Department of Commerce

Adoption of Rules Relating to Variable Life Insurance

Rules as Adopted

2-10-84

4 MCAR S 1.9401 Authority and scope.

The following rules apply to all variable life insurance policies issued in this state, and are adopted under the authority of Minnesota Statutes, section 61A.20.

4 MCAR S 1.9402 Definitions.

A. Terms. For the purposes of 4 MCAR SS 1.9401-1.9411, the terms defined in this rule have the meanings given them.

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

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

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

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

F. Flexible premium policy. "Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as specified in L.

G. General account. "General account" means all assets of the insurer other than assets in separate accounts established pursuant to Minnesota Statutes, section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

H. Incidental insurance benefit. "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

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

J. Net investment return. "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

K. Policy processing day. "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

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

M. Separate account. "Separate account" means a separate account established for variable life insurance pursuant to Minnesota Statutes, section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

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

O. Variable life insurance policy. "Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to this policy, pursuant to Minnesota Statutes, section 61A.14, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

P. Securities Act of 1933. "Securities Act of 1933" means the Federal Securities Act of 1933, 15 U.S.C., Section 77a et. seq.

Q. Securities Exchange Act of 1934. "Securities Exchange Act of 1934" means the Federal Securities Exchange Act of 1934, 15 U.S.C., Section 78a et. seq.

R. Investment Company Act of 1940. "Investment Company Act of 1940" means the Federal Investment Company Act of 1940, 15

U.S.C., Section 80a-1 et. seq.

S. Employee Retirement Income Security Act of 1974. "Employee Retirement Income Security Act of 1974" means the Federal Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et. seq.

4 MCAR S 1.9403 Qualification of insurer to issue variable life insurance.

A. Compliance with laws and grant of authority. An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless it has complied with Minnesota Statutes, sections 61A.13 to 61A.21 and 4 MCAR SS 1.9401-1.9411, and the commissioner has granted the insurer the authority to issue variable life insurance policies in the state of Minnesota pursuant to Minnesota Statutes, section 61A.20.

B. Required filing. Before any insurer delivers or issues for delivery any variable life insurance policy in this state, it must file with the commissioner the information contained in 1.-4. for the consideration of the commissioner in making the determination required by Minnesota Statutes, section 61A.19.

1. Copies of and a general description of the variable life insurance policies it intends to issue.

2. A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial, or distribution services to the insurer.

3. With respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account, and a statement of the procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objective intended for the separate account.

4. A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under

the policy.

C. Applicability. The requirements of this rule apply to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

4 MCAR S 1.9404 Insurance policy requirements.

A. Generally. The commissioner shall not accept the filing of any variable life insurance policy form unless it conforms to the requirements of 4 MCAR S 1.9404 and Minnesota Statutes, chapter 61A.

B. Mandatory policy benefit and design requirements. Variable life insurance policies delivered or issued for delivery in this state shall comply with the minimum requirements contained in 1.-7.

1. Mortality and expense risk shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

2. For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid, subject to the provisions of 4 MCAR S 1.9404 D.2.

3. The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable life insurance policy is actuarially sound.

4. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

5. Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

6. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the

commissioner or person fulfilling the equivalent function of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other non-forfeiture benefits must be at least equal to the minimum values required by Minnesota Statutes, section 61A.24, the Standard Non-Forfeiture Law, for a general account policy with these premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under Minnesota Statutes, section 61A.24. If the policy does not contain an assumed investment rate, this demonstration must be based on the maximum interest rate permitted under Minnesota Statutes, section 61A.24. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

7. The computation of values required for each variable life insurance policy may be based upon reasonable and necessary approximations.

C. Mandatory policy provisions. Every variable life insurance policy filed for approval in this state shall contain at least the following:

1. the cover page or pages corresponding to the cover page of each policy shall contain:

a. a prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit may be variable or fixed under specified conditions;

b. a prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

c. a statement describing any minimum death benefit required pursuant to 4 MCAR S 1.9404 B.3.;

d. the method, or a reference to the policy provision, which describes the method for determining the amount of insurance payable at death;

e. a captioned provision that the policyholder may return the variable life insurance policy within ten days of receipt of the policy by the policyholder, and receive a refund as required by state law.

f. such other items as are currently required by Minnesota Statutes, chapter 61A.;

2. a. For scheduled premium policies, a provision for a grace period of not less than 31 days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date;

b. For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay these charges in accordance with the terms of the policy. The grace period shall end on a date not less than 61 days after the mailing date of the Report to Policyholders required by 4 MCAR S 1.9409 C.

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to the period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day;

3. For scheduled premium policies, a provision that the policy will be reinstated at any time within three years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

a. all overdue premiums with interest at a rate not exceeding eight percent per annum compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding eight percent per annum compounded annually; or

b. 110 percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding eight percent per annum compounded annually;

4. a full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

5. a provision designating the separate account to be used and stating that:

a. the assets of the separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account; and

b. the assets of the separate account shall be valued at least as often as any policy benefits vary but at least monthly.

6. a provision stating that the approval process for a change in the investment policy of the separate account is on file with the commissioner;

7. a provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after an increase has been in force, during the lifetime of the insured, for two years from the date of issue of the increase;

8. a provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

a. for up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account; or

b. otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical;

9. if settlement options are provided, at least one option shall be provided on a fixed basis only;

10. a description of the basis for computing the cash value and the surrender value under the policy shall be included;

11. premiums or changes for incidental insurance benefits shall be stated separately;

12. a provision for non-forfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which non-forfeiture insurance options will not be available.

D. Policy loan provisions. Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state must contain provisions for policy loans after the policy has been in force for three full years which are not less favorable to the policyholder than the following:

1. at least 75 percent of the policy's cash surrender value may be borrowed;

2. the amount borrowed shall bear interest at a rate not to exceed that permitted by Minnesota Statutes, section 61A.03;

3. any indebtedness shall be deducted from the proceeds payable on death;

4. any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit;

5. for scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing of the notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay these charges, a report must be sent to the policyholder containing the information specified by 4 MCAR S 1.9409 C.;

6. the policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request;

7. the policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised this provision are not disadvantaged by the exercise of it;

8. amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.

E. Other policy provisions.

1. Incidental insurance benefits, if offered, may be offered on a fixed or variable basis.

2. Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, the policies may offer the following dividend options:

a. the amount of the dividend may be credited against premium payments;

b. the amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

c. the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

d. the amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

e. the amount of the dividend may be deposited as a variable deposit in a separate account.

3. A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under 4 MCAR S 1.9404 D., except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

4. An exclusion for suicide within two years of the issue date of the policy. However, to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from ~~an~~ application of the owner subsequent to the policy issue date.

5. A provision allowing the policyholder to make partial withdrawals.

6. Any other policy provision not inconsistent with 4 MCAR SS 1.9401-1.9411 or Minnesota law.

4 MCAR S 1.9405 Reserve liabilities for variable life insurance.

A. Establishment. Reserve liabilities for variable life insurance policies shall be established under the Standard Valuation Law, Minnesota Statutes, section 61A.25, in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

B. Scheduled premium policies. For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

1. The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

2. The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in paragraph a. below, of the prior year's "attained age level" reserve on the contract, with any such "residue," increased or decreased by a payment computed on an attained age basis as described in paragraph b. below.

a. the "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

b. the payment referred to in 4 MCAR S 1.9405 B.2. shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future deathbenefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in paragraph a. above, of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

3. The valuation interest rate and mortality table used in computing the two minimum reserves described in paragraphs 1. and 2. above shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

C. Flexible premium policies. For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining the minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

D. Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits must be maintained in a separate account in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

4 MCAR S 1.9406 Separate accounts.

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

A. Establishment and administration of separate accounts. Any domestic insurer issuing variable life insurance shall establish and administer one or more separate accounts pursuant to Minnesota Statutes, section 61A.14.

1. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in an amount not less than $3,000,000.

2. The assets of these separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

B. Amounts in the separate account. The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

C. Investments by the separate account. The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account and be registered under the Investment Company Act of 1940.

D. Limitations on ownership.

1. A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after the purchase or acquisition the value of the investment, together with prior investments of the account in the security valued as required by this rule, would exceed ten percent of the value of the assets of the separate account. The commissioner shall waive this limitation in writing if he believes the waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

2. No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of the acquisition the insurer and its separate accounts, in the aggregate, will own more than ten percent of the total issued and outstanding voting securities of the issuer. The commissioner shall waive this limitation in writing if he believes the waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of the securities.

3. The percentage limitation specified in D.1. shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of the investment companies or asset pools comply substantially with the provisions of C. and other applicable portions of this rule.

E. Valuation of separate account. Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

F. Separate account investment policy. The investment policy of a separate account operated by a domestic insurer filed under 4 MCAR S 1.9403 B.3. shall not be changed without first filing the change with the commissioner.

G. Charges against a variable life insurance separate account. The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to the following:

1. taxes or reserves for taxes attributable to investment gains and income of the separate account;

2. actual cost of reasonable brokerage fees and similar direct acquisition and sales costs incurred in the purchase or sale of separate account assets;

3. actuarially determined costs of insurance (tabular costs) and the release of reserves and benefit base consistent with the release of separate account liabilities;

4. charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

5. a charge, at a rate specified in the policy for mortality and expense guarantees;

6. any amounts in excess of those required to be held in the separate account;

7. charges for incidental insurance benefits.

4 MCAR S 1.9407 Information furnished to applicants.

The requirements of 4 MCAR S 1.9407 shall be deemed to have been satisfied to the extent that a disclosure containing information required by 4 MCAR S 1.9407 is delivered, either in the form of (1) a prospectus included in a registration statement relating to the policies which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee

Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof. An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from the applicant coincident with or prior to the execution of the application, the following information:

A. a summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect the variation. The explanation must include notices of the provision required by 4 MCAR S 1.9404 C.1.e. and Minnesota Statutes, section 61A.03, clause (3).

B. a statement of the investment policy of the separate account, including:

1. a description of the investment objective intended for the separate account and the principal types of investments intended to be made; and

2. any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

C. a statement of the net investment return of the separate account for each of the last ten years or a lesser period the separate account was in existence;

D. a statement of the charges levied against the separate account during the previous year;

E. a summary of the method to be used in valuing assets held by the separate account;

F. a summary of the federal income tax aspects of the policy applicable to the insured, the policyholder, and the beneficiary;

G. illustrations of benefits payable under the variable life insurance contract. The illustrations must be prepared by the insurer and must not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that the assumed rates are hypothetical only.

4 MCAR S 1.9409 Reports to policyholders.

Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

A. Within 30 days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to 4 MCAR S 1.9404 C. under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within 30 days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than 60 days prior to the mailing of the notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by 4 MCAR S 1.9409. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in the statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made, less deductions for expense charges, withdrawals, investment experience, insurance charges, and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: planned periodic premiums, if any, are paid as scheduled; guaranteed costs of insurance are deducted; and the net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

B. Annually, a statement or statements including:

1. a summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

2. the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

3. a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

4. any charges levied against the separate account during the previous year;

5. a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment adviser of the separate account.

C. For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of the amount.