

**191—33.3(508A) Qualification of insurer to issue variable life insurance.** The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

**33.3(1) *Licensing and approval to do business in this state.*** An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless the insurer is licensed or organized to do a life insurance business in this state, and the insurer has obtained the written approval of the commissioner for the issuance of variable life insurance policies in this state. The commissioner shall grant such written approval only after the commissioner has found that:

*a.* The plan of operation for the issuance of variable life insurance policies is not unsound;  
*b.* The general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably ensure competent operation of the variable life insurance business of the insurer in this state; and

*c.* The present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

(1) The history of operation and financial condition of the insurer;  
(2) The qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(3) The applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(4) If the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

**33.3(2) *Filing for approval to do business in this state.*** An insurer, before it delivers or issues for delivery any variable life insurance policy in this state, shall file with the commissioner the following information for the consideration of the commissioner in making the determination required by subrule 33.3(1):

*a.* Copies of and a general description of the variable life insurance policies it intends to issue;  
*b.* A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

*c.* With respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

*d.* A description of any investment advisory services contemplated as required by subrule 33.6(10);

*e.* A copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;

*f.* Biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

*g.* A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

**33.3(3) *Standards of suitability.*** Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the standards of suitability to be used by the insurer. Such standards of suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the

purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

**33.3(4) *Use of sales materials.*** An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate. Variable life insurance sales material, advertising material, and descriptive literature shall be subject to the additional requirements of 191—Chapter 15.

**33.3(5) *Requirements applicable to contractual services.*** Any material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the commissioner with any information or reports in connection with such services which the commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with this chapter and any other applicable law or regulations.

**33.3(6) *Reports to the commissioner.***

*a.* Any insurer authorized to transact the business of variable life insurance in this state shall submit to the commissioner, in addition to any other materials which may be required by this chapter or any other applicable laws or regulations:

(1) An annual statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners;

(2) Prior to the use in this state any information furnished to applicants as provided for in rule 191—33.7(508A);

(3) Prior to the use in this state the form of any of the reports to policyholders as provided for in rule 191—33.9(508A); and

(4) Such additional information concerning its variable life insurance operations or its separate accounts as the commissioner shall deem necessary.

*b.* Any material submitted to the commissioner under this subrule shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the commissioner shall require the distribution of amended material.

**33.3(7) *Authority of commissioner to disapprove.*** Any material required to be filed with and approved by the commissioner shall be subject to disapproval if at any time it is found by the commissioner not to comply with the standards established in this chapter.

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