Oregon Division of Financial Regulation –

Individual Annuity filing helpful hints

The following are issues that repeatedly cause delay of filing review or result in disapproval of individual annuity filings. Review this list, and all of our Individual Annuity product standards (including those for base contracts, riders, applications, and, if applicable, equity indexed, fixed deferred paid up, and structured settlements) before submitting the company's filing. By doing so, it will help to speed up our filing review time.

Variability:

1. When any form, or part of a form, in a filing has brackets, then a Statement of Variability must be included with the filing. The Statement of Variability will be considered for approval and it must include a range of variables, and explanation thereof, for each bracketed item. The range of variables can be composed of either numbers (e.g., bonus of 1 percent to 5 percent) or a list of all the possible alternative language or items (e.g., optional riders previously filed and approved). Any language not approved in the Statement of Variability cannot be used.

   Any range of numerical values and any range/list of variable items must be reasonable and realistic. The Statement of Variability must explain the conditions under which each variable amount/item may change and the relationship between amounts/items.

   Note: Vague contract language that is not specific to a variable component of the contract is unacceptable as a variability item. Such wording as “and any other items that are permissible” or “and any other items that comply with law” are unacceptable as contract language variability items. For specific contract language that is variable (e.g., Tax Qualified and Non Tax Qualified), that exact language, as it will appear in the form that is actually issued to a consumer, and the explanation for language variability, need to be included in the Statement of Variability.

   At the top of the Statement of Variability document, include all form numbers that the Statement of Variability will be used with. The Statement of Variability document must have its own unique form number in the bottom left-hand corner and must be submitted as a form for approval. For SERFF filings, attach the Statement of Variability in the Form Schedule tab as its own form (additional instructions available in SERFF).

2. Zero (0) CANNOT be used in the range for any credit or benefit. For example, Bonus 0 percent to 3 percent is unacceptable.
3. While the numerical amount of the bonus can be bracketed, the bonus entry itself (i.e., the application thereof) cannot be bracketed. That applies to the bonus stated on the application and to the bonus stated on the contract specifications pages. For each policy filed, it either provides a bonus or it does not. If there is a bonus, then it is guaranteed at issue for all policies.
4. The interest rate and mortality table that are used for the basis of the Settlement Option Tables are not variable and cannot be bracketed.
5. The name of the index in an Equity Indexed product may be variable and can be bracketed if the Statement of Variability contains the names of all the indices. The index can be changed only if the index itself ceases to exist, or if the calculation of the index changes substantially.

6. A participation rate, cap, and margin may be bracketed as variable for ***filing purposes only***. That bracketing also requires that the Statement of Variability contain a range that is reasonable and realistic. Once issued, the participation rate, cap, and margin are guaranteed for the duration of the contract and the contract must clearly state that they are guaranteed for the duration of the contract.
7. The fixed accounts are not variable and cannot be bracketed on the application and cannot be bracketed on the specifications page (e.g., data page, contract data).

Name of policy:

1. Any contract/policy that allows multiple purchase (premium) payments, but only during the first contract year, are to be called "Modified Single Premium"

Minimum nonforfeiture:

1. If the minimum interest rate is less than the minimum nonforfeiture rate, this must be disclosed on the data page in the contract, and the impact thereof, must be disclosed and explained to the policy owner. See the appropriate Product Standards for additional details.
2. If the constant maturity treasury (CMT) rate is being used, and it is being redetermined, then the redetermination calculation and the criteria for it must be included in the contract.

Application:

1. Most application situations require a question asked to both the applicant and producer as to whether there is existing insurance. See OAR 836-080-0001 to 0039 for more detailed information.
2. The fraud warning must use the terminology of "may be guilty" (not is guilty) and "of fraud" (not of a crime), and "may be" (not will be) subject to "civil or criminal penalties" (not imprisonment), and only if intentional and material to the risk.

Riders, endorsements, or amendments:

1. A rider, endorsement, or amendment cannot be used to either delete or reduce benefits, or to provide less favorable terms, than those provided under an in-force base policy. To expedite review, provide the Oregon filing number for the corresponding base contract that was previously approved. If it was via a paper filing, then also provide a photocopy of the entire perforated contract

   The analyst may require a company to file an entirely new version of the base policy if there are significant changes made by the endorsement or amendment

2. If the rider, endorsement, or amendment has a charge, then it must be stated on the form itself, or stated on the contract specifications page (e.g., data page, contract data).

Surrender charges:

1. Surrender charges cannot be restarted at any time after contract issue.
2. A market value adjustment may be applied only to a guarantee period of one year or more. The negative amount of a contract with a market value adjustment together with the percentage surrender charge cannot exceed the maximum surrender charge allowance.

Similarly, a fee, when added to the surrender charge, cannot exceed the maximum surrender charge allowance.
3. If assessing a surrender charge at death, then such a disclosure is required to be on the cover page.
4. Surrender/withdrawal charges must be stated on the cover page or on the specifications page (e.g., data page, contract data).

Deferred paid up annuity:

1. When filing a deferred paid up annuity, also provide a completed Supplement B of the Individual Fixed Annuity Product Standards.

Commuted values:

1. If a deferred annuity provides commuted values, or otherwise refers to commutation at annuitization, then the contract language must specify that the interest rate will be the same as the interest rate that was used originally to calculate the income payments. The exception is for an immediate annuity, which can have charges applicable to commuted values, as long as the charges don't exceed the interest rate by more than 1 percent of the rate originally used to determine the payment if the original payments are for five years or more.

Maturity date:

1. At the maturity date of the contract, the Accumulation Account Value must be available as a lump sum or for annuitization.
2. The contract owner must be provided with the option to change the maturity date. However, the contract may require that the maturity date can't occur until the ***lesser of*** 10 years from the contract date or the end of the surrender charge period.

Incontestability/misstatement of age/sex:

1. Misstatement of age/sex cannot be used as an exception for the incontestability provision of the contract. Also, the misstatement of age/sex provision can allow adjustment only for underpayments and overpayments, based on the benefit amount for the correct age/sex at purchase. The provision may also have a specified interest rate, up to a certain amount. The contract provision cannot have any other means for recovery.

Right to cancel/examine, free look period:

1. The cover page must specify that there is at least 30 days for replacement policies. See OAR 836-051-0915 for the number of days for nonreplacement situations.

Multiple interest rate guarantee periods:

1. The annuity contract/policy must offer at least a one-year guaranteed interest rate period. If other guaranteed interest rate periods are offered, then the application and the specifications pages must disclose them. The contract language for the initial interest rate period must disclose and explain if the initial term period is nonrenewable. For term periods beyond one year, the contract must disclose and explain the renewal requirements and interest rate determination thereof.

Loans:

1. The loan interest rate plus any added administrative fees cannot exceed the greater of the maximum fixed rate of 8 percent or a variable rate tied to Moody's Corporate Bond Yield Average/Monthly Average Corporates. See the Product Standards for more details.
2. A loan may be deferred under certain circumstances but it may not be deferred for the payment of any premium to the insurer. See the Product Standards for more details.

Taxes:

1. Oregon insurance law does not allow a premium tax for individual annuities delivered in Oregon. See the product standards for premium taxes after leaving Oregon. For any other taxes, with the exception of an income tax, the type and amount must be stated on the specifications page.

Actuarial memorandum:

1. The Actuarial Memorandum must be consistent with the forms being filed and with the Statement of Variability in the filing.