

NOTICE OF PROPOSED RULEMAKING

STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: Oregon election to opt-out from two Insurance Product Regulation Compact Uniform Standards

Public comment deadline: TBD

Effective Date: 8/1/2025

HEARING:

Date: TBD

Time: TBD

Officer: Brian Fjeldheim

Location: Labor & Industries Building
350 Winter St. NE
Basement, Conf Rm E
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

NEED FOR RULEMAKING:

Provide background on why rulemaking is needed, including a short summary of the rulemaking authority and statutes implemented. Provide a summary of what the rule does. Describe the involvement of the RAC, including the types of stakeholders that were invited to and did participate. Specify if any of the stakeholders were small businesses.

On April 25, 2024, the Interstate Insurance Product Regulation Commission (Commission) adopted two Uniform Standards for use in all Interstate Insurance Product Regulation Compact (Compact) participating states, that conflict with current Oregon statutes and/or regulations:

1. Standards for Individual Deferred Index Linked Variable Annuity Contracts (Commonly Marketed as Registered Index Linked Annuities).
2. Additional Standards for Market Value Adjustment Feature for Modified Guaranteed Annuities and Index-Linked Variable Annuities (prior to amendment, this Uniform Standard was titled “Amendments to Additional Standards for Market Value Adjustment Feature Provided Through a Separate Account”).

Division of Financial Regulation (DFR) staff, with the assistance and support of representatives from the Commission, reviewed the above standards for areas in which the promulgated language differs from Oregon statutes and/or regulations, as well as areas in which the level of consumer protection afforded by the adopted Compact standards may be less than what is required in this state. The division has unresolved concerns pertaining to the primacy of state nonforfeiture laws and Oregon's statutory nonforfeiture credit rate requirements, and the absence of product design limitations related to floor or buffer caps for index linked variable annuity (ILVA) and/or registered index linked annuity (RILA) products that prevent ILVAs/RILAs from effectively functioning as fixed rate products while circumventing state minimum nonforfeiture requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

Standards for Individual Deferred Index Linked Variable Annuity Contracts (Commonly Marketed as Registered Index Linked Annuities).

<https://www.insurancecompact.org/standards/record-adopted-standards/standards-individual-deferred-index-linked-variable-annuity>.

Additional Standards for Market Value Adjustment Feature for Modified Guaranteed Annuities and Index-Linked Variable Annuities (prior to amendment, this was titled "Additional Standards for Market Value Adjustment Feature Provided Through a Separate Account").

<https://www.insurancecompact.org/standards/record-adopted-standards/additional-standards-market-value-adjustment-feature-modified>.

DFR's comment letter to the Commission dated March 6, 2024, regarding proposed adoption of new and/or amended Uniform Standards pertaining to ILVAs/RILAs and Market Value Adjustments (MVAs).
(letter attached)

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:

(Who is this going to impact and how might it impact one group of people differently than others?)

Rule adoption is needed to complete Oregon’s opt-out of the identified Compact Uniform Standards, and may affect:

1. Oregon consumers wanting to purchase annuity insurance products with certain variable crediting performance features, and
2. Life insurance companies wishing to sell Compact approved ILVA/RILA annuity products and Modified Guaranteed Annuity (MGA) products with an MVA component to Oregon consumers.

Oregon is not prohibiting the use of MVAs with ILVA/RILA or MGA products. However, until the Commission revises Uniform Standard “Additional Standards for Market Value Adjustment Feature for Modified Guaranteed Annuities and Index-Linked Variable Annuities” and clarifies the primacy of state nonforfeiture laws and nonforfeiture crediting rate requirements, any Compact approved ILVA/RILA and MGA product offerings containing an MVA to be sold in Oregon need to be filed with DFR for review and approval.

FISCAL AND ECONOMIC IMPACT:

Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).

The proposed rule changes are unlikely to have a fiscal or economic impact on small businesses. A Rulemaking Advisory Committee (RAC) is being formed, and the RAC participants will be asked for their input on how the proposed rulemaking may affect Oregon small businesses. The RAC is scheduled for April 22, 2025, 8:30 – 10:00 a.m. Pacific time.

COST OF COMPLIANCE FOR SMALL BUSINESSES:

(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.

Based on currently available information, the proposed rule(s) do not appear to have a fiscal or economic impact on state agencies, local government units, or the general public beyond the statutory requirements. Insurance companies that have paid and filed annuity products with the Compact will have to pay an additional filing fee(s) to Oregon for each affected annuity product (ILVAs/RILAs and annuities utilizing MVAs).

(2)(a) Estimate the number and type of small businesses subject to the rule(s).

DFR does not have a direct estimate of the number of small businesses subject to this rule. The RAC members will be asked for their estimation of the number of small businesses that may be

impacted by this rulemaking. DFR staff are not aware of any significant financial impact to affected businesses.

(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

This rulemaking should have minimal impact upon reporting, recordkeeping, and other administrative activities required for compliance. As noted in (1), life insurers that paid and filed affected products with the Compact for review and approval will need to pay an additional fee(s) to DFR and cannot sell any affected annuity products until DFR approves the filing(s).

(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Based on current information, the proposed rules do not appear to impose additional costs for professional services, equipment supplies, labor, or increased administration beyond existing statutory requirements.

How were small businesses involved in the development of the rule?

Representatives of small businesses, to include insurance and consumer financial products trade associations, are invited to participate in the rulemaking advisory committee process scheduled April 22, 2025.

Was an administrative rule advisory committee consulted?

Pending. A RAC is being formed and will meet April 22, 2025.

DID MEMBERSHIP OF THE RAC REPRESENT THE INTERESTS OF PERSONS AND COMMUNITIES LIKELY TO BE AFFECTED BY THE RULE?

Specify the interested communities (BIPOC, professions, occupations, geographic location, recreational interests, aging/older adults, individuals w/disabilities, LGBTQ+, religion, veterans.

Pending. DFR staff are awaiting RSVPs from invited RAC participants, including:

Consumer protection organizations (Oregon DOJ and Oregon Consumer Justice), insurer and producer trade associations (ACLI and NAIFA), retiree financial products trades (IRI), and life insurers (Athene and The Standard).

RULE NUMBER AND SUMMARY:

List each rule number and a short summary of what the rule does.

AMEND: N/A

RULE SUMMARY: N/A

ADOPT: New rule, OAR 836-080-XXXX

RULE SUMMARY: This rule exercises the opt-out provisions of the Interstate Insurance Product Regulation Compact (Compact). The director of Department of Consumer and Business Services considered the following Compact Uniform Standards and found the protections offered to Oregon residents are not adequate:

- 1) Standards for Individual Deferred Index Linked Variable Annuity Contracts; and
- 2) Additional Standards for Market Value Adjustment Feature for Modified Guaranteed Annuities and Index-Linked Variable Annuities.

STATUTORY REFERENCE:

STATUTORY/OTHER AUTHORITY: ORS 732.820, Article VII

STATUTES/OTHER IMPLEMENTED:
