

3901-6-02

Correlated sales of life insurance and mutual funds or other securities.

(A) Purpose

The purpose of this rule is to establish minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold as part of a mutual fund or other security.

(B) Authority

This rule is promulgated pursuant to the authority invested in the superintendent under sections 3901.041, 3901.21, and 3901.212 of the Revised Code.

(C) Applicability

This rule applies to:

(1) Acts and practices in the advertising promotion, solicitation, negotiation of, or effecting the sale of:

(a) A life insurance policy or annuity contract that is part of the sales of shares of a mutual fund or other security, or

(b) A contract that assumes or requires the purchase of a life insurance policy as part of the sale of shares of a mutual fund or other security.

(2) Any acts and practices related to the solicitation, sale, servicing, or collection of premiums for a life insurance policy or annuity contract that is part of the sale of shares of a mutual fund or other security by an insurance company, agent, person, corporation, partnership, association, trust, or fund, including language disseminated by means of sales kits, policy jackets or covers, letters, personal presentations, visual aids and other sales media.

As used in this rule, "security" has the same meaning as set forth in division (B) of section 1707.01 of the Revised Code as well as participation in common trust funds of any financial institution.

(D) Responsibility of company and agent

Any proposal or billing from an insurance company, agent, or person to whom this rule applies in connection with correlated sales of a life insurance policy or annuity contract that is part of the sale of shares of a mutual fund or other securities is subject to this rule. Every insurance company will ensure that its agents comply with this rule.

(E) Tie-in sales

A customer's or prospective purchaser's right to purchase a life insurance policy or annuity contract only, shares of a mutual fund or other securities only, or both a life insurance policy or annuity contract and shares of a mutual fund or other securities is to be fully disclosed by an agent at the commencement of and throughout any sales presentation for a life insurance policy or annuity contract sold as part of the sale of shares of a mutual fund or other security.

(F) Written proposal

A clear and unambiguous written proposal to a consumer or prospective purchaser of a life insurance policy or annuity contract sold as part of the sale of shares of a mutual fund or other security is to be provided by an agent not later than at the time the solicitation or proposal is made. A copy of that written proposal is to be retained by the agent or insurance company in accordance with paragraph (I) of this rule.

(G) Contents of proposal

Any proposal created according to this rule will:

- (1) Be dated and signed by the insurance agent or company;
- (2) State the name of the insurance company in which the life insurance policy or annuity contract is to be written;
- (3) State that the purchaser has the right to purchase the life insurance policy or annuity contract only, mutual fund shares or other securities only, or both the life insurance policy or annuity contract and mutual fund shares or other securities;
- (4) Accurately and completely state all facts related to the life insurance policy or annuity contract sold as part of the sale of shares of a mutual fund or other security;
- (5) Be free from any misrepresentations or false, deceptive, or misleading words, figures or statements that could independently or collectively have the capacity or tendency to mislead or deceive;
- (6) Show the premium for the life insurance policy or annuity contract separately from any other charge;

- (7) If values which may accrue prior to the death of the insured or contract holder are involved in the presentation, show the value of the life insurance policy or annuity contract separate from any other values;
- (8) If a death benefit is involved in the presentation, show the amount of the death benefit for the life insurance policy or annuity contract separate from any other benefit which may accrue upon the death of the insured or contract holder;
- (9) Set forth all matters pertaining to the life insurance policy or annuity contract separate from any matter not pertaining to the life insurance policy or annuity contract; and
- (10) Set forth policy numbers, name of company, face values, and cash values of all existing policies or annuity contracts of the insured or contract holder, respectively, indicating those policies or annuity contracts to be surrendered if the proposal is accepted.

(H) Statement to be separate

The premium for the life insurance policy or annuity contract is to be itemized and shown separate from any other itemized charges or values listed in any bill, statement, draft, or representation sent or delivered to any prospect, policyholder, or contract holder. However, nothing in this rule requires the total premium for the life insurance policy or annuity contract to be further itemized.

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

Every insurance company subject to this rule is required to retain all advertising or other sales materials used in connection with the sale of a life insurance policy or annuity contract as part of the sale of shares of a mutual fund or other securities with a notation attached thereto that indicates the manner and extent of distribution, nature of use, and form number of any policy issued in connection with the applicable correlate plan, including every printed, published, or prepared advertisement, advertising material, sales literature, and sales aid of any other kind. Such records are to be retained for at least three years and are subject to regular and periodic inspection by this department. The records are to be made available for inspection at the insurance company's home or principal office.

(J) Exclusion

This rule does not apply to any arrangement for the correlated sale of a life insurance policy or annuity contract as part of the sale of share of a mutual fund or other securities that would be 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 a life insurance policy or annuity contract in connection with an arrangement for the correlated sale of a life insurance policy or annuity contract is subject to the requirements in Chapter 3905. of the Revised Code.

(K) Dual license required

No person shall sell, solicit, or negotiate insurance that is part of a sale of shares of a mutual fund or other security unless that person is licensed and appointed as an insurance agent in accordance with sections 3905.02 and 3905.20 of the Revised Code and licensed by the division of securities of the department of commerce, state of Ohio, in accordance with Chapter 1707. of the Revised Code.

(L) Violation

A violation of this rule is an unfair and deceptive practice under sections 3901.19 to 3901.26 of the Revised Code and misrepresentation under section 3999.08 of the Revised Code.

(M) Severability

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

Replaces: 3901-6-02
Effective: 11/16/2023
Five Year Review (FYR) Dates: 08/31/2028

CERTIFIED ELECTRONICALLY

Certification

11/06/2023

Date

Promulgated Under: 119.03
Statutory Authority: 3901.041, 3901.21, 3901.212
Rule Amplifies: 3901.19 to 3901.26, 3915.14, 3999.04, 3999.05,
3999.08, 3999.10
Prior Effective Dates: 05/01/1965, 10/01/1997, 03/28/2004, 11/14/2008