

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Variable Life Insurance
Rule Number(s): 3901-6-08

Date: April 18, 2013

Rule Type:

- New 5-Year Review
 Amended No Change
 Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

- Please briefly describe the draft regulation in plain language.
Please include the key provisions of the regulation as well as any proposed amendments.
The purpose of this rule is to provide for the regulation of fixed premium and flexible premium variable life insurance policies.
- Please list the Ohio statute authorizing the Agency to adopt this regulation.
3901.041 of the Revised Code.
- Does the regulation implement a federal requirement? Yes No
Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

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Yes No

If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Variable Life products are an important Life Insurance option in the marketplace, but they can be complex and difficult for consumers to understand and for insurance companies to illustrate and report to their regulators. The purpose of this rule is to provide clarification of the laws applicable to these products.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Department will receive fewer complaints from consumers concerning fixed premium and variable premium life insurance policies. The Department will also receive fewer questions from companies about the proper way to develop these products.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

In January 2013, an email requesting comment on the rule was sent to the general public, various stakeholders, interested parties, and trade associations who signed up for updates on the Department's rules and bulletins. The Department also reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurance (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), and the Professional Independent Agents Association (PIAA). The rule was also posted on the Department's web site for review.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

This rule was reviewed as part of the five year rule review. Department staff decided that the rule should not be changed. The Department received no comments on the rule from industry or the general public.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

This rule is based on the NAIC model. It provides consistent regulatory requirements for multi-state insurance companies.

11. Did the Agency specifically consider a performance-based regulation? Please explain.
Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Not applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Department reviewed Ohio statutes and rules and determined that it does not duplicate other regulations.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rule will be applied consistently and predictably through the form and rate filing process, which has specific standards that companies are required to meet before selling certain products.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
- Identify the scope of the impacted business community;
 - Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
 - Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Life insurance issuers are affected. Staff time and resources are required to comply with the rule. However, since the rule is already in effect and the companies are meeting the provisions of the rule, those staff and resources appear to be in place.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The rule is necessary to provide the appropriate regulatory scheme for the development of complex insurance products. Companies affected by this rule generally are in the multi-state markets and are required to comply in other states that have adopted the NAIC model. The consumer protections outweigh any adverse impact.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The rule provides for consistent product development; appropriate regulation of the products; and important consumer protections -- all of which are critical, regardless of the size of the business.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Companies would be given the opportunity to cure nonconforming products prior to the implementation of any fines or penalties.

18. What resources are available to assist small businesses with compliance of the regulation?

Department staff from the office of product regulation and actuarial services is available to answer questions.