

**MEMORANDUM**

TO: Michael Farley, Assistant Director for Legislative Affairs, Ohio Department of Insurance

FROM: Sydney King, Regulatory Policy Advocate

DATE: November 29, 2013

RE: **CSI Review –Chapter 6 FYR –Life Insurance and Annuities (OAC 3901-6-02, 3901-6-08, 3901-6-10, 3901-6-10.1, 3901-6-10.2, 3901-6-13, 3901-6-14, and 3901-6-15)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of eight rules being proposed by the Ohio Department of Insurance (ODI) related to life insurance and annuity policies offered for sale in the State of Ohio. The eight rules have been reviewed under the five-year review requirement of ORC 119.032, and are being proposed with no changes. The rules were initially submitted as eight separate rule packages with separate BIAs. However, because the rules are closely related to each other, the CSI Office has reviewed them together. The rules were submitted to the CSI Office on July 18, 2013 and the public comment period was held open through July 31, 2013. Based on follow-up conversations with the CSI Office related to the adverse impacts of the rules and the stakeholder outreach for developing the rules, the Department submitted revised BIAs on November 4, 2013. No comments were received during that time.

Rule 3901-6-02 establishes 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. Rule 3901-6-08 provides for the regulation of fixed premium and flexible

premium variable life insurance policies. Rule 3901-6-10 provides tables of select mortality factors and rules for their use; the minimum standards for the valuation of plans with nonlevel premiums; the minimum standards for the valuation of plans with secondary guarantees; and the method for calculating basic reserves. Rule 3901-6-10.1 permits the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers. Rule 3901-6-10.2 permits individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women. Rule 3901-6-13 requires insurers, including fraternal benefit societies, to establish a system to supervise recommendations and to set forth standards that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers, at the time of the transaction, are appropriately addressed. Rule 3901-6-14 provides standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. Rule 3901-6-15 establishes minimum mortality standards for reserves and nonforfeiture values for pre-need insurance products, and requires the use of the “1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table” in determining the minimum standard of valuation of reserves and nonforfeiture values for pre-need insurance products.

Numerous adverse impacts for industry members are contained in each of the rules. Some of these adverse impacts include requiring written statements to consumers, the development of standards forms, filing and maintenance of advertisement materials and consumer records, dual licensing, prescribing the way sales materials may be used, reporting to the Superintendent of Insurance, mandatory policy benefits and provisions, establishing calculation standards, and disclosing policy details in consumer communications. These rules concern almost every aspect of the selling and managing of life insurance and annuity policies. ODI states the rules are necessary because they provide the appropriate regulatory scheme for the development of complex insurance products and ensure consumer protection when purchasing life insurance or annuity policies. Additionally, companies are required to follow similar requirements in other jurisdictions which have adopted the National Association of Insurance Commissioners model.

No comments were submitted during the CSI review period suggesting that the adverse impacts created by the rule are unduly burdensome. The CSI Office has determined that the rule justifies the adverse impact to businesses.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Department of Insurance should

proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.