

3901-6-02 **Correlated sales of life insurance and mutual funds or other securities.**

(A) Purpose

This rule is issued by the superintendent of insurance pursuant to section 3901.041 of the Revised Code, which empowers the superintendent "... to adopt, amend and rescind rules and to make adjudications necessary to discharge his duties and exercise his powers ..." under various sections of the Revised Code, subject to sections 119.01 to 119.13 of the Revised Code. This rule implements sections 3901.21, 3901.99, 3905.02, 3905.20, 3909.07, 3911.20, 3911.22, 3911.23, 3911.24, 3915.14, 3999.08, and 3999.11 of the Revised Code by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in correlation with a mutual fund or other security.

(B) Applicability

This rule shall apply:

- (1) To acts and practices in the advertising promotion, solicitation, negotiation of or effecting the sale of:
 - (a) Life insurance policies (which term shall include annuity contracts for purposes of this rule) in correlation with the sales of shares of a mutual fund or other security;
 - (b) Contracts which contemplate the purchase of a life insurance policy in correlation with the sale of shares of a mutual fund or other security;
- (2) To any acts and practices, whether they involve the use of language disseminated by means of sales kits, policy jackets or covers, letters, personal presentations, visual aids and other sales media in connection with the solicitation, sale, servicing or collection of premiums for life insurance in correlation with a mutual fund or other security engaged in by any insurance company, agent, or person, defined as an individual, corporation, partnership, association, trust, or fund.

As used in this rule, "security" shall have the same meaning as set forth in Chapter 1707. of the Revised Code, and shall mean, in addition, participation in common trust funds of any financial institution.

(C) Statement of policy

There shall be full disclosure of relevant facts in the sale of life insurance in

correlation with the sale of shares of a mutual fund or other security. Accordingly, this rule sets forth certain proposed procedures and requirements establishing minimum standards for disclosure of information in sales of life insurance and mutual fund shares or other securities.

(D) Responsibility of company and agent

No insurance company, agent, or person to whom this rule applies shall make, in connection with correlated sales of life insurance and mutual fund shares or other securities, a proposal or billing other than in accordance with the requirements of this rule. Every such company must inform its agents of the requirements of this rule.

(E) Tie-in sales

The agent, at the commencement of and throughout the sales presentation, must fully disclose to the purchaser that he has the right to purchase life insurance only, mutual fund shares or other securities only, or both life insurance and mutual fund shares or other securities.

(F) Written proposal

In any solicitation of an offer to buy, or in any sale of life insurance in correlation with the sale of shares of a mutual fund or other security, the prospect or policyholder must be furnished a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made. A copy of such written proposal shall be kept on file by the agent, or by the company if no agent is involved.

(G) Contents of proposal

Any proposal referred to in this rule must:

- (1) Be dated and signed by the insurance agent;
- (2) State the name of the company in which the life insurance is to be written;
- (3) State that the purchaser has the right to purchase life insurance only, mutual fund shares or other securities only, or both life insurance and mutual fund shares or other securities;
- (4) Contain no misrepresentations or false, deceptive or misleading words, figures

or statements. It must be accurate and complete and state all facts without which the proposal would have the capacity or tendency to mislead or deceive;

- (5) Show the premium charge for life insurance separately from any other charge;
- (6) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance policy separately from any other values;
- (7) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;
- (8) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;
- (9) Set forth policy numbers, name of company, face values and cash values of all existing policies of the insured, indicating those policies which are to be surrendered if the proposal is accepted.

(H) Statement to be separate

Any bill, statement, draft, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other information mentioned concerning life insurance separate from any other charges or values shown in the same billing, but nothing in this section shall prevent the total of the premium charge for life insurance with any other charges or values shown in the same billing to arrive at the total billing charge.

(I) Maintenance of advertising and other sales material files by company

(1) File of advertising and other sales material:

Each insurance company to whom this rule applies shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement, advertising material, sales literature and sales aid of any other kind used in connection with the correlated sale of life insurance and mutual fund shares or other securities as may hereafter be prepared or disseminated in this state, with a notation attached to each such piece of material which shall indicate the manner and extent of distribution, the nature of use and the form number of any policy issued in connection with such correlated plan and such document. Such file shall be subject to regular and

periodical inspection by this department. All such material shall be maintained in said file for a period of not less than three years.

~~(2) Certificate of compliance:~~

~~Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of the rule must file with this department, together with its annual statement, a certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements, advertising material, sales literature and sales aids which were disseminated by the insurer during the preceding statement year comply or were made to comply in all respects with the provisions of the insurance laws of this state as implemented and interpreted by this rule.~~

(J) Exclusion

The provisions of this rule shall not apply to any arrangement for the correlated purchase of life insurance and mutual fund shares or other securities which arrangement would be deemed a "security" as defined by the Securities Act of 1933 or the Ohio Securities Act of July 22, 1929 (Chapter 1707. of the Revised Code). However, any sales literature and contract to purchase life insurance in connection with such arrangement shall be furnished to the department of insurance prior to the sale of any life insurance under such arrangement.

(K) Dual license required

No person shall solicit an offer to buy or a sale of life insurance in correlation with a sale of shares of a mutual fund or other security unless he is licensed and appointed as a life insurance agent in accordance with the provisions of sections 3905.02 and 3905.20 of the Revised Code and is also licensed to sell securities by the division of securities of the department of commerce, state of Ohio, in accordance with Chapter 1707. of the Revised Code.

(L) Violation

Companies or persons in violation of this rule shall be subject to fine, revocation or suspension of license to do business, denial of renewal of license to do business, to proceedings under section 3999.08 of the Revised Code relating to misrepresentations and to proceedings under Chapter 3901. of the Revised Code relating to unfair methods of competition and unfair and deceptive acts and practices.

(M) Severability

Each paragraph of this rule and every part of each paragraph is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

Effective: 11/14/2008

R.C. 119.032 review dates: 08/29/2008 and 08/29/2013

CERTIFIED ELECTRONICALLY

Certification

11/04/2008

Date

Promulgated Under: 119.03
Statutory Authority: 3901.041
Rule Amplifies: 3901.19 to 3901.26, 3901.99, 3905.02, 3905.20,
3909.07, 3911.20, 3911.22, 3911.23, 3911.24,
3915.14, 3999.08, 3999.11
Prior Effective Dates: 5/1/65, 10/1/97