

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 2.07, Wis. Adm. Code, relating to replacement of life insurance or annuity contracts; disclosure requirements.

**HEARING INFORMATION**

**Date: January 29, 2009**

**Time: 2:00 p.m., or as soon thereafter as the matter may be reached**

**Place: OCI, Room 227, 125 South Webster St 2<sup>nd</sup> Floor, Madison, WI**

Written comments can be mailed to:

James W. Harris  
Legal Unit - OCI Rule Comment for Rule Ins 207  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

James W. Harris  
Legal Unit - OCI Rule Comment for Rule Ins 207  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Comments can be emailed to:

James W. Harris  
james.harris@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

**SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

**INITIAL REGULATORY FLEXIBILITY ANALYSIS**

This rule does not impose any additional requirements on small businesses.

### **OCI SMALL BUSINESS REGULATORY COORDINATOR**

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address [eileen.mallow@wisconsin.gov](mailto:eileen.mallow@wisconsin.gov)

### **CONTACT PERSON**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov), (608) 264-8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
REPEALING AND CREATING A RULE**

**To repeal and recreate** Ins 2.07,

**Relating to** replacement of life insurance or annuity contracts; disclosure requirements.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

ss. 600.01, 628.34 (12), Stats.

**2. Statutory authority:**

ss. 600.01 (2), 601.41 (3), 601.42, 628.34 (12), Stats.

**3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

OCI has established minimum standards to be observed by insurers and intermediary agents when replacing or proposing replacement of certain life insurance policies or annuities in order to minimize the opportunity for misrepresentation or unfair business practices.

**4. Related statutes or rules:**

See the statutes interpreted in paragraph 1, above.

**5. The plain language analysis and summary of the proposed rule:**

OCI has established minimum standards of conduct to be observed by insurers and producers in life insurance and annuity replacement or financed purchase transactions to assure disclosure of material information to purchasers and to reduce opportunities for misrepresentation and unfair business practices. The proposed rule expands and clarifies the information that must be communicated by a producer to a purchaser at the time an application is completed. The rule provides notice formats to assure uniform disclosures. The rule requires that certification of the disclosure be obtained from the purchaser and the producer, and that a copy of the certification along with a copy of all sales materials be provided to the purchaser and submitted to the insurer with the completed application. The rule defines and includes financed purchases in the replacement disclosure and reporting requirements.

Under the proposed rule insurers who use producers are required to maintain a system of supervision, control and monitoring to assure compliance which at a minimum must provide training, guidance, review and detection procedures. Insurers must have the capacity to monitor each producer's replacement activity and to maintain and produce transactional

records upon request of the commissioner. Records must be retained by the insurer for at least 5 years. A replacing insurer must notify an existing insurer of a replacement transaction within 5 business days of receipt of a completed application, and must notify a purchaser of the right to cancel the transaction within 30 days of delivery of a policy or contract and receive a refund. An existing insurer must retain replacement notices for at least 5 years, must notify the existing policyholder of the right to receive information regarding the existing policy or contract and must notify the existing policyholder of the potential effect of release of policy values. Insurers engaging in direct response solicitation where there is no producer are required to make inquiries and provide disclosures to an applicant in any transaction that may involve a replacement.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no federal regulations which address replacement of life insurance policies or annuities by insurers or intermediary agents doing business in Wisconsin.

**7. Comparison of similar rules in adjacent states as found by OCI:**

**Illinois:** Admin. Reg. Title 50, ss 917.20 to 917.110

**Iowa:** Admin. Code ss 191-16.21 to 191-16.30

**Michigan:** Admin Code R ss. 500.601 to 500.606

**Minnesota:** Stats. ss. 61A.53 to 61A.60

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

The proposed rule is based upon a model regulation adopted and recommended by the National Association of Insurance Commissioners (NAIC). It has been adopted by a number of states, and a former version of the model formed a basis of the existing Wisconsin replacement rule. The proposed rule will enhance supervision and monitoring by insurers of life insurance policy and annuity replacements and improve disclosure to consumers of the possible consequences and effects of replacement.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

The proposed rule continues reporting and disclosure requirements relating to replacements of life insurance policies and annuities that have been in existence, and should therefore have little or no effect on small businesses.

**10. See the attached Private Sector Fiscal Analysis.**

**11. A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses.

**12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:

**<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)

Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

**13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

James W. Harris

Legal Unit - OCI Rule Comment for Rule Ins 207

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

James W. Harris

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Email address:

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[james.harris@wisconsin.gov](mailto:james.harris@wisconsin.gov)

Web site: **<http://oci.wi.gov/ocirules.htm>**

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**The proposed rule changes are:**

**SECTION 1. Section Ins 2.07 and Appendices I, II and III are repealed and recreated to read:**

**Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) Purpose.** The purpose of this regulation is:

(a) To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.

(b) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions to assure that purchasers receive information

with which a decision can be made in his or her own best interest, reduce the opportunity for misrepresentation and incomplete disclosure, and establish penalties for failure to comply with requirements of this regulation.

**(2) Scope.** This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75(1)(a) and (b), covering residents of this state, and issued by insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

(a) Credit life insurance.

(b) Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of subsection (8).

(c) Group life insurance and annuities used to fund prearranged funeral contracts.

(d) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates.

(e) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

(f) Policies or contracts used to fund an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA), a plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer, a governmental or church plan defined in Section 414, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code, or a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor. This section shall apply to policies or contracts used to fund any 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 insurer has been notified that plan participants may choose from among 2 or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by an

insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

(g) Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

(h) Existing life insurance that is a non-convertible term life insurance policy that will expire in 5 years or less and cannot be renewed.

(i) Immediate annuities that are purchased with proceeds from an existing annuity contract. Immediate annuities purchased with proceeds from an existing life insurance policy are not exempted from the requirements of this regulation.

(j) Structured settlements.

(k) Registered contracts shall be exempt from the requirements of subsections (6)(a)2. and (7)(b) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

**(3) Definitions.** (a) "Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet or other mass communication media.

(b) "Existing insurer" means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

(c) "Existing policy or contract" means an individual life insurance policy (policy) or annuity contract (contract) in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

(d) "Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay all or part of any premium due on the new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not

intended to increase or decrease the monitoring obligations contained in subsection (5)(a).

(e) “Illustration” means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in s. Ins 2.17.

(f) “Policy summary” for the purposes of this section for policies or contracts other than universal life policies, means a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan. For universal life policies “policy summary” means a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type, e.g., interest, mortality, expense and riders; the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

(g) “Producer,” for the purpose of this section shall include intermediaries, agents, brokers and producers.

(h) “Replacing insurer” means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

(i) “Registered contract” means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

(j) “Replacement” means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated, converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values, amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid, reissued with any reduction in cash value, or used in a financed purchase.

(k) “Sales material” means a sales illustration and any other written, printed or electronically presented information created, or completed or provided by the company or producer and used in the presentation to the policy or contract owner related to the policy or contract purchased.

**(4) Duties of Producers.** (a) A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the answer is “no,” the producer’s duties with respect to replacement are complete.

(b) If the applicant answered “yes” to the question regarding existing coverage referred to in paragraph (a), the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix I or other substantially similar form approved by the commissioner. However, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud, in which case the producer need not have read the notice aloud, and left with the applicant.

(c) The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(d) In connection with a replacement transaction the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

(e) Except as provided in subsection (6)(c) in connection with a replacement transaction the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

**(5) Duties of Insurers that Use Producers.** Each insurer shall:

(a) Maintain a system of supervision and control to insure compliance with the requirements of this section that shall at a minimum: inform its producers of the requirements of this regulation and incorporate the requirements of this regulation into all relevant producer training manuals prepared by the insurer, provide to each producer a written statement of the company’s position with respect to the acceptability of replacements providing guidance to its producer

as to the appropriateness of these transactions, provide a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with the written statement of the company's position with respect to the acceptability of replacements, provide procedures to confirm that the requirements of this section have been met, and provide procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this paragraph may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.

(b) Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the commissioner. The capacity to monitor shall include the ability to produce records for each producer's life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance, number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance, annuity contract replacements as a percentage of the producer's total annual annuity contract sales, number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system, and replacements, indexed by replacing producer and existing insurer.

(c) Require with or as a part of each application for life insurance or an annuity a signed statement by both the applicant and the producer as to whether the applicant has existing policies or contracts.

(d) Require with each application for life insurance or an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix I.

(e) When the applicant has existing policies or contracts, each insurer shall be able to produce copies of any sales material required by subsection (4)(e), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the producer's and applicant's signed statements with respect to financing and replacement for at least 5 years after the termination or expiration of the proposed policy or contract.

(f) Ascertain that the sales material and illustrations required by subsection (4)(e) meet the requirements of this regulation and are complete and accurate for the proposed policy or contract.

(g) If an application does not meet the requirements of this regulation, notify the producer and applicant and fulfill the outstanding requirements.

(h) Maintain records in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

**(6) Duties of Replacing Insurers that Use Producers.** (a) Where a replacement is involved in the transaction, the replacing insurer shall:

1. Verify that the required forms are received and are in compliance with this regulation;
2. Notify any other existing insurer that may be affected by the proposed replacement within 5 business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within 5 business days of a request from an existing insurer;
3. Be able to produce copies of the notification regarding replacement required in subsection (4)(b) indexed by producer, for at least 5 years or until the next regular examination by the insurance department of a company's state of domicile, whichever is later; and
4. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract; such notice may be included in Appendix I or III.

(b) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(c) If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to subsection (4)(e) the insurer may:

1. Require with each application a statement signed by the producer that represents that the producer used only company-approved sales material, and states that copies of all sales material were left with the applicant in accordance with subsection (4)(d); and
2. Within 10 days of the issuance of the policy or contract notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with subsection (4)(d), provide the applicant with a toll free number to contact company personnel involved in the compliance function if such is not the case, and stress the importance of retaining copies of the sales material for future reference, and be able to produce a copy of the letter or other verification in the policy file for at least 5 years after the termination or expiration of the policy or contract.

**(7) Duties of the Existing Insurer.** Where a replacement is involved in the transaction, the existing insurer shall:

(a) Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least 5 years or until the conclusion of the next regular examination conducted by the Insurance Department of its state of domicile, whichever is later.

(b) Send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within 5 business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within 5 business days of receipt of the request from the policy or contract owner.

(c) Upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice, advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

**(8) Duties of Insurers with Respect to Direct Response Solicitations.** (a) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement as described in Appendix II, or other substantially similar form approved by the commissioner.

(b) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

1. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix III, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage

prepaid envelope with instructions for the return of the signed notice referred to in this section; and

2. Comply with the requirements of subsection (6)(a)2., if the applicant furnishes the names of the existing insurers, and the requirements of subsections (6)(a)3., (6)(a)4. and (6)(b).

**(9) Violation.** (a) Any failure to comply with this regulation shall be considered a violation of s. 628.34, Stats. Examples of violations include any deceptive or misleading information set forth in sales material, failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement, the intentional incorrect recording of an answer, advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer, or advising a policy or contract owner to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company.

(b) Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this regulation.

(c) Where it is determined that the requirements of this regulation have not been met the replacing insurer shall provide to the policy owner an in force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix I or III.

(d) Any violation of this section shall be subject to s. 601.64, Stats. Failure to comply with the requirements of this section shall not alter the requirements of any insurer with respect to claims.

(10) Effective date. This rule shall apply to all solicitations which commence on or after March 1, 2009.

## Ins 2.07 APPENDIX I

### **IMPORTANT NOTICE:**

#### **REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? \_\_\_ YES \_\_\_ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? \_\_\_ YES \_\_\_ NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR

POLICY #

INSURED OR

ANNUITANT

REPLACED (R) OR

FINANCING (F)

1.

2.

3.

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because

\_\_\_\_\_  
I certify that the responses herein are, to the best of my knowledge, accurate:

\_\_\_\_\_  
Applicant's Signature and Printed Name Date

\_\_\_\_\_  
Producer's Signature and Printed Name Date

I do not want this notice read aloud to me. \_\_\_\_ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

**PREMIUMS:** Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

**POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the old policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

**INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

Suicide limitations may begin anew on the new coverage.

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?

Will the existing insurer be willing to modify the old policy?

How does the quality and financial stability of the new company compare with your existing company?

## **Ins 2.07 APPENDIX II**

### **NOTICE REGARDING REPLACEMENT**

#### **REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?**

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it. Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

## Ins 2.07 APPENDIX III

### **IMPORTANT NOTICE:**

#### **REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost.

A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? \_\_\_ YES \_\_\_ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? \_\_\_ YES \_\_\_ NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR

POLICY #

INSURED

OR ANNUITANT

REPLACED (R) OR

FINANCING (F)

- 1.
- 2.
- 3.

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

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Applicant's Signature and Printed Name Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the old policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?  
Is this a tax free exchange? (See your tax advisor.)  
Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?  
Will the existing insurer be willing to modify the old policy?  
How does the quality and financial stability of the new company compare with your existing company?

**SECTION 2.** These changes first apply to solicitations which commence on or after March 1, 2009.

**SECTION 3.** This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

**SECTION 4.** These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of November, 2008.

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Sean Dilweg  
Commissioner of Insurance

**Office of the Commissioner of Insurance**  
**Private Sector Fiscal Analysis**

for Section Ins 2.07 relating to replacement of life insurance or  
annuity contracts; disclosure requirements

This rule change will have no significant effect on the private sector regulated by OCI.

### FISCAL ESTIMATE WORKSHEET

#### Detailed Estimate of Annual Fiscal Effect

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 207</b>

**Subject**  
replacement of life insurance or annuity contracts; disclosure requirements

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
**None**

Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ -0</b>
<b>B. State Costs by Source of Funds</b>		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
<b>C. State Revenues</b> <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
<b>TOTAL State Revenues</b>	<b>\$ 0 None</b>	<b>\$ -0 None</b>

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>None 0</u>	\$ <u>None 0</u>
NET CHANGE IN REVENUES	\$ <u>None 0</u>	\$ <u>None 0</u>

Prepared by: James W. Harris	Telephone No. (608) 267-2833	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccyy) 11/20/2008

### FISCAL ESTIMATE

- ORIGINAL                       UPDATED  
  
 CORRECTED                       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 207</b>

**Subject**  
replacement of life insurance or annuity contracts; disclosure requirements

**Fiscal Effect**  
**State:**  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.  
 Increase Existing Appropriation                       Increase Existing Revenues  
 Decrease Existing Appropriation                       Decrease Existing Revenues  
 Create New Appropriation  
 Increase Costs - May be possible to Absorb Within Agency's Budget    Yes    No  
 Decrease Costs

**Local:**  No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

**Long-Range Fiscal Implications**  
  
**None**

<b>Prepared by:</b> James W. Harris	<b>Telephone No.</b> (608) 267-2833	<b>Agency</b> Insurance
<b>Authorized Signature:</b>	<b>Telephone No.</b>	<b>Date (mm/dd/ccyy)</b> 11/20/2008