

CHAPTER 31
LIFE INSURANCE COMPANIES—VARIABLE ANNUITIES CONTRACTS

[Appeared as Ch 3, 1973 IDR]
[Prior to 10/22/86, Insurance Department[510]]

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

191—31.1(508) Definitions. When used in this regulation:

“*Commissioner*” shall mean the insurance commissioner of Iowa.

“*Contracts on a variable basis*” or “*Variable contract*” shall mean any (group or individual) policy or contract issued by an insurance company which provides for insurance or annuity benefits which may vary according to the investment experience of any separate or segregated account or accounts maintained by the insurer as to such policy or contract, as provided for in Iowa Code sections 508.31 and 508.32.

191—31.2(508) Insurance company qualifications.

31.2(1) No company shall deliver or issue for delivery variable contracts within this state unless it is licensed under Iowa Code chapter 508 entitled “Life Insurance Companies,” to do a life insurance or annuity business in this state; and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. To this end the commissioner shall consider among other things:

- a. The history and financial condition of the company,
- b. The character, responsibility and fitness of the officers and directors of the company, and
- c. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

31.2(2) If the company is licensed and is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the aforementioned provisions.

31.2(3) Before any company shall deliver or issue for delivery variable contracts within this state, it shall submit to the commissioner:

- a. A general description of the kinds of variable contracts it intends to issue,
- b. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts, and
- c. If requested, biographical data with respect to officers and directors of the company.

191—31.3(508) Filing, policy forms and provision.

31.3(1) No contract on a variable basis or certificate evidencing variable benefits issued pursuant to any such contract shall be issued or delivered to any person in this state until a copy of the form of the same has been filed pursuant to rule 191—20.1(505,509,514A,515,515A,515F) and approved by the commissioner.

31.3(2) The commissioner shall disapprove or withdraw approval of any such contract form or certificate if:

- a. Such contract or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or
- b. Sales of such contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.
- c. The contract or certificate does not comply with the filing requirements and provisions set forth in rule 191—20.1(505,509,514A,515,515A,515F).

31.3(3) Any variable contract delivered or issued for delivery in this state and any certificates evidencing variable benefits issued pursuant to any such contract on a group basis shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits and shall state that such dollar amounts will vary to reflect

investment experience and shall contain on its first page a clear and prominently placed statement to the effect that the benefits thereunder are on a variable basis.

31.3(4) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Hypothetical illustrations of rates to possible levels of annuity payments may be used if submitted to and not disapproved by the commissioner.

31.3(5) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

a. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first payment may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom.

b. A provision that at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

c. A provision specifying the option available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

31.3(6) Any variable contract evidencing variable benefits delivered or issued for delivery in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expenses will not adversely affect such dollar amounts. In computing the dollar amount of variable benefits or other contractual payments or values under any variable contract, the annual net investment increment assumption shall not exceed 5 percent, except with the approval of the commissioner. "Expenses" as used in this paragraph may exclude some or all taxes, as stipulated in the contract.

31.3(7) To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table.

31.3(8) The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedure that would recognize the variable nature of the benefits provided.

191—31.4(508) Separate account or accounts and investments. Any domestic life insurance company issuing variable contracts shall establish one or more separate or segregated accounts as provided in Iowa Code section 508.32 to invest and reinvest all or any of the amounts received in connection with such variable contracts subject to the following limitations.

31.4(1) Except as hereinafter provided, amounts allocated to any separate or segregated account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or stated rate of interest is maintained in any separate or segregated account, a portion of the assets of such separate or segregated account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with laws of this state governing the investments of life insurance companies. The investments in such separate

or segregated account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

31.4(2) With respect to 75 percent of the market value of the total assets in a separate or segregated account, no such company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate or segregated account in such security taken at market, would exceed 5 percent of the market value of the assets of said separate or segregated account; provided, however, that the commissioner may waive such limitation if in the commissioner's opinion such waiver will not render the operation of such separate or segregated account hazardous to the public or the policyholders in this state.

31.4(3) The separate or segregated account shall not invest in the voting securities of a single issuer in an amount in excess of 10 percent of the total issued and outstanding voting securities of such issuer. The foregoing shall not apply with respect to securities held in separate or segregated accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

31.4(4) The limitations in 31.4(2) and 31.4(3) shall not apply to the investments of a separate or segregated account in the securities of an investment company registered under the investment company Act of 1940, provided the investments of such investment companies comply in substance with 31.4(2) and 31.4(3) hereof.

31.4(5) Unless otherwise approved by the commissioner, assets allocated to a separate or segregated account shall be valued at their market value on the date of valuation or, if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate or segregated account; provided, that the portion of the assets of such separate or segregated account equal to the company's reserve liability with regard to the benefits and funds referred to in 31.4(1), if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

31.4(6) The provisions of Iowa Code section 508.8 and any regulations applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate or segregated account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate or segregated account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate or segregated account.

31.4(7) All contracts on a variable basis shall state that the portion of the assets of any such separate or segregated accounts equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

31.4(8) Notwithstanding any other provisions in these rules, a company may:

a. With respect to any separate or segregated account registered with the Securities and Exchange Commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate or segregated account in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

b. With respect to any separate or segregated account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage such account or accounts and the investment of its assets.

A company, committee, board or other body may make such other provisions in respect to any such separate or segregated account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

31.4(9) No sale, exchange or other transfer of assets may be made by a company between any of its separate or segregated accounts or between any other investment account and one or more of its separate or

segregated accounts unless, in case of a transfer into a separate or segregated account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the account to which the transfer is made and unless the transfer, whether into or from an account or accounts, is made by a transfer of cash or by a transfer of securities having a valuation which could be readily determined in the market place, and further provided that the transfer of securities must have been approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in the commissioner's opinion, such transfers would not be inequitable.

31.4(10) The company shall maintain in each such separate or segregated account assets with a value at least equal to the reserves and other contract liabilities with respect to such accounts, except as may otherwise be approved by the commissioner.

This rule is intended to implement Iowa Code sections 505.8 and 508.32.

191—31.5(508) Required reports. Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contract holder, at least once in each contract year after the first, at the contract holder's last address known to the company, a statement or statements reporting the investments held in the separate or segregated account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than four months previous to the date of mailing the number of accumulation units credited to such contracts and the dollar value of a unit or the value of the contract holder's account.

An insurer issuing contracts on a variable basis shall annually on or before March 1 submit to the commissioner an annual statement for the business of its separate or segregated accounts. This statement shall be on such form as may be prescribed by the National Association of Insurance Commissioners and shall include details as to all of the income, disbursements, assets and liability items associated with such account or accounts and such other information as the commissioner of insurance may reasonably require.

191—31.6(508) Producers. No producer shall be eligible to sell or offer for sale a contract on a variable basis unless, prior to making any solicitation or sale of such a contract, the producer is also licensed for the variable products line of authority; however, any producer who participates only in the sale or offering for sale of variable contracts that are not registered under the federal Securities Act of 1933 need not be licensed for the variable products line of authority.

191—31.7(508) Foreign companies. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by these regulations, the commissioner, to the extent deemed appropriate by the commissioner, may consider compliance with such law or regulation as compliance with these regulations.

These rules are intended to implement Iowa Code section 505.8(2).

[Filed December 17, 1968]

[Filed 7/11/86, Notice 6/4/86—published 7/30/86, effective 9/3/86]¹

[Filed emergency 10/1/86—published 10/22/86, effective 10/3/86]

[Filed 1/22/88, Notice 12/16/87—published 2/10/88, effective 3/16/88]

[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

[Filed 2/11/05, Notice 12/8/04—published 3/2/05, effective 5/1/05]

[Filed 3/9/07, Notice 1/31/07—published 3/28/07, effective 5/2/07]

¹ See IAB Insurance Division