Ohio Administrative Code

Rule 3901-6-14 Annuity disclosure.

Effective: November 16, 2023

(A) Purpose

The purpose of this rule is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. The rule specifies the minimum information to be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of this rule is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3901.19 to 3901.21 of the Revised Code.

(C) Applicability and scope

This rule applies to all group and individual annuity contracts and certificates except:

(1) Immediate and deferred annuities that contain no non-guaranteed elements;

(2) Annuities used to fund:

(a) An employee pension that is covered by the Employee Retirement and Income Security Act of 1974 (29 U.S.C. section 1001 to 1148) (ERISA);

(b) A plan described by sections 401(a), 401(k), and 403(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. sections 401(a), 401(k) and 403(b)), where the plan, for the purposes of ERISA, is established or maintained by an employer;

(c) A governmental or church plan defined in section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under section 457 of the Internal Revenue Code; or

(d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(3) Notwithstanding paragraph (C)(2) of this rule, this rule applies to annuities used to fund a 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 insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by an agent for the purchase of an annuity contract. As used in this paragraph, direct solicitation does not include any meeting held by an agent solely for the purpose of educating or enrolling employees in the plan or arrangement;

(4) Non-registered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. section 77a to 77aa), the Investment Company Act of 1940 (15 U.S.C. section 80a-1 to 80b-21), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. section 77a to 77aa).

(5)

(a) Transactions involving variable annuities and other registered products in compliance with "Securities and Exchange Commission" (SEC) rules and "Financial Industry Regulatory Authority" (FINRA) rules relating to disclosures and illustrations.

(b) Notwithstanding paragraph (C)(5)(a) of this rule, the delivery of the buyer's guide is required in sales of variable annuities, and when appropriate, in sales of other registered products.

(c) Nothing in this paragraph limits the superintendent's ability to enforce the provisions of this rule or to require additional disclosure.

(6) Structured settlement annuities; and

(7) Funding agreements.

(D) Definitions

For the purposes of this rule:

(1) "Buyers guide" means, as appropriate for the annuity being offered for sale, either the "Buyer's Guide for Deferred Annuities - Variable," "Buyer's Guide for Deferred Annuities - Fixed," or the "Buyer's Guide for Deferred Annuities" approved by the national association of insurance commissioners; use of the "Buyer's Guide for Deferred Annuities" is considered appropriate in all sales.

(2) "Contract owner" means the owner named in the annuity contract or certificate holder in the case of a group annuity contract.

(3) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

(4) "Funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

(5) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity."

(6) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of

these, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(7) "Illustration" means a personalized presentation or depiction prepared for and provided to an individual consumer that includes non-guaranteed elements of an annuity contract over a period of years.

(8) "Market Value Adjustment" or "MVA" feature is a positive or negative adjustment that may be applied to the account value and/or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdraw, surrender contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

(9) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(10) "Structured settlement annuity" means a "qualified funding asset" as defined in section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under section 130(d) of the Internal Revenue Code but for the fact that it is not owned by an assignee under a qualified assignment.

(E) Standards for the disclosure document and buyer's guide:

(1) The applicant shall be given the buyer's guide that is appropriate for the annuity being offered for sale contained in appendix A, B or C to this rule. The variable annuity version contained in appendix A to this rule is acceptable in sales of variable annuities and any other securities registered annuities covered by this rule. The fixed annuity version contained in appendix B to this rule is acceptable in sales of fixed annuities, including fixed indexed annuities. The combination version contained in appendix C to this rule is acceptable in all sales.

(2) Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall at or before the time of application be given both the disclosure document described in paragraph (E)(5) of this rule and the appropriate buyer's guide, as required in paragraph (E)(1) of this rule.

(3) Where the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the appropriate buyer's guide, as required in paragraph (E)(1) of this rule, no later than five business days after the completed application is received by the insurer.

(a) With respect to an application received as a result of a direct solicitation through the mail:

(i) Providing the appropriate buyer's guide, as required in paragraph (E)(1) of this rule, in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the buyer's guide be provided no later than five business days after receipt of the application.

(ii) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

(b) With respect to an application received via the internet:

(i) Taking reasonable steps to make the appropriate buyer's guide, as required in paragraph (E)(1) of this rule, available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the buyer's guide be provided no later than five business days of receipt of the application.

(ii) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

(c) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurance department of the state for a free annuity buyer's guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity buyer's guide.

(4) Where the appropriate buyer's guide, as required in paragraph (E)(1) of this rule, and disclosure document are not provided at or before the time of application, a free look period of no less than fifteen days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

(5) At a minimum, the following information shall be included in the disclosure document required to be provided under this rule:

(a) The generic name of the contract, the company product name, if different, and form number, and the fact that it is an annuity;

(b) The insurer's legal name and physical address, website and telephone number;

(c) A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate:

(i) The guaranteed, and non-guaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps, or spread, and an explanation of how they operate;

(ii) An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(iii) Periodic income options both on a guaranteed and non-guaranteed basis;

(iv) Any value reductions caused by withdrawals from or surrender of the contract;

(v) How values in the contract can be accessed;

(vi) The death benefit, if available and how it will be calculated;

(vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(viii) Impact of any rider, including, but not limited to, a guaranteed living benefit or long-term care rider.

(d) Specific dollar amount or percentage charges and fees listed with an explanation of how they apply; and

(e) Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

(6) Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

(F) Standards for annuity illustrations

(1) An insurer or agent may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this paragraph and:

(a) Clearly labeled as an illustration;

(b) Includes a statement referring consumers to the disclosure document and buyer's guide provided to them at time of purchase for additional information about their annuity; and

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

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

(3) The illustration shall not be provided unless accompanied by the disclosure document referenced in paragraph (E) of this rule.

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

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

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

(c) Be incomplete.

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

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

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

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

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

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

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

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

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

(h) Except as provided in paragraph (F)(6)(v) of this rule, the non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements. Additionally, non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

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

(i) The most recent ten calendar years and the last twenty calendar years are defined to end on the prior December thirty-one, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December thirty-one prior to the last full calendar year;

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

(iii) If any index utilized in determination of an account value has been in existence for at least ten calendar years but less than twenty calendar years, the ten calendar year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

(iv) The non-guaranteed element(s), such as caps, spreads, participation rates or other interest crediting adjustments, used in calculating the non-guaranteed index-based interest rate shall be no more favorable than the corresponding current element(s);

(v) If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:

(a) The allocation used in the illustration shall be the same for all three scenarios; and

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

(vi) The geometric mean annual effective rate of the account value growth over the ten calendar year period shall be shown for each scenario;

(vii) If the most recent ten calendar year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of paragraph (H) of this rule, the most recent ten calendar year historical period experience of the index shall be used for each subsequent ten calendar year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

(viii) The low and high scenarios:

(a) Need not show surrender values (if different than account values);

(b) Shall not extend beyond ten calendar years (and therefore are not subject to the requirements of paragraph (H) of this rule beyond paragraph (H)(1)(a) of this rule; and

(c) May be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the ten calendar year period for the low scenario, the high scenario and the most recent ten calendar year scenario.

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

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

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

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

(m) Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

(n) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(i) The benefits and values are not guaranteed;

(ii) The assumptions on which they are based are subject to change by the insurer; and

(iii) Actual results may be higher or lower.

(o) Illustrations based on non-guaranteed credited interest and non-guaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and non-guaranteed participation rates, caps or spreads for fixed indexed annuities;

(p) The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

(q) Illustrations shall be concise and easy to read;

(r) Key terms shall be defined and then used consistently throughout the illustration;

(s) Illustrations shall not depict values beyond the maximum annuitization age or date;

(t) Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable;

(u) Illustrations shall show both annuity income rates per one-thousand dollars and the dollar amounts of the periodic income payable; and

(v) For participating immediate and deferred income annuities:

(i) Illustrations shall not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);

(ii) Illustrations shall reflect the equitable apportionment of dividends, whether performance meets, exceeds or falls short of expectations;

(iii) 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;

(iv) If the dividend scale is based on an investment cohort method, the illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:

(a) Any assumptions as to future investment performance in the dividend formula shall be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior; these assumptions shall not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and must be consistent with assumptions that the issuer uses with respect to other lines of business; and

(b) The illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, based on U.S. treasury bonds. For the purposes of this grading, the assumed long-term rates shall not exceed the rates calculated using the formula in paragraph (F)(6)(v)(iv)(c) of this rule, based on the time to maturity or reinvestment (the "Tenor") of the investments supporting the cohort of policies.

(c) Maximum long-term interest rates shall be calculated for tenors of three months (or less), five years, ten years and twenty years (or more), using U.S. treasury rates. For each tenor, the maximum long-term interest rate will vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median bond rate over the last six hundred months and the average bond rate over the last one hundred twenty months, rounded to the nearest quarter of one per cent.

(d) The maximum long-term interest rate for a tenor shall be recalculated once per year, in January, using historical rates as of December thirty-one of the calendar year two years prior to the calendar year of the calculation date. The historical rate for each month is the rate reported for the last business day of the month.

(e) Grading to the maximum long-term interest rates shall take place over:

(i) No less than twenty years from issue if U.S. treasury rates as of the illustration date are below the long-term rates, or

(ii) No more than twenty years from issue if the U.S. treasury rates as of the illustration date are above the long-term rates.

(f) When the ten year U.S. treasury rate is less than the ten year maximum long-term interest rate, an additional illustrated dividend scale shall be presented. This additional illustrated dividend scale shall satisfy the following conditions:

(i) Assume that reinvestment U.S. treasury rates do not exceed the initial investment U.S. treasury rates; and

(ii) Illustrate dividends no less than half of the dividends illustrated under the current dividend scales.

If paragraphs (F)(6)(v)(iv)(f)(i) and (F)(6)(v)(iv)(f)(ii) of this rule are in conflict - i.e., if half of the current dividends are greater than would be permitted by condition in paragraph (F)(6)(v)(iv)(f)(i) of this rule - then the reinvestment U.S. treasury rates shall equal the initial investment U.S. treasury rates.

(g) The illustration shall include disclosure that is substantially similar to the following:

"The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current interest rates to long-term interest rates, over a period of [twenty] years. By regulation, the long-term assumed interest rates cannot and do not exceed the rates listed in column (c) of the table below."

If the illustration contains an additional dividend scale pursuant to paragraph (F)(6)(v)(iv)(f) of this rule, then the illustration shall also include disclosure that is substantially similar to the following: "The additional illustrated dividend scale is based on interest rates that are assumed not to increase and do not exceed the interest rates in column (b) of the table below."

(a)	(b)	(c)

	Treasury Rate as of 12/31/2016	Long-Term Treasury Rate
3 Months (or less)	0.51%	3.00%
5 Years	1.93%	4.50%
10 Years	2.45%	5.00%
20 Years (or more)	3.06%	5.50%

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

(1) A brief description of any contract features, riders or options, guaranteed and/or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract;

(2) A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract;

(3) Identification and a brief definition of column headings and key terms used in the illustration;

(4) A statement containing in substance the following:

(a) For other than fixed indexed annuities:

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

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

(b) For fixed indexed annuities:

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

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

(5) Additional explanations as follows:

(a) Minimum guarantees shall be clearly explained;

(b) The effect on contract values of contract surrender prior to maturity shall be explained;

(c) Any conditions on the payment of bonuses shall be explained;

(d) For annuities sold as an IRA, qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;

(e) For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur; and

(f) A brief description of the types of annuity income options available shall be explained, including:

(i) The earliest or only maturity date for annuitization (as the term is defined in the contract);

(ii) For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age seventy or ten years after issue, but in no case later than the maximum annuitization age or date in the contract;

(iii) For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and

(iv) The periodic income amount based on the currently available periodic income rates for the annuity income option in paragraph (G)(5)(f)(ii) or (G)(5)(f)(iii) of this rule, if desired.

(H) Following the narrative summary, an illustration shall include a numeric summary which shall include at minimum, numeric values at the following durations:

(1)

(a) First ten contract years; or

(b) Surrender charge period if longer than ten years, including any renewal surrender charge period(s).

(2) Every tenth contract year up to the later of thirty years or age seventy; and

(3)

(a) Required annuitization age; or

(b) Required annuitization date.

(I) If the annuity contains a market value adjustment, hereafter MVA, the following provisions apply to the illustration:

(1) The MVA shall be referred to as such throughout the illustration;

(2) The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;

(3) The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;

(4) A statement, containing in substance the following, shall be included:

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

(5) Illustrations shall describe both the upside and the downside aspects of the contract features relating to the market value adjustment;

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

(7) Actual MVA floors and ceilings as listed in the contract shall be illustrated; and

(8) If the MVA has significant characteristics not addressed in paragraphs (I)(1) to (I)(6) of this rule, the effect of such characteristics shall be shown in the illustration.

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

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

(a) The "Index(es)" which will be used to determine the index-based interest;

(b) The "Indexing Method" - such as point-to-point, daily averaging, monthly averaging;

(c) The "Index Term" - the period over which indexed-based interest is calculated;

(d) The "Participation Rate," if applicable;

(e) The "Cap," if applicable; and

(f) The "Spread," if applicable.

(2) The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;

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

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

(a) Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and

(b) Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

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

(1) The assumed growth rate of the index in accordance with paragraph (F)(6)(i) of this rule;

(2) The assumed values for the participation rate, cap and spread, if applicable; and

(3) The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with paragraph (F)(6)(i) of this rule.

(L) If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that non-substantive changes, including, but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to section 1035 of the Internal Revenue Code, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.

(M) Report to contract owners

(1) For annuities in the payout period that include non-guaranteed elements and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

(a) The beginning and end date of the current report period;

(b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(d) The amount of outstanding loans, if any, as of the end of the current report period.

(N) Penalties

In addition to any other penalties provided by the laws of this state, a violation of this rule by an insurer or agent shall be considered an unfair and deceptive trade practice subject to any one or more penalties set forth in sections 3901.19 to 3901.221 of the Revised Code.

(O) Recordkeeping

(1) Insurers or insurance agents shall maintain or be able to make available to the superintendent records of the information collected from the consumer and other information provided in the

disclosure statement (including illustrations) for eight years after the contract is delivered by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance agent.

(2) Records required to be maintained by this rule may be maintained in paper, photographic, micro-process, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

(P) Severability

If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.