A*

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A*

Is there another, less restrictive method of regulation available that could adequately protect the public? N/A*

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? N/A*

Is the increase in costs, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A*

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? N/A*

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? N/A*

Does the proposed rule have an economic impact? N/A*

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Sections 27-2-17 and 27-7-43, Code of Alabama 1975, and that it complies with all applicable filing requirements of the Alabama Insurance Code.*

Signature of certifying officer Jim L. Ridling
Jim L. Ridling
Commissioner of Insurance

Date: February 20, 2019

*Note: *The Alabama Department of Insurance is exempt from the Alabama Administrative Procedures Act pursuant to Section 41-22-2(e), Code of Alabama 1975.*

Alabama Department of Insurance

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Insurance

RULE NO. & TITLE: Rule 482-1-129-.06: Standards for Annuity Illustrations.

INTENDED ACTION: Amend existing rule.

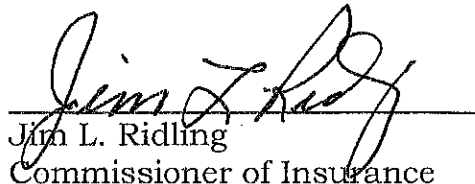
SUBSTANCE OF PROPOSED ACTION: The Commissioner of Insurance is proposing to amend rule which sets forth the standards for annuity illustrations. The amendments take into account disclosures necessary to inform consumers in light of the product innovations currently in the marketplace and are consistent with recent revisions to the Annuity Disclosure Model Regulation developed by the National Association of Insurance Commissioners. The amendments will become effective April 21, 2019.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may submit data, views, or arguments in writing at any time prior to April 6, 2019, to the Alabama Department of Insurance, Attention: Legal Division, Post Office Box 303351, Montgomery, Alabama 36130-3351, or orally by appearing at the public hearing, Suite 502, RSA Tower, 201 Monroe Street, Montgomery, Alabama, beginning at 10:00 AM, on April 11, 2019.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

April 6, 2019

CONTACT PERSON AT AGENCY: Reyn Norman
General Counsel



Jim L. Ridling
Commissioner of Insurance

1 **482-1-129-.06 Standards for Annuity Illustrations.**

2 (1) An insurer or producer may elect to provide a consumer
3 an illustration at any time, provided that the illustration is
4 in compliance with this rule and each of the following:

5 (a) Is clearly labeled as an illustration.

6 (b) Includes a statement referring consumers to the
7 disclosure document and Buyer's Guide provided to them at time
8 of purchase for additional information about their annuity.

9 (c) Is prepared by the insurer or third party using
10 software that is authorized by the insurer prior to its use,
11 provided that the insurer maintains a system of control over the
12 use of illustrations.

13 (2) An illustration furnished an applicant for a group
14 annuity contract or contracts issued to a single applicant on
15 multiple lives may be either an individual or composite
16 illustration representative of the coverage on the lives of
17 members of the group or the multiple lives covered.

18 (3) The illustration shall not be provided unless
19 accompanied by the disclosure document referenced in Rule 482-
20 1-129-.05.

1 (4) When using an illustration, the illustration shall
2 not:

3 (a) Describe non-guaranteed elements in a manner that is
4 misleading or has the capacity or tendency to mislead.

5 (b) State or imply that the payment or amount of non-
6 guaranteed elements is guaranteed.

7 (c) Be incomplete.

8 (5) Costs and fees of any type shall be individually
9 noted and explained.

10 (6) An illustration shall conform to the following
11 requirements:

12 (a) The illustration shall be labeled with the date on
13 which it was prepared.

14 (b) Each page, including any explanatory notes or pages,
15 shall be numbered and show its relationship to the total
16 number of pages in the disclosure document (e.g., the fourth
17 page of a seven-page disclosure document shall be labeled
18 "page 4 of 7 pages").

19 (c) The assumed dates of premium receipt and benefit
20 payout within a contract year shall be clearly identified.

1 (d) If the age of the proposed insured is shown as a
2 component of the tabular detail, it shall be issue age plus
3 the numbers of years the contract is assumed to have been in
4 force.

5 (e) The assumed premium on which the illustrated benefits
6 and values are based shall be clearly identified, including
7 rider premium for any benefits being illustrated.

8 (f) Any charges for riders or other contract features
9 assessed against the account value or the crediting rate shall
10 be recognized in the illustrated values and shall be
11 accompanied by a statement indicating the nature of the rider
12 benefits or the contract features, and whether or not they are
13 included in the illustration.

14 (g) Guaranteed death benefits and values available upon
15 surrender, if any, for the illustrated contract premium shall
16 be shown and clearly labeled guaranteed.

17 (h) The Except as provided in subparagraph (v), the non-
18 guaranteed elements underlying the non-guaranteed illustrated
19 values shall be no more favorable than current non-guaranteed
20 elements and shall not include any assumed future improvement
21 of such elements. Additionally, non-guaranteed elements used
22 in calculating non-guaranteed illustrated values at any future

1 duration shall reflect any planned changes, including any
2 planned changes that may occur after expiration of an initial
3 guaranteed or bonus period.

4 (i) In determining the non-guaranteed illustrated values
5 for a fixed indexed annuity, the index-based interest rate and
6 account value shall be calculated for three different
7 scenarios: one to reflect historical performance of the index
8 for the most recent ten (10) calendar years; one to reflect
9 the historical performance of the index for the continuous
10 period of ten (10) calendar years out of the last twenty (20)
11 calendar years that would result in the least index value
12 growth (the "low scenario"); one to reflect the historical
13 performance of the index for the continuous period of ten (10)
14 calendar years out of the last twenty (20) calendar years that
15 would result in the most index value growth (the "high
16 scenario"). The following requirements apply:

17 1. The most recent ten (10) calendar years and the last
18 twenty (20) calendar years are defined to end on the prior
19 December 31, except for illustrations prepared during the
20 first three (3) months of the year, for which the end date of
21 the calendar year period may be the December 31 prior to the
22 last full calendar year.

1 2. If any index utilized in determination of an account
2 value has not been in existence for at least ten (10) calendar
3 years, indexed returns for that index shall not be
4 illustrated. If the fixed indexed annuity provides an option
5 to allocate account value to more than one indexed or fixed
6 declared rate account, and one or more of those indexes has
7 not been in existence for at least ten (10) calendar years,
8 the allocation to such indexed account(s) shall be assumed to
9 be zero.

10 3. If any index utilized in determination of an account
11 value has been in existence for at least ten (10) calendar
12 years but less than twenty (20) calendar years, the ten (10)
13 calendar year periods that define the low and high scenarios
14 shall be chosen from the exact number of years the index has
15 been in existence.

16 4. The non-guaranteed elements, such as caps, spreads,
17 participation rates or other interest crediting adjustments,
18 used in calculating the non-guaranteed index-based interest
19 rate shall be no more favorable than the corresponding current
20 elements.

1 5. If a fixed indexed annuity provides an option to
2 allocate the account value to more than one indexed or fixed
3 declared rate account:

4 ~~(i)~~a. The allocation used in the illustration shall be
5 the same for all three scenarios.

6 ~~(ii)~~b. The ten (10) calendar year periods resulting in
7 the least and greatest index growth periods shall be
8 determined independently for each indexed account option.

9 6. The geometric mean annual effective rate of the
10 account value growth over the ten (10) calendar year period
11 shall be shown for each scenario.

12 7. If the most recent ten (10) calendar year historical
13 period experience of the index is shorter than the number of
14 years needed to fulfill the requirement of paragraph (8), the
15 most recent ten (10) calendar year historical period
16 experience of the index shall be used for each subsequent ten
17 (10) calendar year period beyond the initial period for the
18 purpose of calculating the account value for the remaining
19 years of the illustration.

20 8. The low and high scenarios: (i) need not show
21 surrender values (if different than account values); (ii)
22 shall not extend beyond ten (10) calendar years (and therefore

1 are not subject to the requirements of paragraph (8) beyond
2 subparagraph (a)1; and (iii) may be shown on a separate page.
3 A graphical presentation shall also be included comparing the
4 movement of the account value over the ten (10) calendar year
5 period for the low scenario, the high scenario and the most
6 recent ten (10) calendar year scenario.

7 9. The low and high scenarios should reflect the
8 irregular nature of the index performance and should trigger
9 every type of adjustment to the index-based interest rate
10 under the contract. The effect of the adjustments should be
11 clear; for example, additional columns showing how the
12 adjustment applied may be included. If an adjustment to the
13 index-based interest rate is not triggered in the illustration
14 (because no historical values of the index in the required
15 illustration range would have triggered it), the illustration
16 shall so state.

17 (j) The guaranteed elements, if any, shall be shown
18 before corresponding non-guaranteed elements and shall be
19 specifically referred to on any page of an illustration that
20 shows or describes only the non-guaranteed elements (e.g.,
21 "see page 1 for guaranteed elements").

1 ~~k~~-(k) The account or accumulation value of a contract, if
2 shown, shall be identified by the name this value is given in
3 the contract being illustrated and shown in close proximity to
4 the corresponding value available upon surrender.

5 ~~l~~-(l) The value available upon surrender shall be
6 identified by the name this value is given in the contract
7 being illustrated and shall be the amount available to the
8 contract owner in a lump sum after deduction of surrender
9 charges, bonus forfeitures, contract loans, contract loan
10 interest and application of any market value adjustment, as
11 applicable.

12 ~~m~~-(m) Illustrations may show contract benefits and values
13 in graphic or chart form in addition to the tabular form.

14 ~~n~~-(n) Any illustration of non-guaranteed elements shall
15 be accompanied by a statement indicating all of the following:

16 ~~(a)~~1. The benefits and values are not guaranteed.

17 ~~(b)~~2. The assumptions on which they are based are
18 subject to change by the insurer.

19 ~~(c)~~3. Actual results may be higher or lower.

20 ~~e~~-(o) Illustrations based on non-guaranteed credited
21 interest and non-guaranteed annuity income rates shall contain

1 equally prominent comparisons to guaranteed credited interest
2 and guaranteed annuity income rates, including any guaranteed
3 and non-guaranteed participation rates, caps or spreads for
4 fixed indexed annuities.

5 ~~p.~~(p) The annuity income rate illustrated shall not be
6 greater than the current annuity income rate unless the
7 contract guarantees are in fact more favorable.

8 ~~q.~~(q) Illustrations shall be concise and easy to read.

9 ~~r.~~(r) Key terms shall be defined and then used
10 consistently throughout the illustration.

11 ~~s.~~(s) Illustrations shall not depict values beyond the
12 maximum annuitization age or date.

13 ~~t.~~(t) Annuitization benefits shall be based on contract
14 values that reflect surrender charges or any other
15 adjustments, if applicable.

16 ~~u.~~(u) Illustrations shall show both annuity income rates
17 per \$1,000.00 and the dollar amounts of the periodic income
18 payable.

19 (v) For participating immediate and deferred income
20 annuities:

1 1. Illustrations may not assume any future improvement
2 in the applicable dividend scale (or scales, if more than one
3 dividend scale applies, such as for a flexible premium
4 annuity).

5 2. Illustrations must reflect the equitable
6 apportionment of dividends, whether performance meets, exceeds
7 or falls short of expectations.

8 3. If the dividend scale is based on a portfolio rate
9 method, the portfolio rate underlying the illustrated dividend
10 scale shall not be assumed to increase.

11 4. If the dividend scale is based on an investment
12 cohort method, the illustrated dividend scale should assume
13 that reinvestment rates grade to long-term interest rates,
14 subject to all of the following conditions:

15 a. Any assumptions as to future investment performance
16 in the dividend formula must be consistent with assumptions
17 that are reflected in the marketplace within the normal range
18 of analyst forecasts and investor behavior; these assumptions
19 may not be changed arbitrarily, notwithstanding changes in
20 markets or economic conditions, and must be consistent with
21 assumptions that the issuer uses with respect to other lines
22 of business.

1 b. The illustrated dividend scale should assume that
2 reinvestment rates grade to long-term interest rates, based on
3 U.S Treasury bonds. For the purposes of this grading, the
4 assumed long-term rates should not exceed the rates calculated
5 using the formula in subparagraph c. based on the time to
6 maturity or reinvestment (the "Tenor") of the investments
7 supporting the cohort of policies.

8 c. Maximum long-term interest rates should be calculated
9 for tenors of 3 months (or less), 5 years, 10 years and 20
10 years (or more), using U.S. Treasury rates. For each tenor,
11 the maximum long-term interest rate will vary over time, based
12 on historical interest rates as they emerge. The formula for
13 the maximum long-term interest rate is the average of the
14 median bond rate over the last 600 months and the average bond
15 rate over the last 120 months, rounded to the nearest quarter
16 of one percent (0.25%).

17 d. The maximum long-term interest rate for a tenor
18 should be recalculated once per year, in January, using
19 historical rates as of December 31 of the calendar year two
20 years prior to the calendar year of the calculation date. The
21 historical rate for each month is the rate reported for the
22 last business day of the month.

1 e. Grading to the maximum long-term interest rates
2 should take place over (i) no less than 20 years from issue
3 if U.S. Treasury rates as of the illustration date are below
4 the long-term rates, or (ii) no more than 20 years from issue
5 if the U.S. Treasury rates as of the illustration date are
6 above the long-term rates.

7 f. When the 10 year U.S. Treasury rate is less than the
8 10 year maximum long-term interest rate, an additional
9 illustrated dividend scale should be presented. This
10 additional illustrated dividend scale shall satisfy the
11 following conditions: (i) assume that reinvestment U.S.
12 Treasury rates do not exceed the initial investment U.S.
13 Treasury rates, and (ii) illustrate dividends no less than half
14 of the dividends illustrated under the current dividend scales.
15 If (i) and (ii) are in conflict - i.e., if half of the current
16 dividends are greater than would be permitted by condition (i)
17 - then the reinvestment U.S. Treasury rates should equal the
18 initial investment U.S. Treasury rates.

19 g.(i) The illustration should include disclosure that is
20 substantially similar to the following:

21 The illustrated current dividend scale is based on
22 interest rates that are assumed to gradually

1 [increase/decrease] from current interest rates to long-
 2 term interest rates, over a period of [twenty] years. By
 3 regulation, the long-term assumed interest rates cannot
 4 and do not exceed the rates listed in column (III) of the
 5 table in subparagraph (iii).

6 (ii) If the illustration contains an additional dividend
 7 scale pursuant to subparagraph f., then the illustration
 8 should also include disclosure that is substantially similar
 9 to the following:

10 The additional illustrated dividend scale is based on
 11 interest rates that are assumed not to increase and do
 12 not exceed the interest rates in column (II) of the table
 13 in subparagraph (iii).

14 (iii) Table:

15	(I)	(II)	(III)
16	<u>Treasury Rate as</u>		<u>Long Term</u>
17	<u>Of 12/31/2016</u>		<u>Treasury Rate</u>
18	<u>3 Month (or less)</u>	<u>0.51%</u>	<u>3.00%</u>
19	<u>5 Year</u>	<u>1.93%</u>	<u>4.50%</u>
20	<u>10 Year</u>	<u>2.45%</u>	<u>5.00%</u>
21	<u>20 years (or more)</u>	<u>3.06%</u>	<u>5.50%</u>

1 (7) An annuity illustration shall include a narrative
2 summary that includes the following unless provided at the
3 same time in a disclosure document:

4 (a) A brief description of any contract features, riders
5 or options, guaranteed and/or nonguaranteed, shown in the
6 basic illustration and the impact they may have on the
7 benefits and values of the contract.

8 (b) A brief description of any other optional benefits or
9 features that are selected, but not shown in the illustration
10 and the impact they have on the benefits and values of the
11 contract.

12 (c) Identification and a brief definition of column
13 headings and key terms used in the illustration.

14 (d) A statement containing in substance the following:

15 1. For other than fixed indexed annuities:

16 This illustration assumes the annuity's current
17 nonguaranteed elements will not change. It is
18 likely that they **will** change and actual values will
19 be higher or lower than those in this illustration
20 but will not be less than the minimum guarantees.

1 The values in this illustration are **not** guarantees
2 or even estimates of the amounts you can expect from
3 your annuity. Please review the entire Disclosure
4 Document and Buyer's Guide provided with your
5 Annuity Contract for more detailed information;

6 2. For fixed indexed annuities:

7 This illustration assumes the index will repeat
8 historical performance and that the annuity's
9 current non-guaranteed elements, such as caps,
10 spreads, participation rates or other interest
11 crediting adjustments, will not change. It is likely
12 that the index **will not** repeat historical
13 performance, the non-guaranteed elements **will**
14 change, and actual values will be higher or lower
15 than those in this illustration but will not be less
16 than the minimum guarantees.

17 The values in this illustration are **not** guarantees
18 or even estimates of the amounts you can expect from
19 your annuity. Please review the entire Disclosure
20 Document and Buyer's Guide provided with your
21 Annuity Contract for more detailed information.

22 (e) Additional explanations as follows:

- 1 1. Minimum guarantees shall be clearly explained.
- 2 2. The effect on contract values of contract surrender
3 prior to maturity shall be explained.
- 4 3. Any conditions on the payment of bonuses shall be
5 explained.
- 6 4. For annuities sold as an IRA, qualified plan or in
7 another arrangement subject to the required minimum
8 distribution (RMD) requirements of the Internal Revenue Code,
9 the effect of RMDs on the contract values shall be explained.
- 10 5. For annuities with recurring surrender charge
11 schedules, a clear and concise explanation of what
12 circumstances will cause the surrender charge to recur.
- 13 6. A brief description of the types of annuity income
14 options available shall be explained, including:
 - 15 ~~(i)~~a. The earliest or only maturity date for
16 annuitization (as the term is defined in the contract).
 - 17 ~~(ii)~~b. For contracts with an optional maturity date, the
18 periodic income amount for at least one of the annuity income
19 options available based on the guaranteed rates in the
20 contract, at the later of age seventy (70) or ten (10) years

1 after issue, but in no case later than the maximum
2 annuitization age or date in the contract.

3 ~~(iii)~~c. For contracts with a fixed maturity date, the
4 periodic income amount for at least one of the annuity income
5 options available, based on the guaranteed rates in the
6 contract at the fixed maturity date.

7 ~~(iv)~~d. The periodic income amount based on the currently
8 available periodic income rates for the annuity income option
9 in ~~item (ii)~~ subparagraph b. or ~~item (iii)~~ subparagraph c., if
10 desired.

11 (8) Following the narrative summary, an illustration
12 shall include a numeric summary which shall include at
13 minimum, numeric values at each of the following durations:

14 (a) First ten (10) contract years, or the surrender
15 charge period if longer than ten (10) years, including any
16 renewal surrender charge periods.

17 (b) Every tenth contract year up to the later of thirty
18 (30) years or age seventy (70).

19 (c) Either of the following:

- 20 1. Required annuitization age.
21 2. Required annuitization date.

1 (9) If the annuity contains a market value adjustment,
2 hereafter MVA, the following provisions apply to the
3 illustration:

4 (a) The MVA shall be referred to as such throughout the
5 illustration.

6 (b) The narrative shall include an explanation, in simple
7 terms, of the potential effect of the MVA on the value
8 available upon surrender.

9 (c) The narrative shall include an explanation, in simple
10 terms, of the potential effect of the MVA on the death
11 benefit.

12 (d) A statement, containing in substance the following,
13 shall be included:

14 When you make a withdrawal the amount you receive
15 may be increased or decreased by a Market Value
16 Adjustment (MVA). If interest rates on which the MVA
17 is based go up after you buy your annuity, the MVA
18 likely will decrease the amount you receive. If
19 interest rates go down, the MVA will likely increase
20 the amount you receive.

1 (e) Illustrations shall describe both the upside and the
2 downside aspects of the contract features relating to the
3 market value adjustment.

4 (f) The illustrative effect of the MVA shall be shown
5 under at least one positive and one negative scenario. This
6 demonstration shall appear on a separate page and be clearly
7 labeled that it is information demonstrating the potential
8 impact of a MVA.

9 (g) Actual MVA floors and ceilings as listed in the
10 contract shall be illustrated.

11 (h) If the MVA has significant characteristics not
12 addressed by subparagraphs (a) - (f), the effect of such
13 characteristics shall be shown in the illustration. Appendix
14 A provides an example of an illustration of an annuity
15 containing an MVA that addresses subparagraphs (a) - (f)
16 above.

17 (10) A narrative summary for a fixed indexed annuity
18 illustration also shall include the following unless provided at
19 the same time in a disclosure document:

20 (a) An explanation, in simple terms, of the elements used
21 to determine the index-based interest, including but not limited
22 to, the following elements:

1 1. The Index(es) which will be used to determine the
2 index-based interest.

3 2. The Indexing Method - such as point-to-point, daily
4 averaging, monthly averaging.

5 3. The Index Term - the period over which indexed-based
6 interest is calculated.

7 4. The Participation Rate, if applicable.

8 5. The Cap, if applicable.

9 6. The Spread, if applicable.

10 (b) The narrative shall include an explanation, in simple
11 terms, of how index-based interest is credited in the indexed
12 annuity.

13 (c) The narrative shall include a brief description of the
14 frequency with which the company can re-set the elements used to
15 determine the index-based credits, including the participation
16 rate, the cap, and the spread, if applicable.

17 (d) If the product allows the contract holder to make
18 allocations to a declared-rate segment, then the narrative shall
19 include a brief description of:

1 1. Any options to make allocations to a declared-rate
2 segment, both for new premiums and for transfers from the
3 indexed-based segments.

4 2. Differences in guarantees applicable to the declared-
5 rate segment and the indexed-based segments.

6 (11) A numeric summary for a fixed indexed annuity
7 illustration shall include, at a minimum, the following
8 elements:

9 (a) The assumed growth rate of the index in accordance with
10 subparagraph (i) of paragraph (6).

11 (b) The assumed values for the participation rate, cap and
12 spread, if applicable.

13 (c) The assumed allocation between indexed-based segments
14 and declared-rate segment, if applicable, in accordance with
15 subparagraph (i) of paragraph (6).

16 (12) If the contract is issued other than as applied for, a
17 revised illustration conforming to the contract as issued shall
18 be sent with the contract, except that non-substantive changes,
19 including, but not limited to changes in the amount of expected
20 initial or additional premiums and any changes in amounts of
21 exchanges pursuant to Section 1035 of the Internal Revenue

1 Code, rollovers or transfers, which do not alter the key
2 benefits and features of the annuity as applied for will not
3 require a revised illustration unless requested by the
4 applicant.

5 **Author:** Commissioner of Insurance

6 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-15-1 *et seq.* &
7 27-12-1 *et seq.* (1975)

8 **History:** New August 6, 2014, Effective March 1, 2015; Revised
9 April 11, 2019, Effective April 21, 2019